

Progress in the Penal System (PIPS)

*A framework for penal reform
(2018)*



The Irish Penal Reform Trust is an independent non-governmental organisation campaigning for the rights of everyone in the penal system, with prison as a last resort.

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Responsibility for the content of the report lies solely with the author of the report and IPRT.

Michelle Martyn,

Senior Research & Policy Projects Manager, Irish Penal Reform Trust

List of acronyms

APT	Association for the Prevention of Torture
BRIO	Building Recovery Inwards and Outwards
CAT	Committee against Torture
CEDAW	Convention on the Elimination of Discrimination against Women
CMH	Central Mental Hospital
CoE	Council of Europe
CPT	European Committee for the Prevention of Torture
DTC	Democratic Therapeutic Communities
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
HIQA	Health Information and Quality Authority
HMP	Her Majesty's Prison
HRB	Health Research Board
HSE	Health Service Executive
HSU	High Support Units
ICCPR	International Covenant on Civil and Political Rights
IHREC	Irish Human Rights and Equality Commission
ILSU	Independent Living Skills Unit
IoP	Inspector of Prisons
IPS	Irish Prison Service
ISM	Integrated Sentence Management
MQI	Merchants Quay Ireland
MQPL	Measuring the Quality of Prison Life
NPM	National Preventative Mechanism
OPCAT	Optional Protocol to the Convention against Torture
PCMI	Prison Conditions Monitoring Index
PICLS	Prison In-Reach and Court Liaison Service
POA	Prison Officers Association
PQ	Parliamentary question
QQI	Quality and Qualifications Ireland
UNCAT	United Nations Convention Against Torture
UTE	Units of Therapy and Education
VC	Visiting Committee
WHO	World Health Organization

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Executive Summary

Progress in the Penal System: 2018 examines Ireland's progress in the penal system over the last year. *PIPS 2017* set out a clear vision for the future of the penal system in Ireland as part of this overall project.¹ Standards were set, guided by international best practice and human rights frameworks. Our vision is that as a small wealthy nation, Ireland can go beyond minimum human rights frameworks and has the potential to be a leading model of international best penal practice.

In this respect, IPRT established a number of guiding principles of penal reform. These include:

1. Imprisonment as a last resort
2. Recognition of the harms and costs associated with imprisonment
3. Deprivation of liberty is the punishment
4. Balancing of security, safety and protection of prisoners while ensuring a humane regime
5. Protection and promotion of human rights, equality and social justice
6. Emphasis on rehabilitation and reintegration

Readers should reflect on these principles, in particular on how they should guide the work of the *changemakers*, as well as their relevance to the various standards.

The Changemakers

PIPS 2018 places emphasis on the changemakers of the penal system. This means identifying those who can play an operative role in achieving change in the system. Changemakers identified in the report include criminal justice professionals (such as the judiciary and probation). However, changemakers also exist beyond the criminal justice sphere. They include state departments in the areas of health, education, housing, employment and children. We also highlight the role of legislators and politicians, the relationship between media and public opinion, and how these actors significantly contribute to the shape of our penal system. In doing this we are looking beyond the prison system itself to examine how we prevent crime, punish and rehabilitate.

Outlined below is a general assessment of developments over the last year; we highlight progress as well as issues of concern, which, if addressed, could make a significant improvement to our penal system:

1 IPRT (2017) *Progress in the Penal System: A framework for penal reform* (2017)
http://www.iprt.ie/files/Progress_in_the_Penal_System.compressed_.pdf

A. An Effective and Humane Penal System

1. Implementation of penal policy

In order to inform penal policy, good quality data and research is imperative. In this respect, one relevant development in 2018 has been the publication of the *Data & Research Strategy 2018–2020*² by the Department of Justice and Equality. This was an action recommended in *PIPS 2017*.³

IPRT also welcomes the 29 recommendations in the Report on Penal Reform and Sentencing⁴ made by the Joint Committee on Justice and Equality in 2018.

While both of these actions are welcome developments in this area, further work must be done to ensure the continual monitoring, evaluation and implementation of penal policy.

2. Imprisonment as a last resort

In 2017, IPRT set a medium-term target to reduce our prison population to 50 per 100,000.⁵ This target is far from being met. The current imprisonment rate in Ireland is 83 per 100,000 (July 2018).⁶ This compares to 79 per 100,000 in May 2017,⁷ demonstrating a net increase in the last year. The central roles of the judiciary (sentencing practice) and probation services (availability and effectiveness of community sanctions) in contributing positively to this goal are outlined in this section.

3. Safe custody limits

Safe custody limits are an important feature of any prison to ensure the safety of both prisoners and staff. If prison populations exceed safe custody limits, this in effect means the prison service will face significant challenges in fulfilling its duty of care⁸ to prisoners. Overcrowding remained a feature in Irish prisons in 2018.

4. Smaller prisons

Small prisons (ideally holding a maximum of 250) are likely to be safer prisons and to experience reduced levels of violence. This is a relevant standard for meeting the Irish Prison Service's mission of 'providing safe and secure custody', dignity of care and rehabilitation to prisoners for safer communities.⁹

5. & 6. Lower security settings and open provision

Ireland continues to have minimal low-security settings and open provision across the estate compared to current international leaders in penal systems. Open provision in Ireland remains at 6.7%.¹⁰ This compares poorly to Scandinavian countries, see for example the Finnish rate of 40%.¹¹

Women continue to have no access to lower-security prison settings.

2 Department of Justice and Equality (2018) *Data & Research Strategy 2018–2020, Supporting delivery of "A Safe, Fair and Inclusive Ireland"* http://www.justice.ie/en/JELR/Department_of_Justice_and_Equality_Data_and_Research%20Strategy_2018-2021.pdf/Files/Department_of_Justice_and_Equality_Data_and_Research%20Strategy_2018-2021.pdf

3 IPRT (2017) *Progress in the Penal System: A Framework for Penal Reform*, p. 29 http://www.iprt.ie/files/Progress_in_the_Penal_System.compressed_.pdf

4 Houses of the Oireachtas, Joint Committee on Justice & Equality (2018) *Report on Penal Reform and Sentencing*, pp. 53–60 https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

5 IPRT (2017) *Progress in the Penal System: A Framework for Penal Reform*, p. 5 http://www.iprt.ie/files/Progress_in_the_Penal_System.compressed_.pdf

6 World Prison Brief, *Ireland, Republic of* (based on an estimated national population of 4.87 million at end of July 2018) <http://www.prisonstudies.org/country/ireland-republic>

7 IPRT (2017) *Progress in the Penal System: A Framework for Penal Reform*, p. 31 http://www.iprt.ie/files/Progress_in_the_Penal_System.compressed_.pdf

8 This is provided for under Article 2 of the European Convention on Human Rights, p. 6 https://www.echr.coe.int/Documents/Convention_ENG.pdf

9 *Ibid.*, p.4

10 IPRT (2017) *IPRT Position on Closure of the Training Unit* (see Point 2) http://www.iprt.ie/files/IPRT_Position_on_Closure_of_the_Training_Unit_2017_3.pdf

11 Lavikkala, R, Tynu, S and Kokkonen, PP (2016) 'Overview of the Finnish Penal Practice since 2000', in C Joldersma (ed.) *Prisons of the Future*, p.108 <http://cep-probation.org/wp-content/uploads/final-report1.pdf>

B. Prison Conditions

7.& 8. Humane prison conditions

In order to assess prison conditions across the estate, it is of the utmost importance that reports are regularly published by external monitoring bodies.

A prison conditions monitoring index¹² is identified as an innovative international tool that may support and standardise assessment of prison conditions. Monitoring tools like this may highlight particular areas in need of action, as well as track progress that could be replicated across the prison estate.

‘Slopping out’¹³ still exists in two Irish prisons (affecting 39 men in Portlaoise and 19 men in Limerick)¹⁴ despite IPRT’s call for the elimination of this practice by 2018¹⁵ and the Concluding Observations of the UN Committee against Torture (2017) “... modernize Limerick prison and ‘Block E’ of Portlaoise prison to eliminate the slopping out system completely”.¹⁶

9. Single-cell accommodation

The percentage of the prison population currently with access to single-cell accommodation is 52%.¹⁷ IPRT has highlighted that choice of single-cell accommodation is an important feature of an effective and humane penal system. It is difficult to make provision for single-cell accommodation in the prison estate a reality without action in other areas, since prisoner numbers need to be reduced in order to achieve this goal.

10. Separation of remand prisoners from sentenced prisoners

Comparison of snapshot figures for the same day in 2016¹⁸ and 2017¹⁹ shows that there was an increase of 101 persons on remand in custody. Figures for July 2018 show that approximately 222 prisoners on remand were sharing cells with sentenced prisoners.²⁰ In 2017, the UN Committee against Torture²¹ recommended the separation of remand prisoners from sentenced prisoners, as well as the provision to the Committee of information on the number of remand prisoners and the length of time prisoners are spending on remand. The Irish Prison Service committed to undertaking research and publishing data on lengths of time prisoners were spending on remand at the UNCAT hearing;²² however, no such data has yet been published.

12 Center for the Study of Democracy (2015) *Prison Conditions Monitoring Index: Methodology and Pilot Results* <http://www.ub.edu/ospdh/sites/default/files/documents/PCMI.%20Methodology%20and%20pilot%20results.pdf>

13 ‘Slopping out’ is a term that describes how prisoners use chamber pots or buckets while locked in their cell at night. The emptying of the buckets of human waste occurs the next morning.

14 Irish Prison Service, *Census Prison Population July 2018 – Cell Occupancy– In Cell Sanitation* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/July-2018-In-Cell.pdf

15 IPRT (2017) *Progress in the Penal System: A framework for penal reform*, p. 38 http://www.iprt.ie/files/Progress_in_the_Penal_System.compressed_.pdf

16 United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Concluding Observations on the Second Periodic Report of Ireland*, 16 (e).p. 6 https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En

17 Irish Prison Service, *Census Prison Population July 2018 – Cell Occupancy – In Cell Sanitation* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/July-2018-In-Cell.pdf

18 There were 635 prisoners on remand as of 30th November 2016; see Irish Prison Service, *Annual Report 2016*, p. 26 http://www.irishprisons.ie/wp-content/uploads/documents_pdf/12631-IPS-annualreport-2016_Web.pdf

19 There were 736 prisoners on remand as of 30th November 2017; see Irish Prison Service, *Annual Report 2017*, p. 28 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-annualreport-2017.pdf

20 Houses of the Oireachtas (2018) *Prisoner Data*, Parliamentary Question 303, 10th July 2018 <https://www.oireachtas.ie/en/debates/question/2018-05-29/303/>

21 United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Concluding Observations on the Second Periodic Report of Ireland*, 16 (d).p. 6 https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En

22 UN Web TV, Consideration of Ireland (Cont’d)-1551st Meeting 61st Session Committee Against Torture 2:08:08 to 2:08:50 <https://www.oireachtas.ie/en/debates/question/2018-07-10/303/>

11. Family contact

IPRT welcomes a statement by the Minister for Justice and Equality (2018) that all prisons now have child friendly visiting conditions.²³ New measures introduced in 2018 include a new family visiting room in Limerick Prison.²⁴

The Council of Europe's Recommendation on Children of Imprisoned Parents²⁵ (2018) has been published in early 2018; changemakers should consider how this recommendation affects their work, in particular considering children's rights and the 'best interests' of children when decisions are made.

12. Access to healthcare

IPRT notes the importance of transferring management of healthcare to the Department of Health, a global trend and a recommendation previously made by the Inspector of Prisons.²⁶ In mid-2017 the UN Committee observed that the State must urgently undertake an independent, fundamental review of the entire prison health-care system, in keeping with the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment two years previously²⁷. Little progress appears to be made with no publication of a review.

IPRT welcomes information received by the Irish Prison Service of the appointment of an Executive Clinical Lead in summer 2018,²⁸ however more visible progress in this area is needed in order to uphold the principles of a 'continuum' and 'equivalence' of healthcare for those in prison.

13. Mental health

29 persons with a severe mental illness were in prison awaiting transfer to the Central Mental Hospital in May 2018.²⁹ While data is not available on lengths of time individual prisoners wait for transfer, the Clinical Director of the Central Mental Hospital stated in May 2018:

"All of the people on the waiting list are urgent. All of them are severely mentally ill and should not be in prison. They have been on the waiting list for months and this is entirely unacceptable by any clinical standards".³⁰

IPRT identifies a need for more forensic mental health spaces to be made available in Approved Designated Centres.

Prisoners should also have access to a range of mental health supports based on need. In this section, IPRT discusses further options to be considered including increasing provision of High Support Units. However, there is an overall need for an increase in both forensic mental health spaces and adequate community mental health provision so that prisoners receive prompt treatment in an appropriate clinical environment.

14. Addiction and treatment

IPRT welcomes the identification of addiction as primarily a health rather than a criminal justice issue in the *National Drugs Strategy 2017–2025*.³¹

The European Monitoring Centre for Drugs and Drug Addiction³² (EMCDDA) (2018) found:

1. Opioid substitution treatment is protective against death in prison for opioid-dependent prisoners.

23 Houses of the Oireachtas, *Prison Facilities*, Parliamentary Question 518, 12th June 2018 <https://www.oireachtas.ie/en/debates/question/2018-06-12/518/>

24 New 'homely' family room unveiled at Limerick Prison, *Limerick Leader*, 8th August 2018 <https://www.limerickleader.ie/news/home/328351/new-homely-family-room-unveiled-at-limerick-prison.html#W2qFoc-VKpQ.twitter>

25 *Recommendation CM/Rec (2018)5 of the Committee of the Ministers to Member States Concerning Children with Imprisoned Parents*, adopted by the Committee of Ministers on 4th April 2018 at the 1312th meeting of the Ministers' Deputies: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016807b3175

26 Inspector of Prisons (2017) *Healthcare in Irish Prisons, Recommendation 5.1*, p.23 http://www.justice.ie/en/JELR/Healthcare_in_Irish_Prison_Report.pdf/Files/Healthcare_in_Irish_Prison_Report.pdf

27 United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Concluding Observations on the Second Periodic Report of Ireland*, 16 (i).p. 6 https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En

28 Information provided to IPRT by the Irish Prison Service on the 30th April 2018

29 Data provided to IPRT by the Irish Prison Service in May 2018

30 Presentation by Professor Harry Kennedy, Houses of the Oireachtas, *Psychiatric Support in Ireland's prisons the focus for the Committee on the Future of Mental Healthcare*: https://www.oireachtas.ie/en/debates/debate/joint_committee_on_future_of_mental_health_care/2018-05-23/3/

31 Department of Health (2017) *Reducing Harm, Supporting Recovery: A Health Led Response to Drug and Alcohol Use in Ireland 2017–2025* <https://health.gov.ie/wp-content/uploads/2017/07/Reducing-Harm-Supporting-Recovery-2017-2025.pdf>

32 European Monitoring Centre for Drugs and Drug Addictions, *Interventions in Prisons and the Criminal Justice System* (click 'Evidence' to be directed to relevant web page) http://www.emcdda.europa.eu/best-practice/briefings/prisons-and-the-criminal-justice-system_en

2. Substitution treatment is also important in prison in reducing injecting risk behaviours.
3. Continuity of treatment is recommended to prevent overdose death in the period directly following prison release.

More information is required in order to effectively assess this area, including availability and access to addiction services and treatment both within prison and upon release, waiting lists for treatment programmes such as residential and substitution treatment and evaluation of outcomes.

15. Privacy

We highlight the qualified right to privacy of those with convictions and in particular the importance of bodies such as the Press Ombudsman and the Broadcasting Authority in raising awareness of complaints processes and making those processes accessible to all.

The General Data Protection Regulation (GDPR)³³ came into force on 25th May 2018 and introduces the right to be forgotten which will be of particular relevance in the context of prisoner rehabilitation upon release from prison in some cases.

C. Regimes

16. Out-of-cell time

In 2018, the Oireachtas Joint Committee recommended a minimum of 12 hours' out-of-cell time.³⁴

The Irish Prison Service Census for July 2018³⁵ shows that there are currently 536 prisoners on a 'restricted regime',³⁶ which amounts to 13% of the prison population.³⁷ While data on the lengths of time individual prisoners spend on a restricted regime is not regularly published, a recent response to a parliamentary question (PQ) revealed more than 50 individual prisoners held on a restricted regime for more than a year.³⁸ Further work must be done to reduce the number of prisoners on a restricted regime.

17. Integrated sentence management

Integrated sentence management is important to ensure a constructive and holistic plan is in place for each prisoner. In September 2018, there were 23 ISM coordinators across the prison estate for the 2,533 prisoners eligible to engage with ISM (ie. those serving sentence of more than 1 year). An additional ISM coordinator was appointed in July 2018 dedicated to the sentence management of prisoners selected to participate in J-ARC, Community Support and Community Return Schemes. Regular publication of data on ISM engagement and caseloads of ISM coordinators is required.

18. Development of life skills

While there is often a focus on formal education and training, life skills are also an important component of rehabilitation including the development of tools that help prisoners in their daily lives; skills such as reflection, thinking and planning.³⁹ IPRT welcomes the progress made on the establishment of a third Independent Living Skills Unit (Mountjoy Prison), which is due to open in late 2018.⁴⁰

33 Data Protection Commission, *General Data Protection Regulation* <https://www.dataprotection.ie/docs/GDPR/1623.htm>

34 Houses of the Oireachtas (2018) *Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing*, Point 2, p. 53 https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

35 Irish Prison Service, *Census of Restricted Regimes July 2018* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/July-2018-Restriction.pdf

36 A restricted regime means prisoners spend 19 or more hours a day locked in their cell.

37 Irish Prison Service, *2018 Prison Populations*, 30th April 2018 <https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2018-prison-populations/>

38 Houses of the Oireachtas (2018) *Prisoner Data*, Parliamentary Question 303, 29th May 2018 <https://www.oireachtas.ie/en/debates/question/2018-05-29/303/>

39 Jolley, M (2017) *Rehabilitating prisoners: the place of basic life skills programmes*, *Safer Communities*, 17(1)

40 This information has been provided by the Irish Prison Service, on an IPRT visit to the Progression Unit, 18th May 2018.

19. Education

It is important that prisoners have access to education as part of a purposeful and rehabilitative regime. There may be a number of reasons why prisoners participate in prison education such as learning new skills and personal development.⁴¹ Figures provided in response to a PQ in April 2018⁴² show frequent closures of education centres in certain prisons throughout the year. This issue must be urgently addressed.

20. & 21. Community involvement and civic and political participation

Community involvement in prison appears to be positive with many initiatives⁴³ attributed to the Irish Red Cross Programme.⁴⁴

However voting in Irish prisons is low. For this year's referendum on the 36th Amendment to the Constitution,⁴⁵ 58 prisoners out of the total of 3,897 voted.⁴⁶ Of these 55 were males and 3 were females. More work is required to encourage prisoners to participate in their civic and political rights.

D. Complaints, Accountability, Inspections and Oversight Mechanisms

22. & 23. Complaints system

There were 70 Category 'A'⁴⁷ complaints made by prisoners in 2017 in total and 41 Category A complaints were made from January 2018 until the end of June 2018.⁴⁸ Of 61 investigations completed in 2017, 6 complaints were upheld.⁴⁹

In order to ensure that both prisoners and staff have confidence in the complaints system, IPRT has long advocated for the establishment of a prisoner ombudsman or access to the existing Office of the Ombudsman. The Office of the Ombudsman assisted in the revision of the internal complaints system (following recommendations⁵⁰ made by the Office of the Inspector of Prisons), as well as facilitating a visit to the Office of the Prisoner Ombudsman in Northern Ireland.⁵¹ CAT made a number of relevant Concluding Observations⁵² to the State on this issue in mid-2017 including establishing a completely independent mechanism for the consideration of prisoner complaints and introducing greater involvement and oversight by an independent body.⁵³ CAT (2017) records state that the government's timeline for establishing the Ombudsman's oversight role in the complaints system was expected by the end of 2017.⁵⁴

41 IPRT (2017) *Progress in the Penal System: A Framework for Penal Reform*, p. 54 http://www.iprt.ie/files/Progress_in_the_Penal_System.compressed_pdf

42 Houses of the Oireachtas (2018) *Irish Prison Service*, Parliamentary Question 579, 17th April 2018 <https://www.oireachtas.ie/en/debates/question/2018-04-17/579/>

43 For more on this see various visiting committee annual reports 2016 http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2016

44 Irish Prison Service, Education and Training Boards Ireland and Irish Red Cross (2017) *Community Based Health & First Aid Prison Programme, Irish Support Information Pack*, p. 4

45 The Citizens' Assembly, *Referendum on the Thirty-sixth Amendment of the Constitution* <https://www.citizensassembly.ie/en/The-Eighth-Amendment-of-the-Constitution/Referendum-on-the-Thirty-sixth-Amendment-of-the-Constitution/>

46 Gallagher, C (2018) 'Only 58 prisoners voted in the abortion referendum', *The Irish Times*, 15th June 2018 <https://www.irishtimes.com/news/crime-and-law/only-58-prisoners-voted-in-abortion-referendum-1.3531009>

47 'Category A' is the most serious type of complaint a prisoner can raise.

48 Houses of the Oireachtas (2018) *Irish Prison Service*, Parliamentary Question 161, 28th June 2018 <https://www.oireachtas.ie/en/debates/question/2018-06-28/161/>

49 Ibid.

50 Office of the Inspector of Prisons (2016) Review, *Evaluation and Analysis of the Operation of the Present Irish Prison Service Prisoner Complaints Procedure* <http://justice.ie/en/JELR/Review,%20Evaluation%20and%20Analysis%20of%20the%20Operation%20of%20the%20IPS%20Prisoner%20Complaints%20Procedure.pdf/Files/Review,%20Evaluation%20and%20Analysis%20of%20the%20Operation%20of%20the%20IPS%20Prisoner%20Complaints%20Procedure.pdf>

51 Office of the Ombudsman, *Annual Report 2017*, p. 45 <https://www.ombudsman.ie/publications/annual-reports/>

52 United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Concluding Observations on the Second Periodic Report of Ireland* https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En

53 Ibid, 22 (a) (b) (c) (d) p. 8

54 Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Committee against Torture, Sixtieth session, *Summary record of the 1548th meeting*, p. 2 available at https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fSR.1548&Lang=en

IPRT believes that the need for prisoner access to the Ombudsman to facilitate the appealing of complaints to an independent body is urgent.

24. & 25. Monitoring, inspections, and investigations

IPRT welcomes the appointment of the Inspector of Prisons Patricia Gilheaney in May 2018.⁵⁵ In 2018 there has been no prison inspection report published and 13 Deaths in Custody reports published.⁵⁶

IPRT also welcomes the announcement by the Minister for Justice and Equality that legislation will be brought forward to ratify the Optional Protocol to the Convention against Torture (OPCAT) by the end of 2018.⁵⁷ Ireland and Belgium are the only remaining EU states which have not ratified OPCAT.⁵⁸ Ratification of OPCAT would mean all places where people are deprived of their liberty would, be subject to independent inspection by a national body as well as subject to inspection by the Sub-Committee for the Prevention of Torture.⁵⁹

E. Safety and Protection in Irish Prisons

26. Solitary confinement

In 2017 there were a number of positive steps taken by the State to reduce the number of prisoners in solitary confinement. The Irish Prison Service published their *Elimination of Solitary Confinement*⁶⁰ policy while there was also an amendment made to the Prison Rules⁶¹ entitling all prisoners to a minimum of two hours' out-of-cell time for 'meaningful human contact'.

A Concluding Observation made by CAT to the State (2017) enjoined the State to "ensure that solitary confinement remains a measure of last resort, imposed for as short a time as possible, is never applied to juveniles, is under strict supervision and judicial review with clear and specific criteria for its use, and that prolonged and consecutive disciplinary sanctions of solitary confinement are strictly prohibited".⁶²

In 2018, IPRT launched its report on solitary confinement, *Behind Closed Doors: Solitary Confinement in the Irish Penal System*,⁶³ making a number of recommendations. On the launch of the report, the Minister for Justice and Equality made a statement welcoming the report, stating it would "take some time to consider the report and recommendations therein."⁶⁴

In April 2018⁶⁵ the number of prisoners in solitary confinement was 12, while in July 2018 the figure had increased to 35.⁶⁶

55 Department of Justice and Equality (2018) *Minister Flanagan congratulates the new Inspector of Prisons, Patricia Gilheaney* <http://justice.ie/en/JELR/Pages/PR18000115>

56 Department of Justice and Equality, *Prisons & Probation*, <http://www.justice.ie/en/JELR/Pages/Publications-prisons-and-probation?OpenDocument&start=1&year=2018>

57 Houses of the Oireachtas (2018) *UN Conventions*, Parliamentary Question 1,5th July 2018 <https://www.oireachtas.ie/en/debates/question/2018-07-05/1/>

58 See OPCAT Database <https://apt.ch/en/opcat-database/>

59 'Ireland has not ratified a protocol to prevent torture in places of detention', *The Irish Times*, 8th August 2018 <https://www.irishtimes.com/opinion/ireland-has-not-ratified-a-protocol-to-prevent-torture-in-places-of-detention-1.3588981>

60 Irish Prison Service, *Elimination of Solitary Confinement* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Elimination-of-solitary-confinement-Policy.pdf

61 Statutory Instrument, *Prison (Amendment) Rules 2017* [http://justice.ie/en/JELR/SI%20276_of_2017_PRISON_\(AMENDMENT\)_RULES_2017.pdf/Files/SI%20276_of_2017_PRISON_\(AMENDMENT\)_RULES_2017.pdf](http://justice.ie/en/JELR/SI%20276_of_2017_PRISON_(AMENDMENT)_RULES_2017.pdf/Files/SI%20276_of_2017_PRISON_(AMENDMENT)_RULES_2017.pdf)

62 United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Concluding Observations on the Second Periodic Report of Ireland*,16 (g)p. 6 https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En

63 IPRT (2018) *Behind Closed Doors: Solitary Confinement in the Irish Penal System* http://www.iprt.ie/files/Solitary_Confinement_web.pdf

64 Statement by the Minister for Justice and Equality, Charlie Flanagan, in relation to the launch of the Irish Penal Reform Trust (IPRT) Report on Solitary Confinement in the Irish Penal System [http://www.justice.ie/en/JELR/Pages/Statement_by_Minister_for_Justice_and_Equality_Charlie_Flanagan_in_relation_to_the_launch_of_the_Irish_Penal_Reform_Trust_\(IPRT\)_Report_on_Solitary_Confinement_in_the_Irish_Penal_System](http://www.justice.ie/en/JELR/Pages/Statement_by_Minister_for_Justice_and_Equality_Charlie_Flanagan_in_relation_to_the_launch_of_the_Irish_Penal_Reform_Trust_(IPRT)_Report_on_Solitary_Confinement_in_the_Irish_Penal_System)

65 Irish Prison Service, *Census of Restricted Regimes, April 2018* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/April-2018-Restriction.pdf

66 Irish Prison Service, *Census of Restricted Regimes, July 2018* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/July-2018-Restriction.pdf



27. Violence in Irish prisons

Figures provided to IPRT by the Irish Prison Service over a five-year period suggests that there has been a decrease in prisoner-on-prisoner assaults from 715 in 2012 to 417 in 2017. The number of prisoner-on-staff assaults has fluctuated over the same period, with 107 recorded in 2012, 151 recorded in 2014 and 104 recorded in 2017. CAT (2017) had a number of relevant Concluding Observations⁶⁷ to the State on addressing violence in prisons including (i) undertaking thorough and impartial inquiries into all acts of violence committed in prisons (ii) enhancing measures to prevent and reduce inter-prisoner violence by improving prison management and the ratio of staff to prisoners, and strengthen the monitoring and protection of vulnerable prisoners and those presenting disciplinary issues and (iii) provide training to prison staff and medical personnel on communication with and managing of inmates, including juveniles, and on detecting signs of vulnerability and disciplinary issues.

The Irish Prison Service has developed a new therapeutic unit intended to address prisoners exhibiting the most violent and challenging behaviour.⁶⁸ The new unit will be co-led between Psychology and Operations.⁶⁹

This section of the report provides some good examples on how violence can be addressed through conflict-centred strategies and restorative justice practice.

28. Prisoners under escort

A review into prison escort services conducted by the Department for Justice and Equality in 2017 has yet to be published.⁷⁰ CAT (2017) made the following Concluding Observation relevant to this issue:

“Ensure that prisoners who are transferred between facilities are not injured during transportation and

ensure that handcuffing is used only as an exceptional measure, after appropriate risk assessment.”⁷¹ In 2018 the Committee for the Prevention of Torture (CPT) published a factsheet⁷² on this issue.

Ratification of OPCAT in 2018 would mean that all places of detention, including prison escort services, which are not currently inspected, will be subject to independent inspection.

29. & 30. Staff training, relationships and culture

The role and profession of a prison officer can be poorly defined.⁷³ Careful selection of, as well as support for staff is essential, including training and regular refresher training on human rights. CAT (2017) made a strong recommendation on this, calling for the State to make training on the provisions of the Convention and the absolute prohibition of torture, as well as on non-coercive interrogation methods, mandatory for public officials, in particular police and prison staff.⁷⁴

It further recommended the systematic collection of information on training and the development and implementation of specific methodologies to assess its effectiveness and impact on the reduction of the incidence of torture.⁷⁵

This section discusses the importance of relationships between management, staff and prisoners including proposing the need for independent research on this issue.

31. Use of force

There is little published data on the use of force in Irish prisons. This information is currently not centrally recorded. The Irish Prison Service has developed a protocol, *Conflict Management Operations and Training*,⁷⁶ which aims to minimise force. In this section of the report, restorative justice practices in other jurisdictions are outlined as alternative approaches aimed at minimising use of force.

67 United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Concluding Observations on the Second Periodic Report of Ireland*, p. 7

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En

68 O’Keeffe, C (2018) ‘Prison staff may get batons in new Violent Disruptive Prisoner Unit’, *Irish Examiner*, 16th July 2018

<https://www.irishexaminer.com/ireland/prison-staff-may-get-batons-in-new-violent-disruptive-prisoner-unit-472837.html>

69 This information has been provided to IPRT by the Irish Prison Service, 3rd July 2018.

70 IPRT Submission (2017) *IPRT Submission to the Department of Justice and Equality Value for Money and Policy Review of Prisoner Escort Services in the Criminal Justice Sector* (to be published on IPRT website)

71 United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Concluding Observations on the Second Periodic Report of Ireland*, 16 (j.) p. 6

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En

72 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (2018) *Transport of Detainees* <https://rm.coe.int/16808b631d>

73 The Howard League of Penal Reform (2017) *The Role of the Prison Officer*

<https://howardleague.org/wp-content/uploads/2017/11/The-role-of-the-prison-officer.pdf>

74 United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Concluding Observations on the Second Periodic Report of Ireland*, 14(a.)p. 5

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En

75 Ibid, 14(d.) p. 5

76 Irish Prison Service Protocol, *Conflict Management Operations and Training*, unpublished.

32. Cohorts at risk of discrimination

Implementation of the s.42 duty⁷⁷ in Irish prisons is vital to promoting equality and preventing discrimination. Pilot projects⁷⁸ have been carried out in the two women's prisons on the implementation of the public sector duty.

There have also been commitments made in the Irish Prison Service and Probation Service *Strategic Plan 2018–2020* to develop innovative responses to certain groups of offenders such as young adults.⁷⁹ The Irish Prison Service has been working with Pavee Point,⁸⁰ a Travellers' rights organisation, to amend their Census to include an ethnic identifier.⁸¹ A strategy on older prisoners is currently being finalised,⁸² and an older person's facility is being established.⁸³ However the LGBT policy has not been published and there is no explicit reference made to developing strategies for other cohorts at risk of discrimination including prisoners with disabilities or foreign-national prisoners.

32.1 Women who offend

Women who offend are more likely to have committed non-violent offences and have a distinct set of needs and therefore a gender-sensitive response is essential.

A snapshot review of the Irish Prison Service, *2018 Prison Populations* figures demonstrate (on the first published date of every month in 2018), women's prisons have been consistently above capacity, peaking at 175% for Limerick prison and 139% for Dóchas on the 1st June 2018.⁸⁴

CAT urged Ireland to continue efforts aimed at reducing overcrowding and improving material conditions in all places where women are detained.⁸⁵

The judiciary and the Probation Service play a vital role in reducing the number of women in custody through sentencing practice and the availability of gender-specific community sanctions.

The lack of a step-down facility or open provision which would support a gradual release back into society is a continuing significant concern. Despite policy commitments, there have been delays in achieving this goal and in fully implementing the *Joint Probation–Prison Service Strategy 2014–2016, An Effective Response to Women Who Offend*.⁸⁶

IPRT welcomes the most recent commitment by the Irish Prison Service and the Probation Service in their *Joint Strategic Plan 2018–2020* to 'develop a range of responses for female offenders to afford them more opportunity and help realise their potential.'⁸⁷

77 For more information on the Public Sector Duty, see <https://www.ihrec.ie/our-work/public-sector-duty/>

78 Information provided by the Irish Human Rights and Equality Commission at a meeting with IPRT 18th May 2018.

79 Irish Prison Service and Probation Service, *Strategic Plan 2018–2020*, p. 11
http://www.justice.ie/en/JELR/Pages/Irish_Prison_Service_and_Probation_Service_Strategic_Plan_2018–2020

80 <http://www.paveepoint.ie/>

81 Travellers in Prison Initiative, National Conference, October 20th 2017: *Conference Report*, p. 14
<https://www.ssgt.ie/wp-content/uploads/2018/03/TPI-Conference-Report.pdf>

82 Irish Prison Service and Probation Service, *Strategic Plan 2018–2020*, p. 11
http://www.justice.ie/en/JELR/Pages/Irish_Prison_Service_and_Probation_Service_Strategic_Plan_2018–2020

83 Irish Prison Service, *Annual Report 2017*, p. 5 <https://www.irishprisons.ie/information-centre/publications/annual-reports/>

84 These figures are provided by the Irish Prison Service, *2018 Prison Populations*,
<https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2018-prison-populations/>

85 United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Concluding Observations on the *Second Periodic Report of Ireland*, 16 (b.) p. 6
https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En

86 Joint Probation–Prison Service Strategy 2014–2016, *An Effective Response to Women Who Offend*
http://www.irishprisons.ie/images/pdf/women_strat_2014.pdf

87 Irish Prison Service and Probation Service, *Strategic Plan 2018–2020*, Strategic Action 3, p. 9

E. Reintegration

33. Parole

While IPRT welcomed the Parole Bill 2016,⁸⁸ we highlight a number of concerns including a shift from seven years to twelve years for parole candidates to have their first review. Parole should not be a political issue and therefore placing of the Parole Board on a statutory footing is required. This has yet to happen.

34 & 35. Barriers to reintegration

In order for individuals to successfully reintegrate a number of barriers must be overcome. Effective spent convictions legislation has a major role to play in removing barriers to the reintegration of former offenders and prisoners who have demonstrated that they have moved on from past offending behaviour. It was our view that the Criminal Justice (Spent Convictions and Disclosures) Act 2016 is limited and we welcome the recommendation of the Joint Committee on Justice and Equality in February 2018 that the legislation be reviewed.

Inter-agency co-operation between all relevant bodies is vital for successful reintegration, with various bodies in the areas of housing, health and education all having a role to play. In this respect, (at the time of publication), we welcome the First Report of the Interagency Group for a Fairer and Safer Ireland.⁸⁹ Effective rehabilitation and reintegration reduces the risk of re-offending which benefits all in society.

Conclusion

In order to ensure that the Irish penal system is effective and humane, the current prison population must be reduced as a first step. While there has been some welcome improvement within the last year, progress is minimal towards meeting the vision to which this project aspires. There are a number of changemakers that can lead the way in making this vision a reality. In 2018, we hope that by identifying the ‘changemakers’ in the penal system and explicitly recognising their role and potential impact we will encourage reflection, action and ultimately implementation of these standards for the benefit of all.

88 IPRT (2018) *Submission on the Parole Bill 2016 [PMB]* Report Stage
[http://www.iprt.ie/files/IPRT_Submission_on_the_Parole_Bill_2016_\(print_no_border\).pdf](http://www.iprt.ie/files/IPRT_Submission_on_the_Parole_Bill_2016_(print_no_border).pdf)

89 Department of Justice and Equality, *First Report of the Interagency Group for a Fairer and Safer Ireland*, July 2018
http://www.justice.ie/en/JELR/Pages/Penal_Policy_Review

PIPS 2018: Assessment of Progress

The overall purpose of *PIPS* is to assess progress across a broad range of issues in Ireland's penal system over three years. *PIPS* 2017 developed 35 standards against which the prevailing situation in Ireland's penal system will be independently tracked and monitored on an annual basis. It includes a series of indicators of progress and short-term actions recommended for implementation each year.

In *PIPS 2018*, IPRT has used a wide variety of research methods, including the completion of a comprehensive desk review of publicly available information, engaging directly with stakeholders and submitting parliamentary questions to assess the current situation in Ireland's penal system. In order to track and monitor progress over the year, we have collated this information and analysed any developments against each standard.

On that basis, we have also made a top-line assessment, classifying developments over the last 12 months as '**Progress**', '**Regress**', '**Mixed**', '**No Change**' or '**Insufficient Data**'.

Progress:	Where there has been identified and significant movement towards attainment of the standard.
Regress:	Where there has been identified and significant movement away from the attainment of the standard.
Mixed:	Where there has been both progress towards the standard in some areas and regress away from it in others.
No change:	Where there has been neither significant progress nor regress.
Insufficient data:	Where sufficient or adequate data is not available to make a reliable assessment of progress towards the standard.

Standard	Theme	Assessment	Rationale
S1	Progressive penal policy	Mixed	While publication of the <i>Data and Research Strategy 2018–2020</i> and the <i>Joint Oireachtas Committee Report on Penal Reform and Sentencing 2018</i> is positive, overall little progress has been made in the implementation of previous policy recommendations of the <i>Oireachtas Joint Committee on Justice and Equality 2013</i> and the <i>Strategic Review of Penal Policy 2014</i> .
S2	Imprisonment as a last resort	Regress	There has been a net increase in the rate of imprisonment from 79 per 100,000 in May 2017 to 83 per 100,000 in July 2018.
S3	Safe custody limits	No change	Overcrowding has remained a feature over the last 12 months particularly in the women's prisons.
S4	Size of prisons	No change	There have been no significant moves to reduce the size of existing prisons.
S5	Minimum security settings	No change	Very limited use of minimum security settings has continued, with fewer than 300 prisoners accommodated in low security settings in May 2018.
S6	Open prison provision	No change	Open provision in Ireland remains at a very low level at 6.7% of the prison estate, comparing unfavourably with, for example the Finnish rate of 40%
S7	Humane prison conditions	Insufficient data	This is difficult to assess in the absence of recent independent inspection reports; there have been no prison inspection reports published in 2018.
S8	In-cell sanitation	No change	Slopping out continues to affect 1.3% of the population with negligible reduction in numbers since 2017.
S9	Single cell accommodation	No change	The percentage of the prison population currently with access to single-cell accommodation has remained at 53%.
S10	Separation of remand from sentenced prisoners	Regress	There has been a substantial increase in number of remand prisoners sharing cells with sentenced prisoners, from 92 in July 2017 to 222 in July 2018.
S11	Family contact	Mixed	The opening of a new family visiting room in Limerick Prison and statement that all prisons now have child-friendly visiting conditions are positive. However, Skype contact is not yet the norm.
S12	Access to healthcare services	Mixed	Executive Clinical lead for IPS has been appointed but no progress made on the independent review of the entire prison healthcare system or on inspections by HIQA.
S13	Mental healthcare	No change	Consistently, there are 20–30 prisoners with severe mental illness awaiting transfer to CMH. There is only one 'designated centre' to receive forensic patients and a new facility at Portrane is unlikely to meet projected need.
S14	Drug and alcohol treatments	No change	A national <i>Drug Treatment Programme</i> based in the Medical Unit at Mountjoy can only facilitate up to 18 individuals; there are currently 44 prisoners on the waiting list for this programme.
S15	Privacy	Insufficient data	Insufficient data available to assess this standard.
S16	Out of cell time	No change	Approximately 13% of the prison population is on a 'restricted regime', with 68.6% of those on 21-hour lock up (July 2018). Only 23% of the prison population engaged in vocational training and 43% participated in education in January 2018.
S17	Integrated sentence management [ISM]	Mixed	Insufficient numbers of ISM Coordinators, with only 23 employed to manage 2,533 eligible prisoners. Appointment of ISM Coordinator for those on J-ARC, community support and community return schemes is positive.
S18	Life skills	Progress	Progress made on establishment of a third Independent Living Skills Unit (Wheatfield, Midlands, Mountjoy) and there has been increase in the number of prisoners with access to communal dining.
S19	Education	Regress	The majority of prisons have seen a decrease in education participation rates over the first half of 2018.

Standard	Theme	Assessment	Rationale
S20	Community engagement & involvement	Mixed	Some positive community engagement projects continue, e.g. Irish Red Cross. However, participation in the highly successful Community Return Programme has reduced significantly from 352 in 2015 to 206 in 2017.
S21	Political & civic participation	Regress	Voting rates have reduced over time, with only 58 prisoners voting in the May 2018 referendum on the 36 th Amendment to the Constitution. Of these, three were female.
S22	Complaints system	No change	A new internal complaints process is still under development. The number of Category A complaints received to end June 2018 is 41.
S23	Independent complaints and appeal mechanism	No change	Prisoners still do not have access to a fully independent external complaints mechanism or access to the Office of the Ombudsman.
S24	Inspections & monitoring	Mixed	Appointment of new Inspector of Prisons is positive but no inspection reports have been published in 2018. Legislation to ratify OPCAT promised by end 2018 but no draft legislation published. No progress on reform of Prison Visiting Committees.
S25	Investigations into deaths in custody	Mixed	13 death in custody reports have been published to date in 2018. In some cases significant delays occurred between the submission of the report to the Minister and its publication.
S26	Solitary confinement	Mixed	44 prisoners were being held in solitary confinement in April 2017; this reduced to 12 in April 2018 but rose again to 35 in July 2018. Information on the duration of time individual prisoners spend in solitary confinement remains unavailable.
S27	Violence in prisons	Mixed	Decrease in prisoner-on-prisoner assaults from 715 in 2012 to 417 in 2017. Prisoner-on-staff violence has increased by 1%. A new 'Violence Reduction Unit' is to be co-led by Psychology and Operations; it is too early to evaluate its operation.
S28	Prisoner escorts	Insufficient data	Review into prison escort services conducted by the DJE in 2017 has not been published. No handcuffing-by-exception policy has been introduced.
S29	Staff training	Progress	Development of Code of Ethical Behaviour and practice workshops for prison staff is positive.
S30	Developing positive relationships and work culture	Insufficient data	Measuring the Quality of Prison Life survey has not been published.
S31	Use of force	Insufficient data	Data on use of force per prison per year was not available. <i>Conflict Management Operation and Training Protocol</i> which aims to minimize the use of force has been developed.
S32	Cohorts of prisoners at risk of discrimination	Mixed	Commitments made in <i>IPS Strategic Plan 2018–2020</i> to develop innovative responses to young adults. However, policies on older prisoners and LGBT prisoners remain unpublished. No policy reference to other protected groups e.g. foreign nationals or those with disabilities.
S32.1	Women who offend	Mixed	While the number of female committals has decreased, there has been an increase in daily female population with women's prisons consistently overcrowded in 2018. Necessary actions identified in published strategies have not been fully implemented. However, <i>IPS/Probation Joint Strategic Plan 2018–20</i> commits to the development of further gender-specific alternatives to imprisonment which is positive.
S33	Parole system	No change	No further legislative progress on the Parole Bill 2016, which aims to place the Parole Board on a statutory footing.
S34	Reintegration	No change	No progress made on the establishment of a reintegration policy. No review or expansion of the <i>Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016</i> .
S35	Inter-agency coordination	Progress	The establishment of the Interagency Group for a Fairer and Safer Ireland and the publication of their first report in 2018 is a positive cross-departmental initiative.



Foreword

It is with great pleasure I write this foreword. For a short period of time I had the honour to serve as Chairperson of the Irish Penal Reform Trust. Then and now I am deeply impressed by its work. It is a unique NGO in Ireland and fulfils a vital role in advocating for the human rights of prisoners.

The efforts of IPRT have already improved the situation of prisoners, as is evident from the present report and from research conducted by my current institution, the European Union Agency for Fundamental Rights (FRA).

This report, and more generally the work of the IPRT, serves as a reminder to duty bearers about their obligations to one of the most vulnerable categories of rights holders. Additionally it is a valuable source of information, which will enable other actors, such as lawyers, journalists and NGOs to better advocate for improvement and reform of penal institutions.

FRA research has shown that international recommendations to treat detention as a measure of last resort should indeed be followed, especially in the context of pre-trial detention and the detention of vulnerable persons. In this regard, and with sustained effort, could become a true pioneer.

Criminal justice serves to protect the rights and safety of victims and society, and one of the means of achieving this goal is to treat prisoners in a humane and decent way. What the IPRT has been reminding us for years – and FRA has also repeatedly stated – is that prisoners should only be punished by deprivation of liberty and not by deprivation of their dignity. In large part thanks to the work of the IPRT, Ireland is getting closer to ensuring the respect of the prisoners' human rights in practice.

Given this progress, Ireland can and should deliver a penal system informed by the principles of human rights, dignity, humanity and social justice. However, no system can function effectively without independent monitoring, and it will be important to ratify the Optional Protocol to the Convention against Torture and establish the National Preventive Mechanism.

Michael O'Flaherty

Director of the European Union Agency for Fundamental Rights



PART 1:

How progress can be achieved

1.1 Introduction: A Vision for the Penal System in Ireland

*Progress in the Penal System (PIPS): A framework for penal reform (2017)*⁹⁰ was published in October 2017, the first in a series of annual *PIPS* reports. The report outlined a clear vision for the future of the penal⁹¹ system in Ireland. It set out standards, informed by international human rights standards and best practice, and developed indicators to track progress on a yearly basis.

The purpose of the *PIPS* project is to inform a wide range of stakeholders about the current state of the penal system. The target audience includes criminal justice professionals, policymakers, legislators, politicians, media and the general public. The overall aim of the *PIPS* project is to inspire stakeholders to lead and work towards a progressive penal system. It asks stakeholders to reflect on their own and each other's roles and responsibilities, engage in the *PIPS* process, and act on opportunities for change.

Ireland as a small and wealthy nation has the potential to be a leading model of international best penal practice. This can be achieved through the implementation of IPRT's *PIPS* standards. However, the collaboration and commitment of stakeholders is crucial to achieving the implementation of these standards.

PIPS 2018 examines the progress made on each of the standards and is an opportunity to identify both progress achieved and what remains to be done. This year's report also includes more examples of innovative penal practice, both domestic and international.

PIPS 2018 continues the examination of the penal system across the following themes:

- Creating an effective and humane penal system
- Prison conditions
- Regimes
- Complaints, accountability and inspection mechanisms
- Safety and protection in Irish prisons
- Reintegration

Three key issues are under the spotlight: Mental Health; Women (a new standard which has been added to the report in 2018); and Staff, Training and Relationships. IPRT believes reform and resourcing in these three areas must be prioritised over the coming year. The rationale as to why these key issues are important is outlined in the relevant sections.

Children in detention are intentionally not included in this report. While children in detention form part of the penal system, the system itself has gone through tremendous change with the ending of imprisonment of children at St. Patrick's Institution in 2017.⁹² Children should, be treated differently and also benefit from additional human rights treaties including the Convention on the Rights of the Child. IPRT continues to work on reform and improvement of the youth justice system separately from this project.

*PIPS 2017*⁹³ set out the origins of the project, including the process for setting the standards and indicators, and should be read as a complementary document. Notwithstanding, the principles and values that underpin the entire *PIPS* project and IPRT's general work are reiterated here:

90 IPRT (2017) *Progress in the Penal System (PIPS): A framework for penal reform (2017)*
http://www.iprt.ie/files/Progress_in_the_Penal_System.compressed_.pdf

91 The term 'penal' means "relating to, used for, or prescribing the punishment of offenders under the legal system". See Oxford Living Dictionaries <https://en.oxforddictionaries.com/definition/penal>

92 Department of Justice and Equality, "Tánaiste announces closure of St. Patrick's Institution"
<http://www.justice.ie/en/JELR/Pages/PR17000117>

93 IPRT (2017) *Progress in the Penal System (PIPS): A framework for penal reform (2017)*
http://www.iprt.ie/files/Progress_in_the_Penal_System.compressed_.pdf

PIPS Guiding Principles of Penal Reform

1. **Imprisonment is viewed as a sanction of last resort**
2. **Recognition of the harms and costs associated with imprisonment**
3. **Adherence to the ‘Deprivation of Liberty’ principle where the loss of freedom is viewed as the punishment**
4. **Balance the security and protection of prisoners with provision of a safe and purposeful regime**
5. **Protection and promotion of human rights, equality and social justice**
6. **Focus on rehabilitation, desistance and reintegration.**

These principles and values are grounded in penal theory and research; a number of other bodies have identified similar principles and values.⁹⁴ These principles and values continue to inform *PIPS 2018*.

Finally, this second edition of *PIPS* sets out to answer the key question: *Are we making progress in our penal system?* The concluding chapter answers this question and suggests where we need to go next.

IPRT’s Values of the Penal System

- **Safety, protection of life and a duty of care**
- **Respect, dignity and protection from inhumane, discriminatory or degrading treatment**
- **Accountability and transparency**
- **Consistency and promotion of fairness and equality**
- **Promotion and maintenance of good relationships between prisoners, staff and management**

94 Joldersma, C (ed.) (2016) *Final Report: Prisons of the Future*, funded by the European Commission <http://cep-probation.org/wp-content/uploads/final-report1.pdf>. A number of values are articulated in five key principles, which can be summarised as:

1. Human dignity: The person feels respected and is recognised as a person.
2. The avoidance of further damage or harm: Prison and alternative sanctions are viewed as the punishment and therefore no additional punishment such as poor prison conditions should be used.
3. The right to develop the self: Individuals should have the opportunity to learn and to be active and productive, with personal responsibility and decision-making emphasised.
4. The right to be important to other people: Individuals should not be isolated and should have the opportunity to contact their social network.
5. A stable and professional organisation: “A stable organization implies a staff and professional staff group which strives continually for ‘whole system integrity’ and ‘professional development’ (through research, evaluation, and reflexivity). Prison and Probation Services should be open minded to new knowledge and taking risks. The organization is able to react flexible and acts in turbulent environment without convulsion. The professionals communicate transparently to society and citizens” (Joldersma, 2016: 147).

See also HM Inspectorate of Prisons (2017) *Our Expectations* <https://www.justiceinspectores.gov.uk/hmiprison/our-expectations/> HM Inspectorate of Prisons (England and Wales) has developed four key criteria to assess whether a prison is ‘healthy’:

1. Safety
2. Respect
3. Purposeful Activity
4. Resettlement.

1.2 Who Are Our Prisoners? Characteristics of the Prison Population in Ireland

Firstly, a key question to ask is: Who exactly are our prisoners?

It has been over 20 years since there was a comprehensive study⁹⁵ published on the demographic profile of the prison population in Ireland. That study⁹⁶ showed that 56% of prisoners in Mountjoy Prison came from six districts characterised by high levels of economic deprivation in Dublin. Since then, one study,⁹⁷ published a decade ago, focused on the geography of prisoner reintegration. This study showed that the most deprived areas in the country had 145.9 prisoners per 10,000 population, compared to a figure of 6.3 for the least deprived areas in the country.⁹⁸

Of the current prison population, 4.5% are female.⁹⁹ Research¹⁰⁰ in England shows that 57% of female prisoners have been victims of domestic abuse and 53% had experienced emotional, physical or sexual abuse as a child.

Research¹⁰¹ also shows that children aged 16 and 17 living in residential care are 15 times more likely to be criminalised than their peers. Connections between childhood adversities, trauma and imprisonment have been increasingly acknowledged.¹⁰² In describing interviews with prisoners, the Mountjoy Visiting Committee stated: “Many reported a history of deprivation, trauma, intergenerational substance abuse, out of home care and loss of family contact.”¹⁰³

Recent estimates suggest that 15% of males and 22% of females in Irish prisons are Travellers.¹⁰⁴ Figures from the *World Prison Brief*¹⁰⁵ also show that 15.6% of prisoners are on remand and 13% of the prison population in Ireland are foreign-nationals.

The absence of any recent comprehensive study on the demographic profile of the prison population in Ireland again highlights a gap in data available to support policy making and practice in the criminal justice system.

95 O'Mahony, P (1997) *Mountjoy Prisoners: A Sociological and Criminological Profile* <https://www.drugsandalcohol.ie/3464/1/616-mountjoy.pdf>

96 Ibid, p. 40

97 O'Donnell, I, Teljeur, C, Hughes, N, Baumer, EP and Kelly, A (2007) 'When prisoners go home: punishment and social deprivation and the geography of reintegration', *Irish Criminal Law Journal*, 17(4), pp.3-9

98 Ibid.

99 World Prison Brief, *Ireland, Republic of* (14/08/18) <http://www.prisonstudies.org/country/ireland-republic>

100 Prison Reform Trust (2017) "There's a reason we're in trouble": Domestic Abuse as a Driver to Women's Offending http://www.prisonreformtrust.org.uk/Portals/0/Documents/Domestic_abuse_report_final_lo.pdf

101 Howard League of Penal Reform (2017) *Criminalisation of children in residential care should be a "national concern"*, <https://howardleague.org/news/criminalisation-of-children-in-residential-care-should-be-a-national-concern/>

102 The Association for Criminal Justice and Research Development in Ireland hosted a conference: *Toward a Trauma-Responsive Criminal Justice System: Why, How and What Next?* 4th July 2018 https://www.acjrd.ie/files/2018_ICJA_Conference_Programme_-_04.07_18_.pdf

103 *Annual Report 2016 from the Mountjoy Visiting Committee to the Minister for Justice Frances Fitzgerald TD*, p. 3 http://www.justice.ie/en/JELR/Mountjoy_Prison_VC_Annual_Report_2016.pdf/Files/Mountjoy_Prison_VC_Annual_Report_2016.pdf

104 Travellers in Prison Initiative (2017) *Ethnic Identifiers in Irish Prisons: Context and Recommended Practice for Improving Data Collection on Travellers and Minority Ethnic Groups in Irish Prisons*, p. 3 <https://www.ssgt.ie/wp-content/uploads/2017/11/TPI-Ethnic-Identifiers-in-Irish-Prisons-Book.pdf>

105 World Prison Brief, *Ireland, Republic of* (14/08/18) <http://www.prisonstudies.org/country/ireland-republic>

Evidence shows that social exclusion is closely interlinked with both crime and punishment.¹⁰⁶ Between 2015 and 2017, the Irish Prison Service undertook a survey¹⁰⁷ with prisoners in three prisons. Based on aggregate data from these surveys, results show that 25.6% of participants had attended no secondary school and 80% of participants left school before completion of the Leaving Certificate.¹⁰⁸

Another recent Irish study showed that 17.4% of the prison population were homeless on committal to prison, a figure higher than some international estimates.¹⁰⁹ The same research also found that rates for psychoses and alcohol and substance misuse were significantly higher than in the general population.¹¹⁰

The changemakers identified in this report work beyond the criminal justice system, and include a number of government departments including housing, education, health, children and employment. The policies and practices of all departments and agencies in addressing issues of social exclusion and disadvantage must be reflected upon and their direct implications for rates of imprisonment considered.

106 Irish Penal Reform Trust (2012) *The Vicious Circle of Social Exclusion and Crime: Ireland's Disproportionate Punishment of the Poor* http://www.iprt.ie/files/Position_Paper_FINAL.pdf

107 Irish Prison Service, *Surveys on Prisoner Family Visits 2015–2017*, unpublished.

108 Ibid.

109 Gulati, G, Keating, N, O'Neill, A, Delaunoy, I, Meagher, D and Dunne, CP (2018) 'The prevalence of major mental illness, substance misuse and homelessness in Irish prisoners: systematic review and meta-analyses', *Irish Journal of Psychological Medicine*, pp. 1–11

110 Ibid.

1.3 The Changemakers

While the prison system itself is an important part of the penal system, the penal system involves a much wider range of stakeholders. Decisions made by other stakeholders can influence – or indeed limit – what can happen within the prison system itself. For example, if the number of people sent to prison is high, this will result in overcrowding and prisons operating above capacity, which increases the likelihood of violence. An overcrowded prison system also means a reduced focus on rehabilitation. This also subsequently impedes the prospects of successful reintegration into society.

Here, IPRT identifies and examines the role of selected stakeholders outside the prison system who can positively contribute to the shape of our penal system and the lives of those within it. These include:

- (1) Judiciary
- (2) Legislators
- (3) Probation
- (4) Media, politics and public opinion.

The principles of penal reform should be kept to the forefront when examining the roles of various stakeholders and how these principles apply to their work.

1. Judiciary

Recent domestic research¹¹¹ indicates significant disparities in sentencing practice across District Court jurisdictions where only in 8 District Courts (out of 23 jurisdictions and the Dublin Metropolitan District) were more community service orders than short-term prison sentences made during 2011 and 2012.¹¹² In one District Court, 14 prison sentences were imposed to every one community service order.¹¹³ In contrast, in another District Court, three community service orders were imposed for every short-term prison sentence.¹¹⁴ These findings

highlight major inconsistencies in sentencing practice across District Courts in Ireland. This is in spite of the introduction of legislation, section 3 of the Criminal Justice (Community Service) Amendment Act 2011,¹¹⁵ which provides that the judiciary when imposing a custodial sentence of 12 months or less shall consider a community service order as an alternative to that sentence. This legislation supports the guiding principle of imprisonment as a last resort.

Earlier research¹¹⁶ highlighted possible reasons for the under-utilisation of community-based sentences at that time:

While this could indicate a lack of faith in the utility of probation, there are several other possibilities. It may be that judges believed that intensive intervention was not appropriate for minor or first time offenders, reflect the local (un)availability of suitable programmes, or indicate a belief that meaningful change cannot be imposed, but must come from within. Judges sentencing theories may partly explain the relative absence of treatment components.¹¹⁷

With the last comprehensive review of sentencing¹¹⁸ by the Law Reform Commission published over 20 years ago, IPRT recently proposed that the Law Reform Commission review sentencing practice and policy in Ireland as part of its *Fifth Programme of Law Reform*.¹¹⁹ Calls have also been made by other stakeholders¹²⁰ for the introduction of sentencing guidelines through the vehicle of the Judicial Council Bill.¹²¹ While IPRT has some concerns about the detail of this proposal, in principle we support examining the merits of introducing sentencing guidelines in this jurisdiction where they promote penal moderation and do not unduly fetter judicial independence.

111 O'Hara, K (2016) *Examining the Comparative Use, Experience and Outcomes of Community Service Orders as Alternatives to Short Prison Sentences in Ireland*, Dublin Institute of Technology <https://arrow.dit.ie/appadoc/63/>

112 Ibid, p. 303

113 Ibid.

114 Ibid.

115 Irish Statute Book, Criminal Justice (Community Service) Amendment Act 2011 <http://www.irishstatutebook.ie/eli/2011/act/24/enacted/en/print>

116 Healy, D and O'Donnell, I (2010) 'Crime, consequences and court reports', *Irish Criminal Law Journal*, 20(1)

117 Healy, D and O'Donnell, I (2010) 'Crime, consequences and court reports', *Irish Criminal Law Journal*, 20(1), p. 5

118 Law Reform Commission (1993) *Consultation Paper on Sentencing* http://www.lawreform.ie/_fileupload/consultation%20papers/cpSentencing.htm

119 IPRT (2018) *Submission to the Law Reform Commission on Its Consideration of its 5th Programme of Law Reform* <http://www.iprt.ie/contents/3254>

120 *The Irish Times* (2018) 'Sentencing: Judges must be given guidelines', 21st February 2018 <https://www.irishtimes.com/opinion/editorial/sentencing-judges-must-be-given-guidelines-1.3399213>

121 Department of Justice and Equality, *General Scheme of the Judicial Council Bill* <http://justice.ie/en/JELR/General%20Scheme%20Judicial%20Bill.pdf/Files/General%20Scheme%20Judicial%20Bill.pdf>

2. Legislators

Legislators can contribute to achieving practical and positive change in our penal system. One example of this is the introduction of the Fines (Payment and Recovery) Act 2014¹²² which was fully commenced in early 2016. Although further evaluation is required, it appears to have had a positive effect in reducing the number of committals to prison. Figures from the Irish Prison Service demonstrate a 38.5% reduction in committals from 15,099 in 2016¹²³ to 9,287 in 2017.¹²⁴ There was a 73% reduction in those committed for non-payment of a court-ordered fine.¹²⁵ This was a practical legislative measure that has had a positive effect on the number of prison committals.

On the other hand, poorly conceived and reactive legislation – for example the introduction of presumptive minimum and mandatory sentences¹²⁶ – can create potential for injustice; is often ineffective as a deterrent; has the potential to undermine the integrity of the criminal justice system; and may impact negatively on both the rate and cost of imprisonment.¹²⁷

The central principles of de-carceration, penal moderation and imprisonment as a last resort are reflected within both Oireachtas Joint Committee Reports¹²⁸ (2013 and 2018) and within the Department of Justice and Equality's *Strategic Review of Penal Policy* (2014)¹²⁹. The cross-party consensus already achieved should inform the work of the legislature going forward.

3. Probation

The Probation Service plays an essential role in offering judges appropriate and effective community sanctions. According to Penal Reform International,¹³⁰ probation systems can contribute in four ways to “effective criminal justice”; they can:

- (1) Reduce the prison population
- (2) Provide more constructive punishment than prison
- (3) Offer individuals an opportunity to make a positive contribution to society
- (4) Provide more effective opportunities for rehabilitation.

Compared to the European average, the number of persons under the supervision of the Probation Service in Ireland is low. Latest figures published by the Council of Europe (CoE) show the total number of persons who started a community sanction or probation under the Probation Service during 2016 was 124.7 per 100,000, compared to the European median of 197.7.¹³¹ The total number of persons under probation supervision (including community service) in Ireland on 31st December 2016 was 120.7 compared to the European median of 170.4.¹³² While further analysis of these figures is required, the statistics may indicate the under-utilisation of probation services in Ireland. However, attention must also be paid to ‘net-widening effects’¹³³ that occur in many criminal justice systems.

Community sanctions as a direct alternative to imprisonment makes sense.¹³⁴ Community sanctions also involve a lower social cost to individuals, communities and the State.

122 Irish Statute Book, Fines (Payment and Recovery) Act 2014 <http://www.irishstatutebook.ie/eli/2014/act/7/enacted/en/html>

123 Irish Prison Service (2017) *Annual Report 2016* <https://www.irishprisons.ie/information-centre/publications/annual-reports/>

124 Irish Prison Service (2018) *Annual Report 2017* <https://www.irishprisons.ie/information-centre/publications/annual-reports/>

125 Department of Justice and Equality (2018) ‘Minister Flanagan welcomes progressive achievements of Irish Prison Service and Probation Service in 2017’ <http://www.justice.ie/en/JELR/Pages/PR18000177>

126 IPRT (2013) *Position Paper 3: Mandatory Sentencing* <http://www.iprt.ie/contents/1242>

127 Ibid.

128 Houses of the Oireachtas (2013) *Joint Committee on Justice, Defence and Equality: Report on Penal Reform* <https://www.oireachtas.ie/parliament/media/Penal-Reform-Report-13-March-2013-Final.pdf>, Houses of the Oireachtas (2018) *Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing* https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

129 Department of Justice and Equality (2014) *Strategic Review of Penal Policy: Final Report* <http://www.justice.ie/en/JELR/Pages/PB14000244>

130 Penal Reform International (2016) *On Probation: Models of Good Practice for Alternatives to Prison*, pp.9–10 <https://www.penalreform.org/wp-content/uploads/2016/12/Probation-model-report-final-2016.pdf>

131 Council of Europe (2018) *Annual Penal Statistics Space II Survey 2016 Persons Serving Non-Custodial Sanctions and Measures in 2016*, pp. 42–43 http://wp.unil.ch/space/files/2018/03/SPACE_II_report_2016_Final_100320.pdf

132 Ibid, pp. 23–25

133 ‘Net widening’ is a term used to describe the situation when increased provision of non-custodial sanctions does not reduce prison population numbers but instead increases the total number of persons under the criminal justice system.

134 IPRT (2010) *Community Sanctions, IPRT Position Paper 8* http://www.iprt.ie/files/IPRT_Position_Paper_8_-_Community_Sanctions.pdf

The availability of community sanctions on a nationwide basis is pivotal in supporting and increasing the judiciary's confidence in community sanctions. In their Concluding Observations, the UN Committee against Torture (CAT) recommended that Ireland:

Consider increasing the use of non-custodial measures and alternatives to detention, in keeping with the United Nations Standard Minimum Rules for the Treatment of Prisoners (The Tokyo Rules).¹³⁵

In domestic penal policy, the *Strategic Review of Penal Policy* (2014) also recommends increasing the use of community sanctions (to directly replace imprisonment), particularly those sanctions that address the root causes of offending behaviour, in order to instil public confidence.¹³⁶ The Oireachtas Joint Committee on Justice and Equality concurred with that recommendation in its *Report on Penal Reform and Sentencing* (2018):

The emphasis of a progressive penal and sentencing policy should be on investment in community-based sanctions and non-custodial sentences. Prison should be a last resort for minor criminal offences. Community-based sanctions are not only effective in many cases, but can generate community payback and result in enormous savings compared to the costs of incarceration [...] The Probation Service must be provided with the necessary resources it would require on foot of a greater emphasis on community-based sanctions.¹³⁷

Increasing understanding of the work of the Probation Service among key stakeholders, such as the judiciary, is important. Further analysis of judicial decision-making, availability, utilisation, delivery and effectiveness of community sanctions in Ireland would be welcome.

4. Media, Politics and Public Opinion

The media, politics and public opinion have a complex relationship with each other. The media has a responsibility to report fairly and accurately in order to inform the public when reporting on crime and punishment. However, politicians periodically resort to 'tough on crime' rhetoric which is transmitted through the media. Reactive policy decisions to adverse events can have significant consequences in contributing to the rise in prison populations. The UK parliament previously highlighted the impact of media, politics and public opinion on the decision-making process:

Wider factors such as the media, public opinion and political rhetoric contribute to risk averse court, probation and parole decisions and hence play a role in unnecessary system expansion. If Ministers wish the system to become sustainable within existing resources, they must recognise the distorting effect which these pressures have on the pursuit of a rational strategy.¹³⁸

The importance of providing accurate data for the media and general public is highlighted in the new Guidance¹³⁹ on the UN Mandela Rules:

Accurate data can help provide the media and public with a true picture of prison life, including the challenges faced by prison administrations. This is particularly important because many people are ill-informed about the situation in prisons and public and political discourse about such institutions is based on fear-mongering, stereotypes and broader political agendas. Proper record keeping, can in turn, lead to increased public awareness about the problems faced by prisoners and prison staff, and lead to a shift towards more evidence based decision-making.¹⁴⁰

Research on the release of life-sentenced prisoners in Ireland, which included interviews with former Parole Board members, found "public opinion was also deemed to be important, while participants were acutely aware of the political landscape

135 UN Committee against Torture (2017) *Concluding Observations on the second periodic report of Ireland*, 16 (c.)p. 6 https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En

136 Department of Justice and Equality (2014) *Strategic Review of Penal Policy: Final Report*, pp.44–45 <http://www.justice.ie/en/JELR/Pages/PB14000244>

137 Houses of the Oireachtas (2018) *Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing*, p. 57 https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

138 House of Commons, *Cutting Crime: The Case for Justice Reinvestment, Drivers of System Expansion*, Point 192 <https://publications.parliament.uk/pa/cm200910/cmselect/cmjust/94/9409.htm>

139 Penal Reform International & Office for Democratic Institutions and Human Rights (2018) *Guidance Document on the Nelson Mandela Rules*, Point 17, p. 13 <https://s16889.pcdn.co/wp-content/uploads/2018/07/Mandela-Rules-Guidance-Document.pdf>

140 Ibid.

in which parole operates when deliberating on individual cases”.¹⁴¹ In addition, the research found there was reluctance by the Minister to accept recommendations in high-profile cases, which resulted in a reluctance to recommend release by members of the Parole Board, leading the author to conclude that: “Public opinion, although unknown in empirical reality, impacts on parole outcomes and often in a punitive manner.”¹⁴²

Evidence of a false dichotomy between victims’ and offenders’ rights can be found in research which highlights the interchangeable nature of victimisation and offending, particularly among women and younger offenders.¹⁴³ As highlighted by the authors:

*Whilst political discourse encourages members of the public to show compassion towards victims and to see them as a vulnerable, but deserving group, it simultaneously castigates the actions of “offenders” whilst carelessly ignoring the fact that many individuals might fall into both categories.*¹⁴⁴

5. The role and responsibility of other state bodies

(i.) Department of Education and Skills

Educational disadvantage is a predominant characteristic of the current prison population. Between 2015 and 2017, the Irish Prison Service undertook a survey¹⁴⁵ with prisoners in three prisons. Based on aggregate data from these surveys, results show that:

- 25.6% of participants had attended no secondary school
- 80% of participants left school before completion of the Leaving Certificate¹⁴⁶
- 1 in 5 prisoners completed the Leaving Certificate compared to 3 in 5 in the general population
- 9% of the prison population had completed some form of higher education.

These statistics demonstrate that educational disadvantage is prevalent across the prison population, one symptom of wider social exclusion. In 2018, IPRT made a submission¹⁴⁷ to the Oireachtas Committee on Education and Skills. In this submission, IPRT highlighted the important role that education plays throughout the whole system, from prevention and early intervention to supporting the person in prison and upon release. Education plays a crucial role in crime prevention; therefore, the education system must consider the high levels of early school leaving by the prison population and respond with innovative methods to engage and re-engage people in education.

(ii.) Department of Health

The late Inspector of Prisons published the *Healthcare in Irish Prisons*¹⁴⁸ report in 2016 which contained a number of recommendations that have yet to be acted upon. These included that responsibility for the provision of healthcare should be transferred from the Irish Prison Service to the Health Service Executive, and that a health needs assessment of prisoners in all prisons should be undertaken by a clinician immediately, along with a healthcare staffing needs analysis.¹⁴⁹ Specific

141 Griffin, D (2018) *Killing Time: Life Imprisonment and Parole in Ireland*, p. ix, Palgrave Macmillan

142 Ibid, p. 165

143 Drake, D and Henley, A (2013) ‘Victims’ versus ‘offenders’ in British political discourse: the construction of a false dichotomy’, *The Howard Journal*, p. 16 http://eprints.keele.ac.uk/1550/3/drake_henley_hjc_2013.pdf

144 Ibid, p. 17

145 Irish Prison Service, *Surveys on Prisoner Family Visits 2015–2017*, unpublished

146 Ibid.

147 Irish Penal Reform Trust (2018) *Submission of the Irish Penal Reform Trust to the Joint Committee on Education and Skills on “Educational Inequality and Disadvantage”* <http://www.iprt.ie/contents/3252>

148 Inspector of Prisons (2016) *Healthcare in Irish Prisons* http://www.justice.ie/en/JELR/Healthcare_in_Irish_Prisons_Report.pdf/Files/Healthcare_in_Irish_Prisons_Report.pdf

149 Inspector of Prisons (2016) *Healthcare in Irish Prisons*, p. 23 http://www.justice.ie/en/JELR/Healthcare_in_Irish_Prisons_Report.pdf/Files/Healthcare_in_Irish_Prisons_Report.pdf

issues relating to mental health and addiction are outlined later in this report.

The transfer of prison healthcare to ministries of health is a growing international trend.¹⁵⁰ A number of benefits¹⁵¹ have been identified, including:

- standards of healthcare for prisoners improve
- national health policymakers have a greater understanding of the health needs of prisoners
- recruitment and quality of healthcare staff in prisons improve
- links with community healthcare are strengthened and resources for prisoner healthcare improve where countries have made this transition.

Transferring governance of prisoner healthcare to the Department of Health would also facilitate independent healthcare inspections in prisons by the Health Information and Quality Authority (HIQA) which currently do not take place in Irish prisons.

(iii.) *Department of Housing, Planning and Local Government*

The Department of Housing, Planning and Local Government plays a crucial role in the reintegration of prisoners. Having stable accommodation is essential for people getting their lives back on track. However, this must be provided in tandem with relevant wraparound supports. The Joint Oireachtas Committee on Justice and Equality (2018) recommended a *Housing First* model where “the outgoing offender is placed in his or her own home and provided with individualised supports based on his or her needs.”¹⁵²

Research highlights that homelessness upon committal to prison in Ireland is higher than some international estimates.¹⁵³ While no data is publicly available in Ireland, a report¹⁵⁴ from the UK estimates that six in ten women had no homes to go to upon release from prison, with the research suggesting that women are more likely to lose their homes upon a period of imprisonment.¹⁵⁵ In Ireland, this situation is compounded because of the current absence of any transitional, step-down or open provision facility for women, despite policy commitments made.¹⁵⁶

(iv.) *Department of Children and Youth Affairs*

Supporting children and young people early in their lives is one of the best ways to support crime prevention. IPRT previously outlined the need for early intervention and specialised supports to be made available to particular groups including children of prisoners and children in care.¹⁵⁷

The most recently published statistics¹⁵⁸ of Oberstown Children Detention Campus highlight how 40% of young people there were in state care or had significant involvement with Tusla, the Child and Family Agency, prior to detention, while 36% of children had suffered the loss of one or both parents through death or imprisonment, or had no long-term contact.

*Better Outcomes, Brighter Futures: National Policy Framework for Children and Young People 2014–2020*¹⁵⁹ must be acted upon. Some of the transformational goals in the Department of Children and Youth Affairs Framework are of particular relevance to these cohorts of children

150 World Health Organization (2010) *Patient or Prisoner: Does it Matter which Government Ministry is Responsible for the Health of Prisoners?*, p. 4 http://www.euro.who.int/_data/assets/pdf_file/0014/126410/e94423.pdf

151 *ibid*, p. 6

152 Houses of the Oireachtas, Joint Committee on Justice and Equality (2018) *Report on Penal Reform and Sentencing*, p.59 https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

153 Gulati, G, Keating, N, O'Neill, A, and Delaunois, I (2018) 'The prevalence of major mental illness, substance misuse and homelessness in Irish prisoners: systematic review and meta-analyses', *Irish Journal of Psychological Medicine*, pp. 1–11

154 Prison Reform Trust and Women in Prison (2016) *Home Truths: Housing for Women in the Criminal Justice System* <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Home%20Truths.pdf>

155 *Ibid*.

156 See Department of Justice and Equality (2017) *National Strategy for Women and Girls 2017–2020: Creating a Better Society for All*, p. 47. See also Irish Prison Service and Probation Service (2014) *Joint Probation Service – Irish Prison Service Strategy 2014–2016: An Effective Response to Women Who Offend*, p. 14 http://www.irishprisons.ie/images/pdf/women_strat_2014.pdf

157 See IPRT (2018) Submission to the Joint Committee on Education and Skills on “*Educational Inequality and Disadvantage*”, 1st February 2018 <http://www.iprt.ie/contents/3252>. See also University College Cork, Irish Penal Reform Trust and the Children’s Rights Alliance (2017) *Principles of Action for Children with a Parent in Prison* <http://www.iprt.ie/contents/3190>; IPRT (2012) “*Picking up the Pieces: The Rights and Needs of Children Affected by Imprisonment*” <http://www.iprt.ie/contents/2450>; and IPRT, IAYPIC and Barnardos (2010) *From Justice to Welfare: The Case for Investment in Prevention and Early Intervention* http://www.iprt.ie/files/From_Justice_to_Welfare_-_The_Case_for_Investment_in_Prevention_and_Early_Intervention.pdf

158 Oberstown Campus (2018) *Key Characteristics of Young People in Detention: A Snapshot* (Q 1, 2018), pp.6–7 <https://www.oberstown.com/wp-content/uploads/2018/06/Key-Characteristics-2018.pdf>

159 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* https://www.dcy.gov.ie/documents/cypp_framework/BetterOutcomesBetterFutureReport.pdf

and examples provide how they might be applied to the needs of these children:

- **Listening to and involving children and young people:** All professionals (e.g. judiciary and police) should be trained and should have a child-centred focus, ensuring that the ‘best interests’ and ‘voice of child’ principles are at the heart of their work for children in care, children of prisoners and children in detention.
- **Strengthen transitions:** One practical example of how the Department can support transitions is by extending the juvenile justice system beyond 18 years¹⁶⁰ and providing aftercare supports (both financial and emotional supports) beyond the age of 18 for every child who has been in the care of the State.
- **Cross-government and inter-agency collaboration and co-ordination:** For example, through creating a mandatory provision in legislation for inter-agency co-operation by the relevant Departments.

The Department of Children and Youth Affairs should also consider its role in supporting young adults in the criminal justice system up until the age of 24 in line with its current policy framework.¹⁶¹

(v.) *Department of Employment Affairs and Social Protection*

The Department of Employment Affairs and Social Protection plays a role in promoting and supporting opportunities for the training and employment of people with experience of the criminal justice system.¹⁶² Access to stable employment is associated with desistance.¹⁶³ Criminal convictions and weak spent convictions legislation continue to be a barrier to reintegration for many individuals.

While the Irish Prison Service has made progress in this area through the recent Social Enterprise Strategy¹⁶⁴, there is scope for further support for people with criminal convictions in accessing employment opportunities. One point of focus might be strengthening inter-agency working,

highlighted in the Irish Prison Service and Probation Service *Joint Strategic Plan 2018–2020*, which states that “linking with statutory services such as local authorities and the Department of Social Protection can mean for some that a sentence can be utilised to improve contact with public services”.¹⁶⁵

Notably, May 2018 was the first time in ten years that Ireland’s unemployment rate fell under 6% (at 5.8%).¹⁶⁶ With Ireland heading for full employment, people coming out of prison should be prepared and equipped with the skills necessary to access employment upon release. (This issue will be discussed further in the Reintegration section of this report.)

Other government departments and state agencies have the potential to contribute to and make a substantial difference in changing the landscape of penal policy in Ireland. This is a challenge and one that requires ‘buy-in’ from numerous stakeholders. However, through active engagement and cross departmental, cross-agency collaboration, it is an ambition that can be fully realised.

160 For more information on this, see IPRT (2015) *Turnaround Youth: Young Adults in the Criminal Justice System—The case for a distinct approach* <http://www.iprt.ie/files/IPRT-Turnaround-web-optimised.pdf>

161 Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020*, viii https://www.dcy.gov.ie/documents/cypp_framework/BetterOutcomesBetterFutureReport.pdf

162 This means anyone who has experience of the criminal justice system, including those who may have previous conviction(s) or former experience of imprisonment.

163 See for example Laub, J and Sampson, RJ (2001) ‘Understanding desistance from crime’, *Crime and Justice*, 28, 1–69, https://dash.harvard.edu/bitstream/handle/1/3226958/sampson_understandingdesistance.pdf?sequence=4

164 Department of Justice and Equality, Irish Prison Service and the Probation Service, ‘A New Way Forward’ *Social Enterprise Strategy 2017–2019*

165 Irish Prison Service and Probation Service, *Joint Strategic Plan 2018–2020*, p. 3

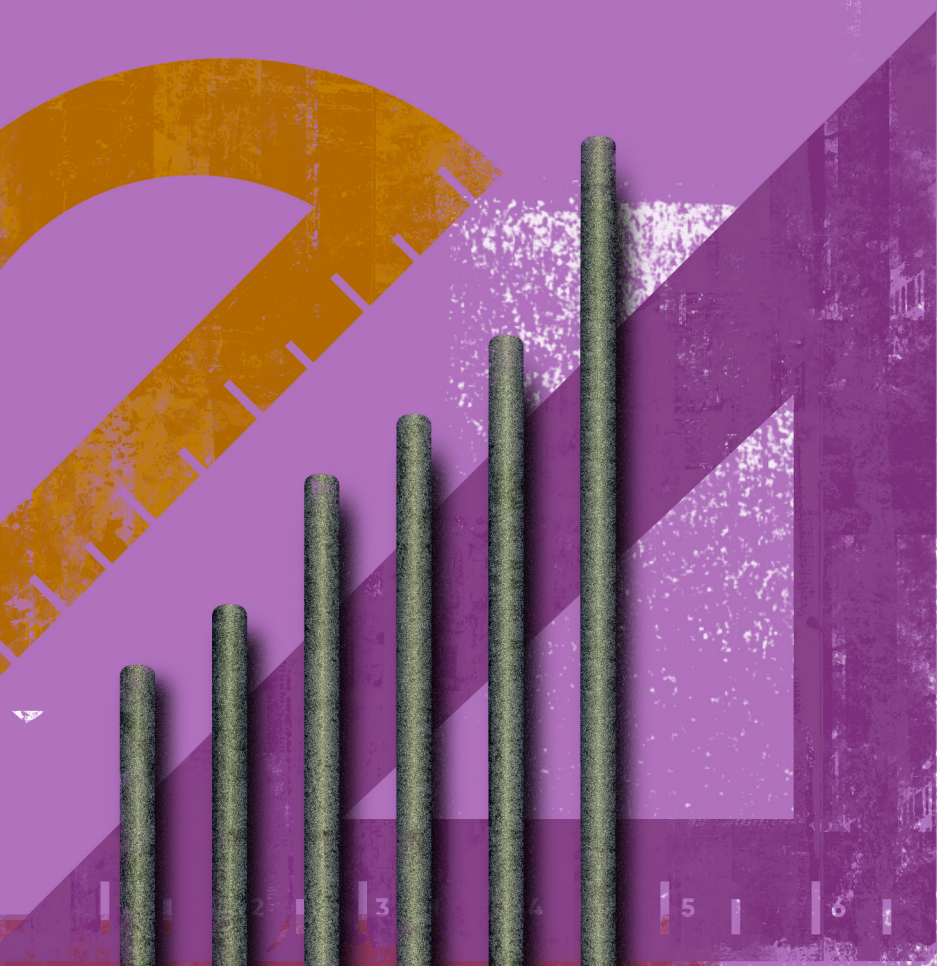
166 ‘Monthly Unemployment Rate now lowest since 2008’, *Irish Examiner*, 1st May 2018 <https://www.irishexaminer.com/breakingnews/ireland/monthly-employment-rate-now-lowest-since-may-2008-840239.html>



1.4 IPRT Standards

Standard 1:	Penal policy is continually monitored, implemented, evaluated and evolving.
Standard 2:	Imprisonment is used as a last resort. This principle is enshrined in domestic legislation, with focus on the promotion and proportionate use of alternatives to custody.
Standard 3:	Every closed prison is operating at least 10% below its recommended maximum capacity.
Standard 4:	Each prison is limited to a prison population not exceeding 300, but ideally a maximum of 200–250.
Standard 5:	Prisoners are detained in the least restrictive prison security setting, as determined through risk assessment.
Standard 6:	Open prisons comprise 30%-35% of the prison estate.
Standard 7:	Every prisoner is provided with respect, dignity and humanity and has access to decent living conditions.
Standard 8:	Every prisoner has 24-hour access to toilet facilities that respect the dignity and privacy of the individual.
Standard 9:	Every prisoner has access to single-cell accommodation.
Standard 10:	Remand prisoners are held separately from sentenced prisoners across the entire prison estate.
Standard 11:	Every prisoner is encouraged and facilitated to maintain positive family and close, significant relationships.
Standard 12:	The healthcare needs of individual prisoners are met. Every prisoner has access to healthcare that goes beyond the 'equivalence of care' principle, with a full range of preventative services and continuity of healthcare in the community.
Standard 13:	People with serious mental health issues are diverted from the prison system and receive the appropriate treatment and supports in a timely manner.
Standard 14:	People with addiction issues are diverted from the prison system and receive the appropriate treatment. Where imprisonment is the only appropriate response, treatment is made available within prison, with a continuum of care upon release.
Standard 15:	A prisoner's right to privacy, and that of his/her family members, is respected and protected.
Standard 16:	Every prisoner spends a minimum of five hours a day engaged in structured meaningful activity for five days a week, in addition to a further minimum seven hours' out-of-cell time.
Standard 17:	Every prisoner and his/her family members, where desired, are facilitated and actively involved in his/her sentence planning from the beginning of sentence through to the point of release.
Standard 18:	Prisoners are encouraged and facilitated to develop and maintain life skills and assume personal responsibility while in prison.
Standard 19:	Every prison provides each prisoner with access to a range of educational activities that meet the individual's needs and take into account their aspirations.

Standard 20:	Civil society access to prisons is encouraged, and there are opportunities for prisoners to participate and engage in the community through structured forms of temporary release.
Standard 21:	Prisoners are encouraged to engage with their political and civic rights.
Standard 22:	Prisoners have access to a robust and effective complaints mechanism. All complaints are dealt with in a timely manner, and the outcome of a decision is clearly communicated to the prisoner, with a satisfactory resolution if the complaint is upheld.
Standard 23:	Prisoners have access to an external, independent complaints and appeal mechanism, including access to a prisoner ombudsman or equivalent.
Standard 24:	Structures are in place for the regular inspection and monitoring of prisons. Inspection reports are made publicly available within a clear timeframe.
Standard 25:	The death of, or serious incident involving, a prisoner is investigated by an independent body immediately, and the investigation report published promptly.
Standard 26:	Solitary confinement is used as a last resort and only in exceptional circumstances. It is used for the shortest period possible and for a maximum of 15 days. Reasons for and lengths of time a prisoner is held in solitary confinement must be recorded.
Standard 27:	Prisoners and everyone in the prison system feel safe and protected from violence in the prison environment.
Standard 28:	The health and welfare of prisoners is prioritised while they are under escort.
Standard 29:	All staff receive relevant ongoing training and supports in order to effectively carry out their duties to a high standard.
Standard 30:	Good relationships between management, staff and prisoners are facilitated and encouraged. Management ensures that a positive working culture is created in the prison.
Standard 31:	Prison protocols emphasise de-escalation and conflict resolution approaches. Use of force and restraint are a measure of last resort.
Standard 32:	Management in the prison system takes a proactive approach towards protecting anyone who is at risk of discrimination due to their age, gender, ethnicity, sexuality, disability or other.
Standard 32.1:	A gender-sensitive approach should be adopted across the criminal justice system to respond to the distinct needs of women who offend.
Standard 33:	The parole system is fair, transparent and removed from political control.
Standard 34:	All prisoners have comprehensive preparation and structured plans for release. National policy and legislation provides for a structured release system.
Standard 35:	Protocols are in place for inter-agency co-ordination in order to ensure the successful reintegration of prisoners on release.



PART 2:

Measuring Progress Against the Standards

A: An Effective and Humane Penal System

In 2017, IPRT developed indicators against which to assess each *PIPS* standard on an annual basis. This year we use these indicators to assess progress against these standards within the last 12 months.

The six key standards that IPRT believes would help support the overarching long-term vision of an effective and humane penal system are outlined below.

Towards a progressive penal policy

Standard 1:
Penal policy is continually monitored, implemented, evaluated and evolving.

Rationale

Penal policy in Ireland should reflect the guiding principles and values of penal reform (see Part 1). At the same time, policy should maintain a level of flexibility to adapt to emerging issues, the needs of the prison population, and the changing prison environment. Therefore, implementation, regular review and evaluation of penal policy are imperative.

Current context

In the 2017 *PIPS* report, the significance of two national policy documents on penal reform was outlined: the Oireachtas Sub-Committee *Report on Penal Reform*¹⁶⁷ (2013) and the Strategic Review of Penal Policy *Final Report*¹⁶⁸ (2014). At the time of writing, the Implementation Oversight Group had submitted five¹⁶⁹ reports to the Minister for Justice and Equality on the latter.

Following another review of penal reform, in May 2018 the current Oireachtas Joint Committee published its *Report on Penal Reform and Sentencing*¹⁷⁰, with 29 recommendations. Progress on the five key recommendations of the 2013 Committee and how they align with recommendations¹⁷¹ made by the 2018 Committee are outlined below.

167 Houses of the Oireachtas (2013) *Joint Committee on Justice, Defence and Equality: Report on Penal Reform* <https://www.oireachtas.ie/parliament/media/Penal-Reform-Report-13-March-2013-Final.pdf>

168 Department of Justice and Equality (2014) *Strategic Review of Penal Policy: Final Report* <http://www.justice.ie/en/JELR/Pages/PB14000244>

169 Department of Justice and Equality, *Penal Policy Review* http://www.justice.ie/en/JELR/Pages/Penal_Policy_Review

170 Houses of the Oireachtas (2018) *Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing*, for recommendations see pp. 53–60 https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

171 Other recommendations made by the Oireachtas (2018) will be referred to in relevant areas of the *PIPS* report.

Table 1: Key recommendations made by the Oireachtas Joint Committee (2013)¹⁷² and repeated/similar recommendations by Oireachtas Joint Committee (2018)¹⁷³

Recommendation (2013)	Recommendation (2018)	Progress	Analysis
1. Reduce the prison population by one-third over ten years.	The Committee made an enhanced recommendation that Government adopt a clear strategy to reduce the prison population by half over a fixed timescale.	Daily Average Number of Persons in Custody ¹⁷⁴ 2013: 4,158 2014: 3,915 2015: 3,722 2016: 3,718 2017: 3,680	At the current rate, the daily prison population will not be reduced by one-third by 2023.
2. Commute sentences of less than six months imposed for non-violent offences and replace with Community Service Orders.	A repeated recommendation made by the Committee (2018) that sentences of less than six months should be replaced with Community Service Orders. ¹⁷⁵	Number of Persons in Prison for less than six months (snapshot figures): ¹⁷⁶ 2013: 153 2014: 126 2015: 124 2016: 163 2017: 201 Committals under Sentence of 6 months or less (excl. fines committals) ¹⁷⁷ 2011: 2,342 2012: 2,267 2013: 1,964 2014: 1,631 2015: 1,622 2016: 1,518 2017: 1,755	Snapshot figures (30 th November of each year) provided in IPS annual reports show an increase in the daily number of persons in prison serving sentences of less than six months. ¹⁷⁸ Snapshot figures on the same date (30 th November 2017) show that only 55 individuals were on the Community Support Scheme. ¹⁷⁹ This is a much lower number than the number serving a sentence of less than six months in 2017 and may need further interrogation as to the reasons for this. There has been an overall welcome decline in the number of committals under sentence; however, 2017 saw an increase from 2016.

172 Houses of the Oireachtas (2013) *Joint Committee on Justice, Defence and Equality: Report on Penal Reform*, p. 9 <https://www.oireachtas.ie/parliament/media/Penal-Reform-Report-13-March-2013-Final.pdf>

173 Houses of the Oireachtas (2018) *Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing*, Point 1, p. 53 https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

174 For these figures (2013–2017) see Irish Prison Service (2018) *Annual Report 2017*, p. 25 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-annualreport-2017.pdf

175 Houses of the Oireachtas (2018) *Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing*, Point 20, p. 52 https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

176 See Irish Prison Service, *Annual Reports*, <https://www.irishprisons.ie/information-centre/publications/annual-reports/>

177 Irish Prison Service, *Annual Report 2017*, p. 68 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-annualreport-2017.pdf

178 These figures are based on sentence lengths of six months and do not provide information on the type of offence committed

179 The Community Support Scheme is a structured release programme for those serving a sentence of 3–12 months. See <http://careafterprison.ie/community-support-scheme/>

Recommendation (2013)	Recommendation (2018)	Progress	Analysis
<p>3. Increase remission from 25% to 33% for all sentences over one month, and establish an enhanced remission scheme of up to half a sentence.</p>	<p>The Oireachtas Committee (2018) made no new recommendation on this.</p>	<p>Little progress has been made on this.</p>	<p>There have been no developments in increasing remission levels or developing an enhanced remission scheme. However, a review of enhanced remission has been carried out.¹⁸⁰ This review has not been published.</p>
<p>4. Introduce a single piece of legislation that would form the basis of a structured release system.</p>	<p>While the Oireachtas¹⁸¹ did not make a new recommendation on this, it welcomed the success of the Community Return Programme¹⁸² and recommended that eligibility criteria for this programme be expanded.</p>	<p>Little progress made in this area.</p>	<p>IPRT has previously advocated for a single piece of legislation that would form the basis of a structured release system, explicitly outlining the criteria for prisoners who can avail of early release programmes.¹⁸³ This has not happened.</p> <p>The Community Return Programme allows for early release of prisoners serving sentences of one to eight years in exchange for unpaid community work.¹⁸⁴ IPRT is concerned at the reduction in numbers availing of this programme, which have halved since 2014.¹⁸⁵</p> <p>There has been some progress on the Parole Bill 2016,¹⁸⁶ which is due to move to report stage shortly.¹⁸⁷ IPRT has concerns around this proposed legislation.¹⁸⁸</p>

180 Implementation of Penal Policy Review Group Recommendations, *Fifth Report of the Implementation Oversight Group to the Minister for Justice and Equality*, Chapter Seven, Recommendation 28 http://www.justice.ie/en/JELR/Fifth_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality_-_February_2018.pdf/Files/Fifth_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality_-_February_2018.pdf

181 Houses of the Oireachtas (2018) *Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing*, Point 25, p. 58 https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

182 More information on the Community Return Programme here <http://www.probation.ie/en/PB/Pages/WP16000037>

183 IPRT (2012) *Position Paper 9: Reform of Remission, Temporary Release and Parole*, p. 15 http://www.iprt.ie/files/IPRT_Position_Paper_Reform_of_Remision_TR_Parole_Oct_2012.pdf

184 Irish Prison Service, *Establishment of New Community Return Unit* http://www.irishprisons.ie/images/pdf/community_return.pdf

185 IPRT (2018) *Increasing Numbers in Irish Prisons Undermines Safety and Rehabilitation* <http://www.iprt.ie/contents/3299>

186 Houses of the Oireachtas, Parole Bill 2016 <https://www.oireachtas.ie/en/bills/bill/2016/29/>

187 The Minister for Justice and Equality stated at the ACJRD Parole Board Conference, May 2018, that the Bill was due to move to report stage shortly.

188 IPRT (2018) Submission on Parole Bill [PMB] 2016 Report Stage [http://www.iprt.ie/files/IPRT_Submission_on_the_Parole_Bill_2016_\(print_no_border\).pdf](http://www.iprt.ie/files/IPRT_Submission_on_the_Parole_Bill_2016_(print_no_border).pdf)

Recommendation (2013)	Recommendation (2018)	Progress	Analysis
<p>5. Address overcrowding and prison conditions with increased use of open prisons.</p>	<p>The Committee¹⁸⁹ in 2018 recommended capping numbers in each prison.</p> <p>A step-down approach to prisoners post release was recommended, in particular the <i>Housing First</i> model.¹⁹⁰</p>	<p>Regress.</p>	<p>According to daily prisoner population figures, as of 29th June 2018, five out of twelve prisons are operating above the Inspector of Prisons’ recommended maximum capacity, with female prisons the worst affected.¹⁹¹</p> <p>In 2017, the <i>PIPS</i> report identified a reduction in open provision in Ireland from 9% in 2016 to 6.7% in 2017. Despite plans and commitments to increase open provision including a step-down facility for females and open prison provision for males in Dublin, these plans have yet to be progressed.</p>

189 Houses of the Oireachtas (2018) *Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing*, Recommendation 1, p. 53 https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

190 Ibid, Recommendation 27, p. 59

191 Irish Prison Service, *Daily Prisoner Population*, 29th June 2018 <https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2018-prison-populations/>

Strategic review of penal policy: implementation of penal policy recommendations

Since the publication of *PIPS 2017*, the fourth and fifth *Reports of the Implementation Oversight Group*¹⁹² have been published. In its fifth¹⁹³ report, three out of 43 actions received an 'A' status with the majority of actions receiving a 'D' status, meaning little progress on the recommended actions has been achieved. The three actions that received an 'A' status were the completion of the

new Cork prison; the consideration of open prisons being used for weekend sentencing, which, it concluded, was 'not considered a priority';¹⁹⁴ and the increased use of open prisons, particularly for female offenders. In relation to the latter, while a decision was made to proceed with facilities, the facility has yet to be established. Further quarterly reports of the Implementation Oversight Group due for publication have yet to be published.

► Indicators for Standard 1

<p>Indicator S1.1: Number of policy commitments made by the Oireachtas Sub-Committee (2013) and the Strategic Review Group on Penal Policy (SRGPP) (2014) that have been fully implemented.</p>	<p>Oireachtas Sub-Committee (2013): 0/5 have been fully implemented</p> <p>SRGPP:¹⁹⁵ Fully implemented (A): 3 Implementation phase progressing (B): 17 Implementation phase commenced (C): 14 Discussion/consultation/planning phase (D): 20 No progress (E): 1.</p>
<p>Indicator S1.2: Progress on the publication of sentencing, prisons and probation data to inform evidence-based criminal justice policy.</p>	<p>The 2017 <i>PIPS</i> report¹⁹⁶ suggested that one of the key actions the Department of Justice and Equality should implement is the recommendation by the Strategic Review Group on Penal Policy on the collation of criminal justice data. In this respect, IPRT welcomes the recent publication of the <i>Data and Research Strategy 2018–2020: Supporting delivery of “A safe, fair and inclusive Ireland”</i>.¹⁹⁷ The Strategy commits to “systematically quantify and publish information on <i>what</i> we do, analyse and evaluate its quality and effectiveness, and develop measures on our outcomes, to enable policy questions regarding <i>why</i> and <i>how</i> we should plan and deliver services in the future”.¹⁹⁸ One key action is to develop a culture of research.¹⁹⁹</p> <p>IPRT also welcomes newly published data on participation rates in work and training and education published by the Irish Prison Service in its <i>Annual Report 2017</i>.²⁰⁰ Despite a commitment to the United Nations Committee against Torture in July 2017 to publish data on lengths of remand,²⁰¹ this has not yet happened.</p>

192 Department of Justice and Equality, *Penal Policy Review* http://www.justice.ie/en/JELR/Pages/Penal_Policy_Review

193 Implementation of Penal Policy Review Group Recommendations, *Fifth Report of the Implementation Oversight Group to the Minister for Justice and Equality* http://www.justice.ie/en/JELR/Fifth_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality_-_February_2018.pdf/Files/Fifth_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality_-_February_2018.pdf

194 Ibid. See Recommendations 13, 15 and 18.

195 This assessment of SRGPP recommendations is made by the Implementation Oversight Group own grading in its Fifth Report http://www.justice.ie/en/JELR/Fifth_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality_-_February_2018.pdf/Files/Fifth_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality_-_February_2018.pdf

196 IPRT (2017) *Progress in the Penal System: A Framework for Penal Reform*, p. 29 http://www.iprt.ie/files/Progress_in_the_Penal_System.compressed.pdf

197 Department of Justice and Equality (2018) *Data and Research Strategy 2018–2020: Supporting delivery of “A safe, fair and inclusive Ireland”*, launched 27th of July 2018 http://www.justice.ie/en/JELR/Department_of_Justice_and_Equality_Data_and_Research%20Strategy_2018-2021.pdf/Files/Department_of_Justice_and_Equality_Data_and_Research%20Strategy_2018-2021.pdf

198 Ibid, p. 2

199 Ibid, p. 6

200 Irish Prison Service (2018) *Annual Report 2017*, p. 24 <https://www.irishprisons.ie/information-centre/publications/annual-reports/>

201 UN Web TV, Consideration of Ireland (Cont'd)-1551st Meeting 61st Session Committee Against Torture <http://webtv.un.org/watch/consideration-of-ireland-contd-1551st-meeting-61st-session-committee-against-torture/5526421662001/?term=>

Indicator S1.3:

Implementation of IPRT (PIPS) Standards.

IPRT has received significant engagement on the PIPS standards from the Irish Prison Service, which we welcome. We have also received some engagement from the Department of Justice and Equality.

Actions required



- Action 1.1: The Department of Justice and Equality must fully implement five key recommendations outlined in the *Strategic Review of Penal Policy* by end 2018.
- Action 1.2: The Oireachtas Committee on Justice and Equality should track and monitor the implementation of the recommendations made in their 2018 report.
- Action 1.3: All criminal justice bodies should publish relevant data to inform research, policy and practice.
- Action 1.4: The identified changemakers should consider formal adoption of and commitment to IPRT’s standards in order to progress penal policy in the right direction.

Imprisonment as a last resort

Standard 2:
Imprisonment is used as a last resort. This principle is enshrined in domestic legislation, with focus on the promotion and proportionate use of alternatives to custody.

Rationale

IPRT’s core guiding principle is the use of ‘imprisonment as a last resort’. The damaging impact of imprisonment on the individual, as well

as its ripple effects on families and communities, is enormous.²⁰² IPRT’s research has previously documented the benefits of community-based alternatives to custody for individuals, including the opportunity to develop ‘soft’ skills such as self-esteem and confidence, as well as the ability to maintain familial and other relationships in the community.²⁰³

Current context

This guiding principle of imprisonment as a last resort is as relevant as ever with the United Nations Economic and Social Council adopting in 2017 a resolution entitled ‘Promoting and encouraging the implementation of alternatives to imprisonment as part of comprehensive crime prevention and criminal justice policies.’²⁰⁴

Figures from the Irish Prison Service *Annual Report 2017*²⁰⁵ demonstrate:

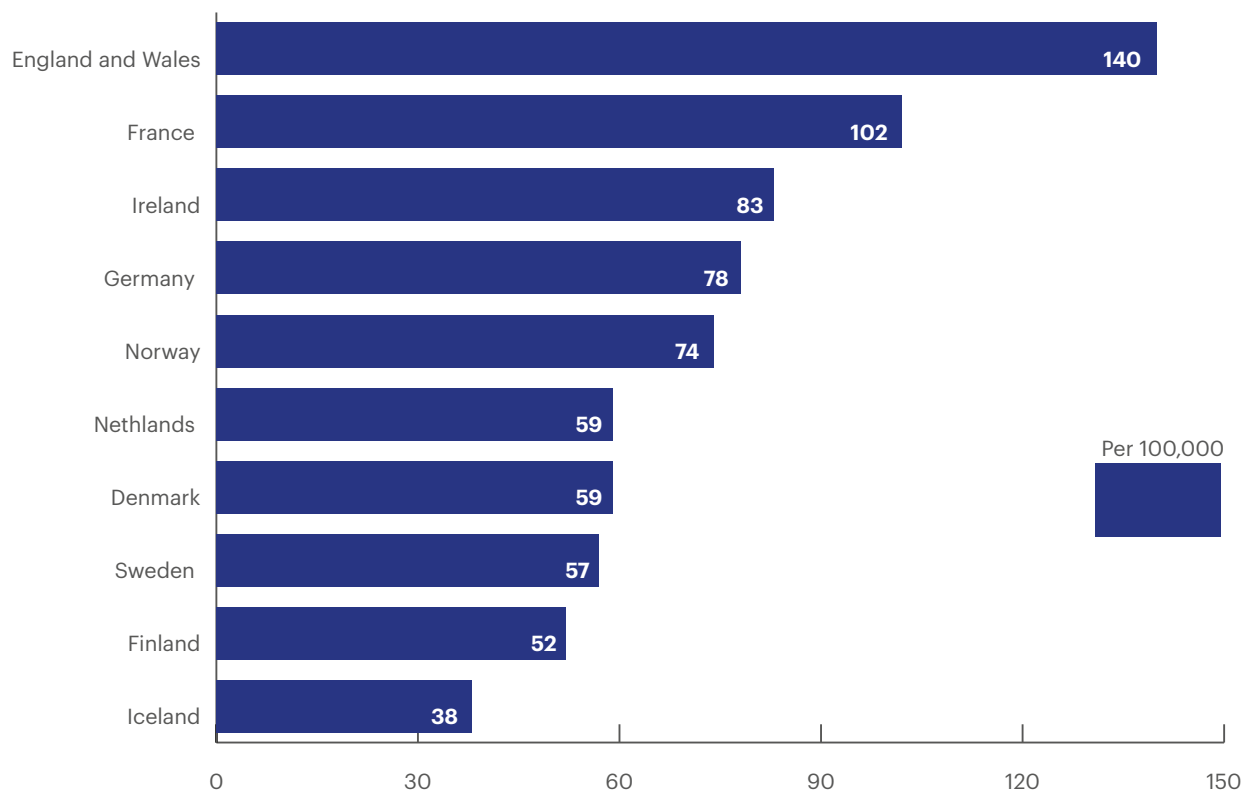
- On 30th November 2017, the total number of prisoners in the system was 3,738.²⁰⁶ The largest offence category²⁰⁷ of sentenced people was Theft and Related Offences (563).
- Of total sentenced committals to prison in 2017, the largest offence categories were: Offences against Government, Justice Procedures and Organisations of Crime (1,496), followed by Road and Traffic Offences (982) and Theft and Related Offences (919).²⁰⁸
- The numbers committed under sentence of six to twelve months decreased by 14.9% from 1,039 in 2016 to 884 in 2017.²⁰⁹
- There was a slight increase in the use of Community Service Orders in 2017 at 2,215 compared with 2,067 in 2016.²¹⁰

202 Irish Penal Reform Trust (2010) *Community Sanctions* http://www.iprt.ie/files/IPRT_Position_Paper_8_-_Community_Sanctions.pdf
 203 Irish Penal Reform Trust (2017) *Community Service in Ireland: A Qualitative Exploration of One Alternative to Short Term Imprisonment* http://www.iprt.ie/files/IPRT_Discussion_Paper_-_Community_Service_in_Ireland_FINAL.pdf
 204 UN Economic and Social Council (2017) Promoting and encouraging the implementation of alternatives to imprisonment as part of comprehensive crime prevention and criminal justice policies, Resolution adopted by the Economic and Social Council on 6 July 2017 https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_26/CCCPJ_Res_Dec/ECOSOC_Draft_Res_Dec/ECOSOC_Draft_Res_II_-_2017.pdf
 205 Irish Prison Service, *Annual Report 2017*, <https://www.irishprisons.ie/information-centre/publications/annual-reports/>
 206 Ibid, p. 28
 207 Ibid, p. 31
 208 Ibid, p. 35
 209 Ibid, p. 27
 210 Probation Service, *Annual Report 2017*, p. 50 http://www.justice.ie/en/JELR/Probation_Service_Annual_Report_2017.pdf/Files/

► Indicators for Standard 2

Indicator S2.1: Ireland's imprisonment rate (committal rates, daily prisoner population rates and release rates) compared to European rates.

Imprisonment Rate (World Prison Brief July 2018)



[Probation_Service_Annual_Report_2017.pdf](#)

The imprisonment rate in Ireland was 83 per 100,000 in July 2018, much higher than rates of Nordic countries including Finland at 52 per 100,000 and Iceland at 38 per 100,000.²¹¹ However, Ireland is closer to Nordic rates than those of England and Wales, which is positive.

In the most recent, *World Prison Brief*,²¹² Ireland's rate of imprisonment is 83 per 100,000, ranked thirty-ninth from highest to lowest out of 56 countries.²¹³

- In 2015, the rate of entries into Irish penal institutions was 371.7 per 100,000 compared to the CoE median of 167.3, and the fourth-highest rate in the EU.²¹⁴ The average was 203.5.²¹⁵
- In 2015, the rate of releases from Irish penal institutions was 376.3 per 100,000 compared to the CoE median of 135.1, and the highest rate in the EU.²¹⁶ The average was 157.2.²¹⁷

The statistics²¹⁸ show Ireland's high prison 'turnover ratio' of 82.8 compared to a European average of

211 World Prison Brief, *Highest to Lowest Prison Population Rate* (based on WPB published figures August 2018) http://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=14

212 World Prison Brief, *Ireland*, July 2018 <http://www.prisonstudies.org/country/ireland-republic>

213 World Prison Brief, *Highest to Lowest Prison Population* http://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=14

214 Council of Europe (2017) *SPACE I – Council of Europe Annual Penal Statistics: Prison populations. Survey 2016*, p. 98 <http://wp.unil.ch/space/files/2018/03/SPACE-I-2016-Final-Report-180315.pdf>

215 Ibid, p. 98

216 Ibid, p. 98

217 Ibid.

218 These figures may largely be attributed to the high number of fine defaulters in the system; only future published figures will show if these rates have declined as a result of the impact of the introduction of fines legislation

52.3.²¹⁹ High turnover rates (where individuals move in and out of the prison system quickly) are one indicator which shows that imprisonment is not being used as a sanction of last resort.

Table 2: Daily prison population numbers

Daily Prison Population Numbers ²²⁰			
Year	Month	Date	Total
2017	January	02/01/2017	3,574
	February	01/02/2017	3,715
	March	01/03/2017	3,819
	April	03/04/2017	3,753
	May	01/05/2017	3,732
	June	01/06/2017	3,714
	July	03/07/2017	3,704
	August	01/08/2017	3,753
	September	01/09/2017	3,536
	October	02/10/2017	3,589
	November	01/11/2017	3,673
	December	01/12/2017	3,711
2018	January	01/01/2018	3,631
	February	01/02/2018	3,812
	March	01/03/2018	3,846
	April	02/04/2018	3,890
	May	01/05/2018	3,945
	June	01/06/2018	3,994
	July	02/07/2018	3,994
	August	01/08/2018	4,022

Lowest prison population.

Highest prison populations.

Indicator S2.2: The percentage of sentences of less than 12 months.

Snapshot figures show that 463 sentenced prisoners were serving a sentence of less than a year on 30th November 2017.²²¹ This compares to 415 prisoners on 30th November 2016.²²²

219 Aebi, M, Tiago MM, Berger-Kolopp, L and Burkhardt, C (2017) SPACE 1 – Council of Europe Annual Penal Statistics: Prison Populations. Survey 2016, Strasbourg: Council of Europe, p. 106 <http://wp.unil.ch/space/files/2018/03/SPACE-I-2016-Final-Report-180315.pdf>

220 Irish Prison Service, *Daily Prisoner Populations, 2018 Prison Populations* <https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/>

221 Irish Prison Service, *Annual Report 2017*, p. 29 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-annualreport-2017.pdf

222 Irish Prison Service, *Annual Report 2016*, p. 27 http://www.irishprisons.ie/wp-content/uploads/documents_pdf/12631-IPS-annualreport-2016_Web.pdf

Indicator S2.3: An increase in the use of alternatives to custody as a substitute for short-term sentences.

It is difficult to determine whether alternatives to custody are being used as a direct substitute for short-term sentences. IPRT has previously highlighted that the provision of community sanctions often produces ‘net-widening effects’, drawing more individuals into the criminal justice system.²²³ Evidence from the Council of Europe suggests that Ireland is under-utilising Probation/Community Sanctions.²²⁴

Despite the introduction of legislation to encourage the use of Community Service Orders in Ireland, the Criminal Justice (Community Service) (Amendment) Act 2011,²²⁵ there is little evidence of any real increase in the deployment of Community Service Orders in Ireland, and an evident reduction in the number of Community Service Orders since 2011.

Year	Number of Community Service Orders ²²⁶
2011	2,738
2012	2,569
2013	2,354
2014	2,190
2015	1,937
2016	2,067
2017	2,215

PROGRESSIVE PRACTICE

Principles-Based Practice: The Netherlands

A change in penal policy took place in the Netherlands in response to a recidivism rate of 70% (within a period of seven years), which the Government deemed unacceptable.²²⁷ Successive Dutch governments have focused on principles such as: public safety, self-reliance, humanity, proportionality, normalisation and reintegration.²²⁸ These principles appear to be preserved independent of the politics of the government in power.

Community Return, Ireland

Community Return is a programme which allows certain prisoners to complete unpaid community work in exchange for their early release.²²⁹ The programme is available to those who are serving more than one year but less than eight, and who have completed at least 50% of their sentence.²³⁰ Since its establishment in 2012, the Community Return Scheme has maintained a compliance rate of approximately 90%.²³¹ IPRT raises concerns on the decreasing number of offenders placed in community return, which has halved since the introduction of the programme.

223 IPRT Position Paper 8 (2010) *Community Sanctions*, p. 2–3

http://www.iprt.ie/files/IPRT_Position_Paper_8_-_Community_Sanctions.pdf

224 Council of Europe (rev. 2018) *Council of Europe Annual Penal Statistics SPACE II Survey 2016: Persons Serving Non-Custodial Sanctions and Measures in 2016* http://wp.unil.ch/space/files/2018/03/SPACE_II_report_2016_Final_100320.pdf

225 Irish Statute Book, Criminal Justice (Community Service) (Amendment) Act 2011 <http://www.irishstatutebook.ie/eli/2011/act/24/enacted/en/html>

226 Information collated from relevant Probation Service Annual Reports <http://www.probation.ie/EN/PB/WebPages/WP16000121>

227 Joldersma, C (ed.) (2016) *Prisons of the Future*, funded by the European Commission, p. 131 <http://cep-probation.org/wp-content/uploads/final-report1.pdf>.

228 Ibid, p. 131

229 Probation Service, *Community Return* <http://www.justice.ie/EN/PB//WebPages/WP16000037>

230 Ibid.

231 Department of Justice and Equality, ‘Minister Flanagan Welcomes Progressive Achievements of Irish Prison Service and Probation Service in 2017’ <http://justice.ie/en/JELR/Pages/PR18000177>

Number of Offenders on Community Return as of 31st December²³²

Year	Number of Offenders on Community Return
2012	105
2013	108
2014	149
2015	55
2016	66
2017	60

Actions required 

- Action 2.1: Legislators must enshrine the principle of ‘imprisonment as a last resort’ and along with reducing the prison population by half over a fixed timescale as recommended by the Oireachtas Joint Committee (2018).

- Action 2.2: Judiciary, probation and prison services should work towards the goal of reducing the prison population from the current 83 per 100,000 to 50 per 100,000.

- Action 2.3: Legislators should introduce legislation that commutes all sentences of less than six months for non-violent offences and replace these with Community Service Orders.

- Action 2.4: The criteria for and suitability of prisoners to access the Community Return Programme and the Community Support Scheme should be reviewed with a view to expanding the eligibility criteria.²³³

- Action 2.5: Legislators should examine the merits of introducing sentencing guidelines.

232 This information is contained in the relevant Probation Service Annual Reports <http://www.probation.ie/EN/PB/sectionpage?readform>

233 For more information see Houses of the Oireachtas, *Community Return Programme*, 24th April 2018 <https://www.oireachtas.ie/en/debates/question/2018-04-24/266>

Safe custody limits

Standard 3:
Every closed prison is operating at least 10% below its recommended maximum capacity.

Rationale

All prisons should operate below the Inspector of Prisons'²³⁴ recommended maximum capacity in order to protect the safety of everyone in the prison system. It is important that published capacity figures reflect the lived reality in Irish prisons, and that figures do not distort that reality – for example, the impact on capacity as result of closures for refurbishments of prison wings. The impact of overcrowding is reduced quality of living conditions, as well as adverse effects on prisoners' privacy.²³⁵

Current context

The Oireachtas Joint Committee on Justice and Equality (2018) recommended the capping of prisoner numbers in each institution, along with the adoption of a clear strategy by the Government to reduce the prison population by half over a fixed time scale.²³⁶ Outlined below are prison capacity figures for April 2018 and how they compare to figures for 2017.

➔ Indicators for Standard 3

Indicator S3.1: Each closed prison operating at least 10% below capacity:

Prison	Numbers in Custody 10 th of April 2018 ²³⁷	Prison Capacity	% Bed Capacity
Arbour Hill	137	138	99%
Castlerea	287	340	84%
Cloverhill	423	431	98%
Cork	280	296	95%
Limerick (m)	267	210	108%
Limerick (f)	40	28	143%
Midlands	803	870	92%
Mountjoy (M)	691	755	92%
Mountjoy (F)	128	105	122%
Portlaoise	220	291	76%
Wheatfield	442	550	80%
Total	3,894	3,899	

Only three closed prisons were operating at least 10% below capacity in April 2018.

234 The Inspector of Prisons' recommended capacity is outlined in the Irish Prison Service, *Daily Prisoner Population* <https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/>

235 European Parliament (2017) *Prison Conditions in the Member States: Selected European Standards and Best Practices*, pp. 4–5 [http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/583113/IPOL_BRI\(2017\)583113_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/583113/IPOL_BRI(2017)583113_EN.pdf)

236 Houses of the Oireachtas (2018) *Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing*, p. 53 https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

237 Irish Prison Service(2018) *Prison Populations as of 10th of April 2018* <https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2018-prison-populations/>

Prison	Usable Cells ²³⁸ 2018	Usable Cells 2017 ²³⁹	Difference
Arbour Hill	117	117	0
Castlerea	237	243	-6
Cloverhill	176	182	-6
Cork	170	169	+1
Limerick	163	163	0
Midlands	590	605	-15
Mountjoy (M)	691	585	+106
Mountjoy (F)	75	94	-19
Portlaoise	211	208	+3
Wheatfield	394	463	-69
Total	2,993	2,997	-4

A stark difference this year is the reduction in the number of usable cells in Wheatfield Prison and the Dóchas Centre women’s prison on the snapshot date. (This may be attributed to the closure of a wing/houses.)

Actions required 

- Action 3.1 All stakeholders in the criminal justice field must work to reduce the prison population by 1000. Legislators should consider whether governors should be given the power to refuse new prisoner committals when capacity levels exceed safe levels.
- Action 3.2 The Inspector of Prisons must review and publish operational capacity levels for each prison in 2018.

238 Information provided by the Irish Prison Service on the 1st June 2018
 239 IPRT (2017) *Progress in the Penal System: A framework for penal reform (2017)*,p. 33
http://www.iprt.ie/files/Progress_in_the_Penal_System.compressed_.pdf

Size of prisons

Standard 4:
Each prison is limited to a prison population not exceeding 300, but ideally 200–250.

Rationale

Smaller prisons reflect community life more closely, and reduce the likelihood of violence, as well as facilitating the development of positive staff–prisoner relationships.

Current context

In total, 7 of 12 prisons meet this standard. However, further analysis shows that of the seven that meet this standard, one is a female prison and two are open prisons. There are five prisons operating above this number. Only five prisons meet the ideal standard of a prison population of below 250.

► Indicators for Standard 4

Indicator S4.1: The number of prisons in the Irish prison estate below the maximum prison size of 300 prisoners:

Prison	Size	Standard met
Cloverhill	431	X
Cork	296	✓
Limerick (Male and Female)	238	✓
Midlands	870	X
Mountjoy (Female)	105	✓
Mountjoy (Male)	755	X
Portlaoise	291	✓
Wheatfield	550	X
Arbour Hill	138	✓
Castlerea	340	X
Loughan House	140	✓
Shelton Abbey	115	✓

Action required



Action 4.1: The Department of Justice and Equality should ensure that any future prison renewal programme is guided by a commitment to prison sizes of less than 300, ideally 250.

Minimum prison security settings

Standard 5:
Prisoners are detained in the least restrictive prison security settings as determined through risk assessment.

Rationale

Having access to less restrictive prison security settings is important as it provides for the ‘normalisation’ principle²⁴⁰ and thus reduces the risk of institutionalisation, making the transition to life on the outside easier.²⁴¹

Current context

The Joint Committee on Justice and Equality (2018) recommended as follows:

*There is a need for different mixes of restriction and supervision. Construction of future prisons should be done in a flexible manner, organised around self-contained units. Regimes should be programme-driven and open to the possibilities of individual change. Future infrastructural development within the prison system should involve the use of more innovative, community-based, semi-open facilities, avoiding the one-size-fits-all model.*²⁴²

While there are currently two open prisons in Ireland, there are also some parts of the prison estate that operate a lower security regime. These include the Grove Unit in Castlerea Prison.

The Irish Prison Service has highlighted in its Capital Plan a need to “upgrade existing and develop a small number of new open, semi-open or low security centres in appropriate locations to supplement the minimal existing low-security capacity”.²⁴³

► Indicators for Standard 5

Indicator S5.1: the number of prisoners accommodated in low-security settings: In May 2018, 235 prisoners out of a total of 3,992 prisoners in custody were accommodated in low-security prisons.²⁴⁴ Information provided by the Irish Prison Service shows that on the same date, a further 42 individuals were in the Grove Unit in Castlerea Prison, which is a low-security regime within a medium-security prison.²⁴⁵

Action required

Action 5.1: The Department of Justice and Equality and the Irish Prison Service should increase the number of prisoners having access to less restrictive prison settings.

240 Council of Europe Committee of Ministers (2003) Recommendation Rec(2003)23 of the Committee of Ministers to member states on the management by prison administrations of life sentence and other long-term prisoners, Principle 4 <https://pjp-eu.coe.int/documents/3983922/6970334/CMRec+%282003%29+23+on+the+management+of+life+sentence+and+other+long+term+prisoners.pdf/bb16b837-7a88-4b12-b9e8-803c734a6117>

241 Council of Europe (2016) *Situation of Life-Sentenced Prisoners*, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment <https://rm.coe.int/16806cc447>

242 Houses of the Oireachtas (2018) *Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing*, p. 53 https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

243 Irish Prison Service, *Capital Strategy 2016–2021*, p. 26 http://www.irishprisons.ie/wp-content/uploads/documents_pdf/capital_strategy_2016.pdf

244 Irish Prison Service, *2018 Prison Populations*, 31st May 2018, <https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2018-prison-populations/>

245 Information provided by the Press Office 1st June 2018

Open prison provision

Standard 6:
Open prisons comprise 30%–35% of the prison estate.

Rationale

Open prisons differ from closed prisons in their philosophy. Open prisons have many benefits including a reduced likelihood of institutionalisation, and provide for a gradual transition to life on the outside.

Current context

Following the closure of the semi-open facility, the Training Unit, in April 2017,²⁴⁶ open provision in Ireland currently comprises only 6.7% of the prison estate. There is currently no open prison for women. Plans for open-provision and low-security regimes are included in the Irish Prison Service *Capital Strategy*.²⁴⁷ The Masterplan of Mountjoy Campus has yet to be published, despite a statement that the plan would be published in Autumn 2016.²⁴⁸

➔ Indicators for Standard 6

Indicator S6.1: Open provision in the prison estate: Provision remains the same in mid-2018 as in mid-2017 at 6.7%.

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Open Prisons: Finland and Denmark

In Finland, the daily proportion of prisoners in open prisons is almost 40%.²⁴⁹ In Denmark the number of sentenced men in open prisons exceeds the number of men in closed prisons;²⁵⁰ for example, average occupancy of sentenced prisoners in closed prisons was 884 compared to 1,309 in open prisons in 2012.²⁵¹

Bastoy Open Prison, Norway

Bastoy Open Prison facilitates 115 prisoners and has 69 employees.²⁵² Bastoy is an example of a prison that reflects the CoE principle that *prison life should reflect community life*.²⁵³ There are 'pod' communities within the prison. Houses accommodate up to six people. Every prisoner has their own bedroom and shares communal facilities.

Bastoy is described as an 'ecological' prison where prisoners help run the farm, undergo training programmes, and prepare for release. Prisoners can apply for a place in Bastoy when they have up to five years left of their sentence.²⁵⁴ Any type of offender can apply as long as they meet criteria around motivation to change.²⁵⁵

Prison officers receive three years' training. The relationship between prison officers and prisoners is central to Bastoy's success. Only five prison officers stay on the island overnight.²⁵⁶ Bastoy Prison is known for its low re-offending rate of 16%, compared to the European average

246 O'Keeffe, C (2017) 'Inspector criticises closure of sole open prison', *Irish Examiner*, 28th July 2017 <https://www.irishexaminer.com/ireland/inspector-criticises-closure-of-sole-semi-open-prison-455876.html>

247 Irish Prison Service, *Capital Strategy 2016–2021*, p. 26 http://www.irishprisons.ie/wp-content/uploads/documents_pdf/capital_strategy_2016.pdf

248 Irish Prison Service, *Strategic Plan 2016–2018*, p. 54 <http://www.justice.ie/en/JELR/Irish-Prison-Service-Strategic-Plan-2016-2018.pdf/Files/Irish-Prison-Service-Strategic-Plan-2016-2018.pdf>

249 Lavikkala, R, Tynu, S and Kokkonen, PP (2016) 'Overview of the Finnish Penal Practice since 2000' in C Joldersma (ed.) *Prisons of the Future*, p. 108 <http://cep-probation.org/wp-content/uploads/final-report1.pdf>

250 Warner, K (2016) 'What's the difference between Ireland and Iceland? One letter and a decent prison system...', *Irish Probation Journal*, 13, p. 237 [http://www.probation.ie/EN/PB/O/DE82A00C2E16C0808025805E002BBB63/\\$File/KevinWarner_IPJ.pdf](http://www.probation.ie/EN/PB/O/DE82A00C2E16C0808025805E002BBB63/$File/KevinWarner_IPJ.pdf)

251 Kristoffersen, R. (ed.) (2014) *Correctional Statistics of Denmark, Finland, Iceland, Norway and Sweden 2009–2013*, Oslo: Correctional Service of Norway Staff Academy, cited in Warner, K (2016) 'What's the Difference between Ireland and Iceland? One Letter and a Decent Prison System...', *Irish Probation Journal*, 13, p. 237 [http://www.probation.ie/EN/PB/O/DE82A00C2E16C0808025805E002BBB63/\\$File/KevinWarner_IPJ.pdf](http://www.probation.ie/EN/PB/O/DE82A00C2E16C0808025805E002BBB63/$File/KevinWarner_IPJ.pdf)

252 Gindin, M (2017) 'Why the world's cushiest prison is also among its most effective' <http://allthatsinteresting.com/bastoy-prison>

253 Council of Europe Committee of Ministers, Recommendation Rec (2003) 23 of the Committee of Ministers to Member States on the management of prison administrations of life sentence and other long-term prisoners, Point 4 <https://pjp-eu.coe.int/documents/3983922/6970334/CMRec+%282003%29+23+on+the+management+of+life+sentence+and+other+long+term+prisoners.pdf/bb16b837-7a88-4b12-b9e8-803c734a6117>

254 Ryan, R (2015) Bastoy Prison in Norway is the world's first ecological prison, news.com.au <https://www.news.com.au/travel/travel-advice/health-safety/bastoy-prison-in-norway-is-the-worlds-first-ecological-prison/news-story/914148c3fd7f0851521a1bfec28de8bf>

255 Ibid.

256 Ryan, R (2015) Bastoy Prison in Norway is the world's first ecological prison <https://www.news.com.au/travel/trave-l-advice/health-safety/bastoy-prison-in-norway-is-the-worlds-first-ecological-prison/news-story/914148c3fd7f0851521a1bfec28de8bf>

of 70%.²⁵⁷ A 'Continuing Care' policy is in place whereby everyone released has access to services and is provided with a job 18 months prior to leaving prison.²⁵⁸

One reason given for the success of the penal system in Norway is that it is largely left to the stakeholder experts to examine penal policy, with little political interference.

Actions required



- Action 6.1: The Irish Prison Service should increase open prison provision across the estate, with a goal of similar rates to the Nordic countries, matched with a reduction in closed prison provision.
- Action 6.2: The Mountjoy Campus Masterplan should be published.
- Action 6.3: The Irish Prison Service should establish open prison provision for women.

257 Gindin M (2017) Why the world's cushiest prison is also among its most effective <http://allthatsinteresting.com/bastoy-prison>

258 World Economic Forum (2017) This Norwegian prison is the nicest in the world,^{2nd} June 2017
<https://www.weforum.org/agenda/2017/06/this-norwegian-prison-is-the-nicest-in-the-world/>

B: Prison Conditions

Humane prison conditions

Standard 7:
Every prisoner is provided with respect, dignity and humanity and has access to decent living conditions.

Rationale

Prison conditions should not be viewed as additional punishment. Prisoners retain their human rights although their liberty has been taken. As highlighted by Penal Reform International: “Living conditions in a prison are among the chief factors determining a prisoner’s self-esteem and dignity.”²⁵⁹ Good prison conditions are likely to reduce conflict and violence, and support a ‘healthy’ prison environment, which in turn improves the prospects of rehabilitation for individual prisoners.

Current context

The standard of prison living conditions in Ireland can vary both within and across the prison estate. External insights into these conditions can be gained only through the timely publication of reports by independent external monitoring bodies, such as the Inspector of Prisons²⁶⁰, Prison Visiting Committees²⁶¹ and the European Committee for the Prevention of Torture.

➔ Indicators for Standard 7

Indicator S7.1: Standards within the prison estate regarding: state of repair and cleanliness; natural light; ventilation and heating; sanitary facilities:

Conditions between prisons vary widely. While each Prison VC²⁶² publishes an annual report, these reports are not standardised and the quality varies. The most recent annual reports published by

Visiting Committees were for 2016, a clear time lag in terms of reporting on current conditions.

The most recent VC report on Mountjoy Prison highlighted that:

*prisoners also expressed frustration, hopelessness and at times anger about conditions of their custody including, prevalence of gang culture giving rise to the need for protection, widespread abuse of drugs in prison, lack of drug free environment in prison and drug free accommodation on release.*²⁶³

The most recent VC report (2016) on Wheatfield Prison described the prison as an “excellent institution”.²⁶⁴ However, the same report noted broken windows.

A number of issues were also raised by the VC in the Dóchas Centre, including: unacceptable conditions of the Dóchas Centre, as well as overcrowding.²⁶⁵

The Irish Prison Service has taken some steps to provide for more internal audits across the system, including the establishment of a National Infection Committee to assess the levels of hygiene across the prison estate.²⁶⁶ The Irish Prison Service has introduced this type of audit to take place on a quarterly basis.²⁶⁷

Indicator S7.2: Prisoners’ access to a balanced diet, religious practice, legal representation, family contact, gratuity payments and tuckshop:

There is a 28-day nutritionally advised menu cycle across the prison estate.²⁶⁸ The Irish Prison Service has undertaken a review of tuckshop prices, which identified that prices have increased by 10% generally and 37% for cigarettes.²⁶⁹ The gratuity rate is currently being reviewed.²⁷⁰

259 Penal Reform International, *The Issue* <https://www.penalreform.org/priorities/prison-conditions/issue/>

260 Office of the Inspector of Prisons <http://www.inspectorofprisons.gov.ie/>

261 See Department of Justice and Equality, Prison Visiting Committee Annual Reports http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2016

262 Department of Justice and Equality, Visiting Committee Annual Reports http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2016

263 *Annual Report 2016 from Mountjoy Visiting Committee to the Minister for Justice Frances Fitzgerald*, p. 3 http://www.justice.ie/en/JELR/Mountjoy_Prison_VC_Annual_Report_2016.pdf/Files/Mountjoy_Prison_VC_Annual_Report_2016.pdf

264 Department of Justice and Equality, *[Wheatfield Place of Detention] Visiting Committee Annual Report 2016*, p.10 http://www.justice.ie/en/JELR/Wheatfield%20Place_of_Detention_VC_Annual_Report_2016.pdf/Files/Wheatfield%20Place_of_Detention_VC_Annual_Report_2016.pdf

265 Annual Report 2016 *Dóchas Visiting Committee Report* http://www.justice.ie/en/JELR/Dochas_Centre_VC_Annual_Report_2016.pdf/Files/Dochas_Centre_VC_Annual_Report_2016.pdf

266 Information provided by the Irish Prison Service on 30th April 2018

267 Ibid.

268 Ibid.

269 Ibid.

270 Ibid.

PROGRESSIVE PRACTICE

International Practice: Prison Conditions Monitoring Index

The Centre for the Study of Democracy has created a *Prison Conditions Monitoring Index (PCMI)*.²⁷¹ The purpose of the index is for prison governors to collect and promote the collection of comparable, official and detailed data for creating informed policies concerning prisons and prison populations.²⁷² The PCMI is composed of indicators²⁷³ in the areas of:

- (1) Living conditions
- (2) Social work, free time and contacts with the outside world
- (3) Security and safety
- (4) Employment
- (5) Healthcare.

The PCMI has been tested in a number of countries such as Bulgaria, Spain, Germany and Lithuania. While there have been issues with availability of data, it found that many of the prisons were unsatisfactory (though not at a critical level).²⁷⁴

Action required

Action 7.1 The Prison Service should carry out regular internal inspections to ensure that prisons comply with minimum human rights standards, rules, regulations and legislation. Applying a *Prison Conditions Monitoring Index* is one approach to assessing conditions between prisons and within prisons over time in order to identify learnings and good practice that could be replicated across the whole estate.

In-cell sanitation

Standard 8:
Every prisoner has 24-hour access to toilet facilities that respect the dignity and privacy of the individual.

Rationale

In 21st-century Ireland, while the practice of ‘slopping out’ has been almost eradicated, a considerable proportion of prisoners in the estate continue to be forced to toilet in the presence of others.

Current context

Overall, the reduction in slopping out over the past five years has been significant, from 24.8% of the prison population slopping out in 2012 to 1.3% of the prison population today.²⁷⁵ In July 2018 the Supreme Court agreed to hear an appeal from an individual prisoner which may have further implications for 1,000 slopping-out cases.²⁷⁶ The appeal will address important legal issues such as what criteria is applied when determining whether or not treatment of a prisoner is inhuman or degrading. This appeal is against a judgment that found a breach of the constitutional right to privacy and dignity, but no breach of the individual prisoner’s right not to be subjected to inhuman or degrading treatment.

In 2017, the UN Committee against Torture (2017) concluded that the State should “... modernize Limerick prison and ‘Block E’ of Portlaoise prison to eliminate the slopping out system completely”.²⁷⁷

271 Center for the Study of Democracy (2015) *Prison Conditions Monitoring Index: Methodology and Pilot Results* <http://www.ub.edu/ospdh/sites/default/files/documents/PCMI.%20Methodology%20and%20pilot%20results.pdf>

272 Ibid.

273 Ibid, pp. 9–15

274 Ibid, p. 83

275 Irish Prison Service, *Annual Report 2017*, p. 24

276 Carolan, M (2018) ‘Slopping out in prisons appeal to be heard by Supreme Court’, *The Irish Times*, 3rd July 2018 <https://www.irishtimes.com/news/crime-and-law/courts/supreme-court/slopping-out-in-prisons-appeal-to-be-heard-by-supreme-court-1.3552377>

277 United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Concluding Observations on the Second Periodic Report of Ireland*, p. 6 https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En

► Indicators for Standard 8

Indicator S8.1: Number of prisoners currently slopping out: 56 in April 2017,²⁷⁸ 53 in April 2018.²⁷⁹ Latest published census figures from July 2018 show there are currently 58 prisoners slopping out.²⁸⁰

Indicator S8.2: Number of prisoners using a toilet in the presence of others: 41% in April 2017,²⁸¹ 44% in April 2018.²⁸² Latest published census figures show that 45% (1,781) of prisoners were toileting in the presence of others.²⁸³

While IPRT recommended in 2017 that the practice of slopping out be eliminated by the end of 2018, along with a reduction in numbers toileting in the presence of others by one-third, this has not happened.

Actions required

Action 8.1: The Irish Prison Service must eliminate the practice of slopping out by the end of 2018.

Action 8.2: The Irish Prison Service should reduce the number of prisoners who have to toilet in the presence of others by a third during 2018 with a medium-term goal of ensuring that every prisoner has 24-hour access to a toilet in private.

Single-cell accommodation

**Standard 9:
Every prisoner has access to single-cell accommodation.**

Rationale

It is important that prisoners have the choice of single-cell accommodation. Access to single-cell accommodation promotes a prisoner's right to privacy, and helps reduce violence. The Association for the Prevention of Torture (APT) identified that:

*If prison represents the place where people in detention live, their cell and dormitory may be considered as their "home". This is where they spend most of their time, at least at night, and often the entire day. The configuration and material conditions of their accommodation represent essential aspects to alleviate the harmful effects of deprivation of liberty.*²⁸⁴

Current context

The Joint Committee on Justice & Equality (2018) made a key recommendation that 'Prisons should aim for an accommodation policy of one person, one cell, and the necessary resources should be made available to realise this aspiration.'²⁸⁵ In theory, prisons such as Dóchas women's prison operate single-room occupancy. However, with increasing prisoner numbers, this is difficult to achieve in practice. The changemakers referred to earlier – such as the judiciary and the Probation Service – have a vital role to play in keeping prisoner numbers down so that access to single-cell accommodation is possible.

► Indicators for Standard 9

Indicator S9.1: The number of prisoners accommodated in a single cell: In 2017, according to the Irish Prison Service Census figures, 54% (2,040) of prisoners were accommodated in a single cell.²⁸⁶ At the

278 Irish Prison Service, *Census of Cell Occupancy and In-Cell Sanitation April 2017* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/April-2017-In-Cell.pdf

279 Irish Prison Service, *Census of Cell Occupancy and In-Cell Sanitation April 2018* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/April-2018-In-Cell.pdf

280 Irish Prison Service, *Census of Cell Occupancy and In-Cell Sanitation July 2018* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/July-2018-In-Cell.pdf

281 Irish Prison Service, *Census of Cell Occupancy and In-Cell Sanitation April 2017* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/April-2017-In-Cell.pdf

282 Irish Prison Service, *Census of Cell Occupancy and In-Cell Sanitation April 2018* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/April-2018-In-Cell.pdf

283 Irish Prison Service, *Census of Cell Occupancy and In-Cell Sanitation July 2018* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/July-2018-In-Cell.pdf

284 APT Detention Focus, *Accommodation*, Section on Analysis https://www.apr.ch/detention-focus/en/detention_issues/43/

285 Houses of the Oireachtas (2018) *Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing*, Recommendation 5, p. 54 https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

286 Irish Prison Service, *Census of Cell Occupancy and In-Cell Sanitation April 2017* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/April-2017-In-Cell.pdf

same time in 2018, according to the Irish Prison Service Census, 53% (2,047) of prisoners were accommodated in a single cell, a 1% decrease.²⁸⁷ 682 cells accommodated two prisoners (1,364), 111 cells accommodated three prisoners (333) and 38 cells accommodated four or more prisoners (150).²⁸⁸ The most recently published Census figures,²⁸⁹ from July 2018, show that 2,054 (52%) were accommodated in single-cell accommodation, 738 cells accommodated two prisoners (1,476), 107 cells accommodated three prisoners (321 prisoners) and 28 cells accommodated four or more prisoners (116 prisoners).

Indicator S9.2: The proportion of single cells across the prison estate: Latest census figures²⁹⁰ from July 2018 show that 52% (2,054) were accommodated in single-cell accommodation within the context of a prison population of 3,967.

PROGRESSIVE PRACTICE

Single-Cell Accommodation

Denmark, the Netherlands and Iceland all provide single-cell accommodation for prisoners.²⁹¹

Actions required

Action 9.1: The Irish Prison Service should ensure that all prisoners have access to and choice of single-cell occupancy. Where this is not possible, a full cell-sharing risk assessment must always be carried out.

Action 9.2: Other criminal justice stakeholders must also continue to contribute to efforts to reduce prison numbers in order to achieve single-cell occupancy across the estate.

Separation of remand prisoners from sentenced prisoners

Standard 10:
Remand prisoners are held separately from sentenced prisoners across the entire prison estate.

Rationale

Article 10(a) of the International Covenant on Civil and Political Rights (ICCPR)²⁹² makes clear that remand prisoners should be held separately from sentenced prisoners. As remand prisoners have not been found guilty of an offence they should be held separately from sentenced prisoners.

Current context

Figures provided by the Irish Prison Service show that there has been a growth in the number of prisoners on remand over the last 12 months. Snapshot figures show there were 736 individuals on remand on 30th November 2017,²⁹³ an increase of 101 persons from 30th November 2016 when there were 635 people on remand.²⁹⁴

The UN Committee Against Torture was critical of the lack of data on persons held on remand by the State:

Regarding remand prisoners. We appreciate very much your replies regarding this particular category of prisoners, but since again you have not provided any statistics regarding the average length of time prisoners spend in remand, we do not get an objective picture of their situation. The excessive duration of remand detention represents permanent concerns of this committee, this is why it is important for us to have these statistics and we hope that the information on length of remand will be published.²⁹⁵

287 This is actually an increase of seven people having access to single-cell accommodation. Irish Prison Service, *Census of Cell Occupancy and In-Cell Sanitation April 2018* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/April-2018-In-Cell.pdf

288 Note: 46 of these were in dormitory-style accommodation in Shelton Abbey, an open prison. *Census of Cell Occupancy and In-Cell Sanitation April 2018* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/April-2018-In-Cell.pdf

289 Irish Prison Service, *Census Prison Population July 2018 – Cell occupancy – In-Cell Sanitation* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/July-2018-In-Cell.pdf

290 Ibid.

291 This can be seen when looking at the first two tables of the graph ‘Total Capacity of Penal Institutions’ and ‘Total Numbers of Cells in Penal Institutions’; see Aebi, MF, Tiago, MM and Burkhardt, C (2016) *SPACE 1–Council of Europe Annual Penal Statistics: Prison populations, Surveys 2015*, Strasbourg: Council of Europe, p. 42 http://wp.unil.ch/space/files/2017/04/SPACE_I_2015_FinalReport_161215_REV170425.pdf

292 United Nations Human Rights Office of the High Commissioner, *International Covenant on Civil and Political Rights* <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

293 Ibid, p. 28

294 Irish Prison Service, *Annual Report 2016*, p. 26 http://www.irishprisons.ie/wp-content/uploads/documents_pdf/12631-IPS-annualreport-2016_Web.pdf

295 UN Web TV, *Consideration of Ireland (Cont'd)-1551st Meeting 61st Session Committee Against Torture* at 2:08:08 to 2:08:50 <http://webtv.un.org/watch/consideration-of-ireland-contd-1551st-meeting-61st-session-committee-against-torture/5526421662001/?term=>

While the Irish Prison Service stated that it does not compile data on the lengths of time people spend on remand, at the UNCAT hearing a commitment was made to undertake research and publish information on lengths of time prisoners are spending on remand in its quarterly statistics.²⁹⁶ This has not yet happened.

Reducing the number of those being detained on remand is one approach to reducing the current prison population. As highlighted by the European Parliament:

Criminal procedure reforms are also needed to reduce both the use of pre-trial detention and its length; such reforms could include giving priority to trials involving persons held in pre-trial detention, and ensuring better implementation of the principle according to which pre-trial detention should be reviewed at regular intervals to assess whether it remains justified.²⁹⁷

Actions required



Action 10.1: The Irish Prison Service should publish the lengths of time individuals are spending on remand in prison as recommended by the UN Committee against Torture.

Action 10.2: The Department of Justice and Equality and the Irish Prison Service should commit to a clear timeframe for the separation of all remand prisoners from sentenced prisoners, in particular the female prison population, for whom there is no dedicated remand facility.

► Indicators for Standard 10

Indicator S10.1: Number of remand prisoners held alongside people serving a prison sentence: As of 4th July 2018, there were 743 remand prisoners in custody, of whom 222 were sharing a cell with a sentenced prisoner.²⁹⁸ This compares to a figure of 92 remand prisoners mixed with sentenced prisoners on 6th July 2017.²⁹⁹ These figures demonstrate that the prison system did not have sufficient separate accommodation for the sharp increase in the number of remand committals over the period.

Institution ³⁰⁰	Total number of prisoners on Remand	Number of remand prisoners sharing a cell with a sentenced prisoner
Arbour Hill Prison	2	2
Castlerea Prison	58	27
Cloverhill Prison	362	53
Cork Prison	62	39
Dóchas Centre	36	16
Limerick Prison	83	32
Midlands Prison	82	49
Mountjoy Prison	39	1
Portlaoise Prison	18	3
Wheatfield Place of Detention	1	0
Total	743	222

296 UN Web TV, Consideration of Ireland (Cont'd)-1551st Meeting 61st Session Committee Against Torture <http://webtv.un.org/watch/consideration-of-ireland-contd-1551st-meeting-61st-session-committee-against-torture/5526421662001/?term=>

297 European Parliament (2017) *Prison Conditions in the Member States: Selected European Standards and Best Practices*, p. 6 [http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/583113/IPOL_BRI\(2017\)583113_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/583113/IPOL_BRI(2017)583113_EN.pdf)

298 Houses of the Oireachtas (2018) *Prisoner Data*, Parliamentary Question 303, 10th July 2018 <https://www.oireachtas.ie/en/debates/question/2018-07-10/303/>

299 IPRT (2017) *Progress in the Penal System: A framework for penal reform (2017)*, p. 33 http://www.iprt.ie/files/Progress_in_the_Penal_System.compressed_.pdf

300 Houses of the Oireachtas (2018) *Prisoner Data*, Parliamentary Question 303, 10th July 2018 <https://www.oireachtas.ie/en/debates/question/2018-07-10/303/>

Family contact

Standard 11:
Every prisoner is encouraged and facilitated to maintain positive family and close, significant relationships.

Rationale

Children and families affected by imprisonment are often referred to as the ‘hidden’ or ‘forgotten victims of crime’. While families and children have committed no crime themselves, they are punished indirectly for the actions of their parent or family member. Children have the right to maintain regular and direct contact with their parent.³⁰¹ Every member of the family maintains a right to family life³⁰². Maintaining positive family contact is also a crucial factor in the rehabilitation and desistance process.

Current context

In 2017, IPRT in conjunction with the School of Law, University College Cork and the Children’s Rights Alliance launched a *Principles of Action* document for children with a parent in prison.³⁰³ It identified this issue as primarily a child rights issue, which should be supported via cross-sectoral strategy led by the Department of Children and Youth Affairs. In 2018, IPRT made a submission³⁰⁴ to the Department of Education and Skills highlighting that children of prisoners were a group that should be provided with additional supports.

A survey³⁰⁵ on the family contact needs of prisoners, undertaken by the Irish Prison Service in conjunction with IPRT and Datakind (now Data4Good), highlighted that the main request from prisoners to improve family contact is to increase the number of phone calls.

► Indicators for Standard 11

Indicator S11.1: Availability of child-friendly visiting conditions across the prison estate: In July 2017 the Director General of the IPS committed to all prisons having roundtable visiting conditions within a year.³⁰⁶ The Minister for Justice and Equality stated in a recent PQ that all prisons across the estate now have ‘child-friendly’ visiting conditions.³⁰⁷ A number of other progressive developments have been referenced including the opening of new visitor areas in Limerick Prison³⁰⁸ and Castlerea Prison.³⁰⁹

Indicator S11.2: Regular family contact, specifically via phone calls, Skype programmes, contact visits and availability of weekend and evening visits: In response to a recent PQ, the Minister for Justice and Equality stated that “temporary release for access/visits to children for family occasions is regularly approved in most prisons”.³¹⁰ Furthermore, the Minister stated that all prisons facilitate visits on Saturday to take into account the needs of families, with Sunday visits available in the two Open Centres and Cloverhill Prison.³¹¹ However Skype contact is not currently the norm in most prisons.

301 As provided for under Article 9 (3) the *UN Convention on the Rights of the Child*
<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

302 This is provided for under Article 8 of the *European Convention on Human Rights*
https://www.echr.coe.int/Documents/Convention_ENG.pdf

303 IPRT (2017) *Principles of Action for Children with a Parent in Prison: Document Launch* <http://www.iprt.ie/contents/3190>

304 IPRT (2018) *Submission of the Irish Penal Reform Trust to the Joint Committee on Education and Skills on “Educational Inequality and Disadvantage”* http://www.iprt.ie/files/IPRT_Submission_to_the_Committee_on_Education_and_Skills_1.02_18_final_.pdf

305 Families of Prisoners Survey, Irish Prison Service in conjunction with Datakind and Irish Penal Reform Trust

306 UN Web TV, Consideration of Ireland (Cont’d)-1551st Meeting 61st Session Committee Against Torture <http://webtv.un.org/watch/consideration-of-ireland-contd-1551st-meeting-61st-session-committee-against-torture/5526421662001/?term=>

307 Houses of the Oireachtas (2018) *Prison Facilities*, Parliamentary Question 518, 12th June 2018
<https://www.oireachtas.ie/en/debates/question/2018-06-12/518/>

308 ‘New “homely” family room unveiled at Limerick Prison’, *Limerick Leader*, 8th August 2018
<https://www.limerickleader.ie/news/home/328351/new-homely-family-room-unveiled-at-limerick-prison.html>

309 Houses of the Oireachtas (2018) *Prison Facilities*, Parliamentary Question 518, 12th June 2018
<https://www.oireachtas.ie/en/debates/question/2018-06-12/518/>

310 Ibid.

311 Ibid.

Indicator S11.3: Supports for children affected by parental imprisonment: There is a Family Links Co-ordinator and a family imprisonment group in each prison.³¹² In response to a recent PQ, the Minister for Justice and Equality highlighted that family friendly training is provided to ‘front of house’ prison staff to improve staff awareness of the effects of imprisonment on families. Training in the *Children First*³¹³ guidance is also provided.

More must be done to increase the awareness of professionals working with children affected by parental imprisonment outside prison. One group of particular relevance is teachers. As highlighted at the UN Committee on the Rights of the Child Day of General Discussion 2011:

*Guidance should be prepared and training provided so that teachers and other adults in schools are aware of the particular needs of children of incarcerated parents and can appropriately support such children in their performance, attendance and behaviour.*³¹⁴

PROGRESSIVE PRACTICE

Invisible Walls, HMP Parc, Wales³¹⁵

Invisible Walls Wales is a multi-agency project in HMP Parc. It is based on a ‘whole family’ model of supports for prisoners and their families. The project has three main aims, to:

1. Improve the quality of family life
2. Reduce the likelihood of re-offending
3. Reduce the likelihood of intergenerational offending

The key distinction of this programme is its focus on the whole family as opposed to the rehabilitation of the individual prisoner. A number of important results were associated with this programme:

- 38% of the school-age children who started the programme had attainment or attendance issues at school, but this had fallen to 10% by the end of the programme.
- Children’s emotional wellbeing, behaviour and activity and peer relationships improved substantially.

Memorandum of Understanding and Charter for Children of Imprisoned Parents, Italy

Italy has implemented a Memorandum of Understanding³¹⁶ between the Ministry of Justice, the National Ombudsman for Childhood and Adolescence, and the charity *Bambinisenzasbarre*, as well as a Charter for Children of Imprisoned Parents. Following the Memorandum agreement, *Bambinisenzasbarre* developed a training programme to improve relationships between staff, prisoners, and their families and children, and to develop professional standards of duties and behaviour towards family members.³¹⁷

Finnish Legislation

A 2015 law introduced in Finland makes provision for all prisons to have special visiting rooms for children who are visiting parents where they are allowed to touch and hug their parents.³¹⁸

312 Information provided by the Irish Prison Service as of 30th April 2018

313 For more on Children First, see Tusla, *Children First, Children First Guidance and Legislation*, <https://www.tusla.ie/children-first/children-first-guidance-and-legislation/>

314 Robertson, O (2012) *Collateral Convicts: Children of Imprisoned Parents – Recommendations and Good Practice from the UN Committee on the Rights of the Child Day of General Discussion 2011*, p. 51 http://www.quino.org/sites/default/files/resources/ENGLISH_Collateral%20Convicts_Recommendations%20and%20good%20practice.pdf

315 Clancy, A and Maguire, M (2017) ‘Prisoners and their children: An Innovative Model of Whole Family Support’, *European Journal of Probation*, 9(3); 210–230

316 *Bambinisenzasbarre, Memorandum of Understanding Text* <https://www.bambinisenzasbarre.org/text-rights-charter-of-children-of-prisoners/>

317 Penal Reform International & Office for Democratic Institutions and Human Rights (2018) *Guidance Document on the Nelson Mandela Rules*, p. 125 <https://s16889.pcdn.co/wp-content/uploads/2018/07/Mandela-Rules-Guidance-Documents.pdf>

318 Penal Reform International & Office for Democratic Institutions and Human Rights (2018) *Guidance Document on the Nelson Mandela Rules*, p. 128 <https://s16889.pcdn.co/wp-content/uploads/2018/07/Mandela-Rules-Guidance-Documents.pdf>

New: Council of Europe (CoE) Recommendation³¹⁹ on Children of Imprisoned Parents (2018)

The CoE recently adopted a recommendation on Children of Imprisoned Parents. There are seven basic principles that member states should follow:

1. *Children with imprisoned parents shall be treated with respect for their human rights and with due regard for their particular situation and needs. These children shall be provided with the opportunity for their views to be heard, directly or indirectly, in relation to decisions which may affect them. Measures that ensure child protection, including respect for the child's best interests, family life and privacy shall be integral to this, as shall be the measures which support the role of the imprisoned parent from the start of detention and after release.*
2. *Where a custodial sentence is being contemplated, the rights and best interests of any affected children should be taken into consideration and alternatives to detention be used as far as possible and appropriate, especially in the case of a parent who is a primary caregiver.*
3. *Whenever a parent is detained, particular consideration shall be given to allocating them to a facility close to their children.*
4. *When deciding to transfer sentenced persons to or from a State in which their children reside due regard shall be given to the best interests of the child when considering the rehabilitation purpose of the transfer.*
5. *The prison administration shall endeavour to collect and collate relevant information at entry regarding the children of those detained.*
6. *National authorities shall endeavour to provide sufficient resources to State agencies and civil society organisations to support children with imprisoned parents and their families to enable them to deal effectively with their particular situation and specific needs, including offering logistic and financial support, where necessary, in order to maintain contact.*

7. *Appropriate training on child-related policies, practices and procedures, shall be provided for all staff in contact with children and their imprisoned parents.*

The recommendation provides further details for States to look to for best practice in key areas such as (i) police detention, judicial orders and sentences (ii) conditions of imprisonment (iii) staff working with and for children of imprisoned parents (v) monitoring (vi) research and evaluation of child-friendly practices and policies, and (vii) working with the media.

Actions required



- Action 11.1:** IPRT urges all relevant stakeholders (including the judiciary, prisons, probation, media and government departments such as education and health) to consider their role in the implementation in Ireland of the CoE recommendation on children affected by parental imprisonment. The CoE recommendation should be promoted widely by the State, with the Department of Children and Youth Affairs taking lead responsibility
- Action 11.2:** The Department of Children and Youth Affairs should recognise this group of children as a cohort with specific needs and supports in their own right and must lead in developing a cross-sectoral strategy to address their needs.
- Action 11.3:** The Department of Justice and Equality and the Irish Prison Service should publish a report on the work achieved and outstanding in advancing the rights and needs of children and families.

³¹⁹ Recommendation CM/Rec (2018)5 of the Committee of the Ministers to member States concerning children with imprisoned parents, adopted by the Committee of Ministers on 4th April 2018 at the 1312th meeting of the Ministers' Deputies https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016807b3175

Access to healthcare

Standard 12:
The healthcare needs of individual prisoners are met. Every prisoner has access to healthcare that goes beyond the 'equivalence of care' principle, with a full range of preventative services and continuity of healthcare into the community.

Rationale

The World Health Organisation³²⁰ outlines a clear rationale for why there should be political support for good prison health:

- (i.) good prison health is important to good public health
- (ii.) good public health will make good use of the opportunities presented by prisons
- (iii.) prisons can contribute to the health of communities by improving the health of some of the most disadvantaged people in society.

Transfer of healthcare to ministries of health from prison services is viewed as a principle of good governance. It is linked with many benefits: independence of medical judgement; building the capacity of independent professionals to advocate for public health measures; better trust between prisoner and healthcare professionals; and continuity of care for prisoners inside and outside prison.³²¹

Current context

Prisoner healthcare in Ireland is currently managed by the Irish Prison Service. In 2016 the Inspector of Prisons published a review on healthcare in Irish prisons recommending the transfer of the provision of healthcare from the Irish Prison Service to the Health Service Executive, as well as recommending that a health needs assessment be undertaken and published for the prison population in each prison.³²² This report was welcomed by the Tánaiste at the time of its publication in which she stated that the "report made a number of timely recommendations regarding the provision of healthcare in prisons."³²³ However these recommendations have yet to see visible progress.

► Indicators for Standard 12

Indicator S12.1: Responsibility for prisoner healthcare moving to the Health Service Executive (HSE), with independent inspections by the Health Information and Quality Authority (HIQA): This has not been delivered upon. While the Terms of Reference of a review of healthcare (recommended by the late Inspector of Prisons in 2016³²⁴) were agreed upon between the Department of Justice and Equality and the Department of Health, the review of healthcare will not be completed until Autumn 2018.³²⁵ The Irish Prison Service appointed an Executive Clinical Lead during summer 2018.³²⁶

Indicator S12.2: Publication of an annual report on prison medical services as recommended by the CPT: There is no annual report on prison medical services or inclusion of data on prison medical services in any publication, including the Irish Prison Service's *Annual Report*.

320 Moller, L, Stover, H, Jurgens, R, Gatherer, A, and Nikogosian, H (2007) *Health in Prisons: A WHO guide to the essentials in prison health*, p. 2 http://www.euro.who.int/_data/assets/pdf_file/0009/99018/E90174.pdf

321 Dubois, C, Linchet, S, Mahieu, C, Reynaert JF and Seron, P (2017) *Organization Models of Healthcare Services in Prisons in Four Countries*, KCE, p. 133 https://kce.fgov.be/sites/default/files/atoms/files/KCE_293_Prisons_health_care_Chapter_4.pdf

322 Inspector of Prisons (2017) *Healthcare in Irish Prisons*, p. 23 http://www.justice.ie/en/JELR/Healthcare_in_Irish_Prisons_Report.pdf/Files/Healthcare_in_Irish_Prisons_Report.pdf

323 Department of Justice and Equality, *Tánaiste publishes 'Healthcare in Irish Prisons' report* <http://www.justice.ie/en/JELR/Pages/PR17000060>

324 Ibid.

325 Information provided to IPRT by the Irish Prison Service on 30th April 2018

326 Information provided to IPRT by the Irish Prison Service on 18th September 2018

PROGRESSIVE PRACTICE

Prison Healthcare Governance in Other Jurisdictions

In 2011, Scotland transferred governance of healthcare in prisons from the Scottish Prison Service to the National Health Service.³²⁷ The two key priorities for Scotland were (i) to ensure the principle of equivalence of care and (ii) to tackle health inequalities. Success factors associated with the transfer in Scotland included strong leadership by the National Health Service and the creation of a National Memorandum of Understanding between the Scottish Prison Service and the National Health Service in terms of defining roles and responsibilities.³²⁸ Prison healthcare inspections are undertaken by Healthcare Improvement Scotland. Complaints are the responsibility of the National Health Service. If not satisfied with the outcome of the complaint, a prisoner can take the complaint to the Scottish Public Services Ombudsman.³²⁹ Healthcare in prisons is also managed by the Ministry of Health in Norway³³⁰ and in France since 1994.³³¹

Special Post Boxes to Require Medical Consultations, France

Following a recommendation by the French National Preventative Mechanism (NPM), the majority of prisoners have access to special post boxes where they can request medical consultations confidentially, with only medical staff having permission to open boxes on a daily basis.³³²

Actions required

Action 12.1: The Irish Prison Service should undertake a health needs assessment of the prison population and a staffing analysis as recommended by the Inspector of Prisons³³³ and publish these findings by end of 2018.

Action 12.2: The Department of Justice and Equality and the Department of Health should complete and publish the agreed review examining the feasibility of transferring healthcare services in prisons to the Department of Health by end of 2018.

327 Dubrois, C, Linchet, S, Mahieu, C, Reynaert, JF and Seron, P (2017) *Organization Models of Healthcare Services in Prisons in Four Countries*, KCE, p. 45 https://kce.fgov.be/sites/default/files/atoms/files/KCE_293_Prison_health_care_Chapter_4.pdf

328 Ibid.

329 Ibid.

330 Council of Europe, *Health Policy: Report on the Organisation of health care services in prisons in European member states* https://www.coe.int/t/dg3/health/Prisonreport_en.asp

331 Dubrois, C, Linchet, S, Mahieu, C, Reynaert, JF and Seron, P (2017) *Organization Models of Healthcare Services in Prisons in Four Countries*, KCE, p. 17 https://kce.fgov.be/sites/default/files/atoms/files/KCE_293_Prison_health_care_Chapter_4.pdf

332 Penal Reform International & Office for Democratic Institutions and Human Rights (2018) *Guidance Document on the Nelson Mandela Rules*, p. 150 <https://s16889.pcdn.co/wp-content/uploads/2018/07/Mandela-Rules-Guidance-Document.pdf>

333 Inspector of Prisons (2017) *Healthcare in Irish Prisons Report by Judge Michael Reilly*, p. 23 http://www.justice.ie/en/JELR/Healthcare_in_Irish_Prison_Report.pdf/Files/Healthcare_in_Irish_Prison_Report.pdf

Spotlight 1:

Mental Health

Standard 13:
People with serious mental health issues are diverted from the prison system and receive the appropriate treatment and supports in a timely manner.

Rationale

International research demonstrates the prevalence of mental health issues among the prison population.³³⁴ According to the World Health Organization (WHO), prevalence studies from many countries show that 10–15% of the prison population suffer from severe and enduring mental illnesses, including schizophrenia, bipolar disorder and autism disorders.³³⁵

Poor prison conditions such as overcrowding, solitary confinement, violence and lack of meaningful activity can all have negative effects on mental health.³³⁶ The WHO and the International Committee of the Red Cross state that “detection, prevention and proper treatment of mental disorders, together with the promotion of good mental health, should be both a part of the public health goals within prison, and central to good prison management”.³³⁷

More than a decade ago, the Health Service Executive published a national mental health policy, *A Vision for Change*.³³⁸ A number of

recommendations in the national policy related to the prison population, including that:

*every person with serious mental health problems coming into contact with the forensic system should be accorded the right of mental health care in the non-forensic mental health services unless there are cogent and legal reasons why this should not be done. Where mental health services are delivered in the context of prison, they should be person-centred, recovery-oriented and based on evolved and integrated care plans.*³³⁹

Current context

Mental health in Irish prisons is in need of urgent action, with particular emphasis on severe mental illness. Ireland has one of the lowest per capita psychiatric forensic beds in Europe, at two per 100,000.³⁴⁰ A new National Forensic Mental Health Hospital is currently being constructed in Portrane, Co. Dublin intended to replace the only designated centre, the Central Mental Hospital, in 2020. This new facility is to provide 130 adult forensic beds.³⁴¹ The opening of the new centre, with the aim of increasing forensic capacity, will increase provision to 3.5 per 100,000.³⁴² This increase in provision is unlikely to meet demand. The Netherlands has a rate of 14 per 100,000.³⁴³ Other countries have between 5 and 14 per 100,000.³⁴⁴

On a monthly basis in 2018 there were consistently 20–30 prisoners with a severe mental illness awaiting transfer to the Central Mental Hospital (CMH).³⁴⁵ According to the Director General of the

334 Fazel, S, Hayes, AJ, Bartellas, K, Clerici, M and Trestman, R (2016) ‘The mental health of prisoners: a review of prevalence, adverse outcomes and interventions’, *The Lancet: Psychiatry*, 3(9), pp. 871–881
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5008459/>

335 World Health Organization, *Prisons and Health, Data and Statistics*

<http://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/data-and-statistics>

336 World Health Organization and International Committee of the Red Cross (2005) *Information Sheet: Mental Health and Prisons*, p. 1
http://www.who.int/mental_health/policy/mh_in_prison.pdf

337 Ibid, p. 2

338 Health Service Executive (2006) *A Vision for Change: Report of the Expert Group on Mental Health Policy*, Government Publications Office <https://www.hse.ie/eng/services/publications/mentalhealth/mental-health---a-vision-for-change.pdf>

339 Ibid, p.137

340 Kennedy, H (2016) ‘Prisons now a dumping ground for mentally ill young men’, *Irish Times*, 18th May 2016
<https://www.irishtimes.com/opinion/opinion-prisons-now-a-dumping-ground-for-mentally-ill-young-men-1.2651034>

341 Department of Health (2017) ‘Construction to begin on new multi-million euro National Forensic Mental Health Hospital’, 1st June 2017 <https://health.gov.ie/blog/press-release/construction-to-begin-on-new-multi-million-euro-national-forensic-mental-health-hospital/>

342 Gallagher, C (2018) ‘Not guilty by reason of insanity: Inside the Central Mental Hospital’, *Irish Times*, 30th June 2018 <https://www.irishtimes.com/life-and-style/health-family/not-guilty-by-reason-of-insanity-inside-the-central-mental-hospital-1.3544665>

343 Presentation by Professor Kennedy, Houses of the Oireachtas (2018) *Psychiatric Support in Ireland’s Prisons the Focus for the Committee on the Future of Mental Health Care*
https://www.oireachtas.ie/en/debates/debate/joint_committee_on_future_of_mental_health_care/2018-05-23/3/

344 Ibid.

345 Information provided by the Irish Prison Service to IPRT

Irish Prison Service, in May 2018 323 out of 4,000 prisoners in custody were deemed to be suffering from severe mental illness.³⁴⁶

Currently all prisoners in Ireland are assessed on admission.³⁴⁷ Where clinically indicated, a prisoner is referred to a forensic psychiatrist who may make specific recommendations to the Governor.³⁴⁸ A diversion system is in place: the Prison In-Reach and Court Liaison Service (PICLS) acting in liaison with clinicians from the Central Mental Hospital. This system is available to all Dublin prisons, and Portlaoise and Midlands Prisons.³⁴⁹ However, no such diversion service exists in Cork, Limerick or Castlerea Prisons.

According to the Director General, “approval was granted by the HSE in 2016 to provide consultant-led mental health services to Limerick, Cork and Castlerea prisons, which was a most welcome development. However, it has not been possible for the HSE to recruit consultant forensic psychiatrists for those three prisons.”³⁵⁰ In-reach psychiatry services have been discontinued in Castlerea Prison, which means prisoners with serious mental illnesses in Castlerea must travel to Dublin for assessment.³⁵¹

International human rights bodies have documented a number of concerns. For example, in 2015 the CPT observed that “Irish prisons continued to detain persons with psychiatric disorders too severe to be properly cared for in a prison setting.”³⁵² The CPT made a key recommendation:³⁵³

The CPT recommends that the Irish Authorities reflect further on the steps required to enhance the availability of beds in psychiatric care facilities for acute mentally-ill prisoners. Further, it recommends that the staffing at HSUs [High Support Units] be reviewed in order to include the appropriate expertise...

The CPT will return to visit Ireland in 2019 and will expect the State to demonstrate improvement on these matters.

In 2017, the United Nations Committee against Torture³⁵⁴ made a recommendation to the Irish State on mental health in Irish prisons:

Take urgent measures to [...] hire additional medical personnel, including psychiatric personnel and psychologists, and enable the referral of inmates requiring specialized medical care to outside medical facilities without delays.

The Irish Prison Service has expanded the Prison Psychology Services in 2017/2018 with the recruitment of more psychology staff since the end of 2016.³⁵⁵ Figures provided by the Irish Prison Service in its *Annual Report 2017* show the Prison Psychology Service provided 759 individual interventions and 182 group-based interventions over that year.³⁵⁶

346 Presentation of the Director General of the Irish Prison Service at the Joint Committee on the Future of Mental Health Care, May 2018 https://www.oireachtas.ie/en/debates/debate/joint_committee_on_future_of_mental_health_care/2018-05-23/3/

347 Irish Prison Service, *Mental Health Services* <https://www.irishprisons.ie/prisoner-services/prison-healthcare-service/mental-health-services/>

348 Ibid.

349 Ibid.

350 Presentation of the Director General of the Irish Prison Service at the Joint Committee on the Future of Mental Health Care, May 2018 https://www.oireachtas.ie/en/debates/debate/joint_committee_on_future_of_mental_health_care/2018-05-23/3/

351 Ibid.

352 Council of Europe (2015) *Report to the Government of Ireland on the Visit to Ireland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 16 September to 24th September 2014*, CPT Inf. (2015) 38, Point 63, p. 40 <https://rm.coe.int/1680696c9a>

353 Ibid, at para. 64, p. 41

354 United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2017) *Concluding Observations on the Second Periodic Report of Ireland*, CAT/C/IRL/CO/2, at 16(f) p.6 https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En

355 Irish Prison Service, *Recruitment* <https://www.irishprisons.ie/information-centre/recruitment/>

356 Irish Prison Service (2018) *Annual Report 2017*, p. 43 <https://www.irishprisons.ie/information-centre/publications/annual-reports/>

➔ Indicators for Standard 13

Indicator S13.1: Number of prisoners awaiting transfer to the Central Mental Hospital (CMH)

CMH Waiting List 2017 ³⁵⁷	Average number of prisoners with a severe mental illness awaiting transfer to the CMH	Lengths of time prisoners are waiting to be transferred to the CMH
January	21	Not available
February	20	Not available
March	20	Not available
April	18	Not available
May	22	Not available
June	25	Not available
July	17	Not available
August	19	Not available
September	18	Not available
October	21	Not available
November	21	Not available
December	23	Not available
CMH Waiting List 2018		
January	17	Not available
February	24	Not available
March	25	Not available
April	22	Not available
May	29	Not available

While data is not available on lengths of time individual prisoners are waiting to be transferred to the Central Mental Hospital, at the hearing of the Oireachtas Committee on the Future of Mental Health Care, the Clinical Director of the CMH stated:

*“All of the people on the waiting list are urgent. All of them are severely mentally ill and should not be in prison. They have been on the waiting list for months and this is entirely unacceptable by any clinical standards”.*³⁵⁸

PROGRESSIVE PRACTICE

A report by the Ministry of Justice in England states that “eligible prisoners should wait no longer than 14 days to be admitted to a secure hospital”.³⁵⁹ The report described how “only 34% of prisoners were transferred within 14 days in 2016–2017”.³⁶⁰ In Ireland, this data is not regularly published.

Indicator S13.2: Lengths of time individual prisoners are being held in safety observation cells:³⁶¹ According to Irish Prison Service Census figures,³⁶² in April 2018 seven individuals were being held in Safety Observation Cells. In response to a parliamentary question,³⁶³ the Minister for Justice and Equality said that information on the lengths of time individual prisoners were placed in safety observation cells was not collated, and that to collate this data would require a disproportionate and inordinate amount of staff time, which “could not be justified where there are other significant demands on resources”.³⁶⁴ The Irish Prison Service committed to publishing lengths of time people were held in Safety Observation Cells in 2017³⁶⁵, however this has not yet happened. Given that the placement of a prisoner in a Safety Observation Cell means

357 Data provided by the Irish Prison Service to IPRT in May 2018.

358 Presentation by Professor Harry Kennedy, Houses of the Oireachtas, *Psychiatric Support in Ireland’s prisons the focus for the Committee on the Future of Mental Healthcare*:
https://www.oireachtas.ie/en/debates/debate/joint_committee_on_future_of_mental_health_care/2018-05-23/3/

359 Report by the Comptroller and Auditor General (2017) *Mental Health in Prisons*, Pt. 14, p. 9
<https://www.nao.org.uk/wp-content/uploads/2017/06/Mental-health-in-prisons.pdf>

360 Ibid.

361 As outlined by the Inspector of Prisons, safety observation cells were designed to accommodate prisoners who required frequent observation for medical reasons or who were a danger to themselves. See Inspector of Prisons (2010) *Report of an Investigation on the use of “Special Cells” in Irish Prisons*, p.5 <http://www.justice.ie/en/JELR/Report%20of%20an%20investigation%20on%20the%20use%20of%20special%20cells%20in%20Irish%20Prisons.pdf/Files/Report%20of%20an%20investigation%20on%20the%20use%20of%20special%20cells%20in%20Irish%20Prisons.pdf>

362 Irish Prison Service, *Census Prison Population April 2018 Cell Occupancy – In-Cell Sanitation*
https://www.irishprisons.ie/wp-content/uploads/documents_pdf/April-2018-In-Cell.pdf

363 Houses of the Oireachtas (2018) *Prison Service Data*, Parliamentary Question 512, 12th June 2018,
<https://www.oireachtas.ie/en/debates/question/2018-06-12/512/>

364 Ibid.

365 UN Web TV, Consideration of Ireland (Cont’d)-1551st Meeting 61st Session Committee Against Torture at 12.29-12.38 <http://webtv.un.org/watch/consideration-of-ireland-contd-1551st-meeting-61st-session-committee-against-torture/5526421662001/?term=>

isolating the individual and an additional restriction on their liberty, IPRT's position is that such data should be collated and published to monitor trends and issues.

Indicator S13.3: Number of High Support Units across prisons nationwide: In 2015, the CPT visited High Support Units³⁶⁶ in Castlerea, Midlands and Mountjoy Prisons and found they “were not properly resourced and did not address the needs of mentally ill prisoners; there was a complete lack of structured activities and no occupational or recreational therapy, only pharmacotherapy. Moreover, the prison officers in the units were not properly trained to work with prisoners suffering from serious mental disorders.”³⁶⁷ Following the death of a prisoner by suicide in an Irish prison, an inquest jury recommended in 2016 that all prisons should have High Support Units and ongoing staff training on mental health.³⁶⁸

There are two High Support Units operational throughout the prison estate: Mountjoy Medical Unit, which currently caters for nine people and the D2 wing in Cloverhill Prison, which has been expanded to cater for 28 people.³⁶⁹ The Irish Prison Service is in the process of recruiting an Activities Co-Ordinator for forensic input to provide a more supportive environment for prisoners in this unit.³⁷⁰ However, this goes nowhere near meeting the recommendation to provide a High Support Unit in every prison.

Indicator S13.4: Ratio of one psychologist to 150 prisoners: A 2015 review of Prison Psychology Services³⁷¹ commissioned by the Irish Prison Service showed that the ratio of psychologists to prisoners is well below international best practice standards. In 2015, the ratio of psychologists was 1:233 in Ireland, compared to other jurisdictions such as Canada where the ratio is 1:78 and Scotland where the ratio is 1:123.³⁷² In 2018, the gap has widened to a ratio of 1:268.³⁷³

PROGRESSIVE PRACTICE

Forensic Care Capacity, The Netherlands

Forensic care capacity is reserved in mental health institutions where Dutch penal law allows governors, following medical advice, to transfer prisoners with specific psychiatric problems to mental health institutions.³⁷⁴

Penitentiary Psychiatric Centres, The Netherlands

Penitentiary Psychiatric Centres (PPCs) were established in the Netherlands as a result of the growing number of prisoners presenting with psychiatric issues.³⁷⁵ Distinctive aspects of PPCs compared to the regular prison environment include: higher staff/prisoner ratio; the involvement of various types of healthcare professionals; and specific training for prison officers working with persons with mental disorders.³⁷⁶

There has been a mixed response to this initiative by the CPT, stating that “PPCs represent a more suitable environment for prisoners suffering from mental disorders than ordinary prisons”.³⁷⁷ The same report highlighted that the delegation of

366 High Support Units provide short-term interventions and expertise for individuals in an acutely disturbed phase of mental illness who require observation, more here <https://www.irishprisons.ie/information-centre/press-releases-and-speeches/press-releases-and-speeches-2012/mountjoy-high-support-unit-wins-taoiseachs-public-service-excellence-award/>

367 Council of Europe (2015) *Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 16 September to 24th September 2014*, CPT Inf (2015) 38, p. 8 <http://www.refworld.org/pdfid/5666fb9b4.pdf>

368 Roche, B (2016) ‘High Support Units should be in all prisons, jury says’, *Irish Times*, 24th September 2016 <https://www.irishtimes.com/news/ireland/irish-news/high-support-units-should-be-in-all-prisons-jury-says-1.2804556>

369 Information provided by the Irish Prison Service at a meeting with the Irish Penal Reform Trust on 30th April 2018

370 Ibid.

371 Porporino, F (2015) ‘*New Connections: Embedding Psychology Services and Practice in the Irish Prison Service*’, p. 25 http://www.irishprisons.ie/wp-content/uploads/documents_pdf/porporino_report.pdf

372 Ibid, p. 26

373 Information provided by the Irish Prison Service at a meeting with the Irish Penal Reform Trust on 30th April 2018

374 Jorna, A, Vink, M and Aartzen, A(2016) ‘Prison Practice in the Netherlands’ in C Joldersma(ed.) *Prisons of the Future*, p. 133 <http://cep-probation.org/wp-content/uploads/final-report1.pdf>

375 Ibid.

376 Council of Europe (2017) *Report to the Government of the Netherlands on the visit to the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 2nd to 13th May 2016*, p.36 <https://rm.coe.int/16806ebb7c>

377 Ibid, p.6

the CPT “gained a favourable impression of the attitude of the frontline carers working daily in direct contact with the patients as well as training provided to them”.³⁷⁸ However, a number of criticisms were also made in the report, including the length of lock-up times (17 hours a day) and limited access to therapeutic activities.

The CPT recommended that the Dutch authorities consider how the role of the Ministry of Health in the management and supervision of PPCs could be increased, “with a view to ensuring the provision of optimum care to the patients and the principle of equivalence of care in prison with that in the wider community”.³⁷⁹

Guidance for Prison Staff on Mental Health

In 2018 Penal Reform International published an informative guide for prison staff working with individuals with mental health issues.³⁸⁰ This guide can help support the training of prison officers on mental health issues.

Actions required



- Action 13.1: The Irish Prison Service should regularly publish data on the number of prisoners with severe mental illness waiting to be transferred to an appropriate facility and the lengths of time waiting.
- Action 13.2: A review must be carried out to assess current gaps in provision and provide additional options, ensuring there is a sufficient number of forensic mental health spaces ring-fenced for the prison population.
- Action 13.3: Legislators should introduce legislation that supports the diversion of mentally ill individuals away from the criminal justice system.
- Action 13.4: The Irish Prison Service must be provided with the necessary resources to support the mental health needs of prisoners in their care and to provide a continuum of care. This may include increased psychology and psychiatry staff to meet rising prison numbers; mental health training for prison staff; and supports and resources to run High Support Units effectively in prisons.

378 Ibid.

379 Council of Europe (2017) *Report to the Government of the Netherlands on the visit to the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 2nd to 13th May 2016*, p.36 <https://rm.coe.int/16806ebb7c>

380 Penal Reform International (2018) *Mental health in prison, a short guide for prison staff* https://s16889.pcdn.co/wp-content/uploads/2018/05/PRI_Short_guide_to_mental_health_support_in_prisons_WEB.pdf

Drug and alcohol treatments

Standard 14:
People with drug and alcohol addictions are diverted from the criminal justice system to receive appropriate treatment. Where imprisonment is the only appropriate response, treatment must be made available within prison, with a continuum of care upon release.

Rationale

Drug and alcohol use is increasingly being recognised primarily as a public health issue.³⁸¹ The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA, 2018) highlights two important health intervention principles in prison (i.) equivalence of care (ii.) continuity of care between the community and prison on admission and post release.³⁸²

Current context

Addiction is a prevalent characteristic across the prison population in Ireland, with 70% of the general prison population being characterised as having addiction issues,³⁸³ and an even higher percentage for women, estimated to be 85%.³⁸⁴

The *National Drugs Strategy*³⁸⁵ also highlights the prevalence of drug use among the prison population where lifetime prevalence of cannabis, cocaine and heroin use is far higher than the general population and where female prisoners reported higher levels of lifetime and past month use of heroin, crack and powder cocaine. Between 2009 and 2015, 5,450 cases received treatment in prison, representing more than 9 per cent of

treatment cases in the country over this period.³⁸⁶

Dual diagnosis (the condition of experiencing both addiction and mental health issues) is a significant concern. Where a person experiences dual diagnosis there is a risk that the approach to treatment can be fragmented. The National Drugs Strategy recognises the issue of dual diagnosis and commits to developing a programme on “Dual Diagnosis: mental illness and co-morbid substance” which aims to develop a standardised approach to identification, assessment and treatment of co-morbid mental illness and substance misuse.³⁸⁷

Six community based organisations are funded to provide services in the prison system: Merchants Quay Ireland (MQI), Ana Liffey Drug Project, Coolmine Treatment Centre, Ballymun Youth Action Project, Fusion Community Prison Link and the Matt Talbot Community Trust.³⁸⁸ During 2016, 2,624 prisoners accessed MQI addiction based counselling service.³⁸⁹ MQI also contributed to the delivery of a multi-agency 8 week detox and drug treatment programme which assisted 80 prisoners detox from methadone and benzodiazepines.³⁹⁰

Recently it was reported that reduced expenditure has led to some prisons having access to addiction counsellors only on a part-time basis, while waiting times for accessing services have increased.³⁹¹ It is vital that there are adequate numbers of medical staff available to support these services across all prisons. There should be consistency in drug treatment options offered across the entire prison estate. The same key performance indicators which are used by the Health Service Executive should be applied to ensure ‘equivalence of care’ is provided, such as: whether treatment commenced within one calendar month following assessment and the number

381 Department of Health (2017) *Reducing Harm, Supporting Recovery: A Health Led Response to drug and alcohol use in Ireland 2017-2025*: <https://health.gov.ie/wp-content/uploads/2017/07/Reducing-Harm-Supporting-Recovery-2017-2025.pdf>

382 European Monitoring Centre for Drugs and Drug Addiction, *Prisons and the Criminal Justice System*, click ‘Implications’ Factsheet: http://www.emcdda.europa.eu/best-practice/briefings/prisons-and-the-criminal-justice-system_en

383 Pollak, S (2017) ‘More than 70% of Prisoners have addiction issues’, *Irish Times*, 2nd February 2017 <https://www.irishtimes.com/news/crime-and-law/more-than-70-of-prisoners-have-addiction-issues-1.2961144>

384 Clarke, A and Eustace, A (2016) *Drug and Alcohol Treatment Services for Adult Offenders in Prison and in the Community*, Eustace Patterson Limited, p. 74 http://www.justice.ie/en/JELR/PS_IPS_Probation_Review_of_treatment_for_offenders.pdf/Files/PS_IPS_Probation_Review_of_treatment_for_offenders.pdf

385 Department of Health (2017) *Reducing Harm, Supporting Recovery, A health led response to drug and alcohol use in Ireland 2017-2025*, p.45 <https://health.gov.ie/wp-content/uploads/2017/07/Reducing-Harm-Supporting-Recovery-2017-2025.pdf>

386 Ibid.

387 Ibid.

388 Ibid.

389 Merchants Quay Ireland, Annual Review 2016, p.23 <https://mqi.ie/content/uploads/2017/11/MQI-2016-Annual-Review-WEB-1.pdf>

390 Ibid.

391 Dillon L., Galvin B., Guiney C., Lyons S., & S.Millar (2017) *Focal Point Ireland: national report for 2017-Prison*, Health Research Board. Irish Focal Point to the European Monitoring Centre for Drugs and Drug Addiction <https://www.drugsandalcohol.ie/25265/1/NRPrison2017.pdf>

of clients in receipt of opioid substitution.³⁹²

The EMCDDA recommends that further studies be carried out to improve the evidence base of responses which can be of most benefit individuals with addiction.³⁹³ So far in 2018, 1125 individuals have been referred to the Drug Treatment Court Programme, 608 of these were deemed unsuitable³⁹⁴ and an additional 370 were discharged. By May 2018, 69 participants had graduated with 'gold status'.³⁹⁵ 'Gold status' indicates that the individual has clear drug screens and keeps appointments with counsellors and/or participates in education.³⁹⁶

According to the EMCDDA³⁹⁷, the following drug treatment response options scored highest in terms of quality of evidence:

1. Opioid substitution treatment is protective against death in prison for opioid-dependent prisoners.
2. Substitution treatment is also important in prison in reducing injecting risk behaviours.
3. To prevent overdose death in the period directly following prison release, it is important that there is a continuity of treatment in the community.³⁹⁸

A study³⁹⁹ which examined re-offending in a two year period following treatment showed a 21% reduction in re-offending by opiate users and 49% reduction in re-offending with alcohol only clients. Therefore the need and demand for these services should be further examined including access to residential drug treatment. There is only one mother and child residential drug treatment programme in Ireland.⁴⁰⁰

There is also currently no consistent tracking of outcomes for prisoners treated across the estate.⁴⁰¹ The same review outlined a number of gaps in provision including; the availability of drug free environments within the prison setting for prisoners who have completed detoxification and treatment programmes, the development of non-opiate based detoxification services, alcohol treatment services and access to treatment for cohorts such as sex offenders.⁴⁰²

Post-release is a particularly critical time for those with addiction issues. Research has shown that there is a raised risk of death from drug overdose in the first week of release.⁴⁰³ One recommendation made by the EMCDDA suggests that training on overdose prevention should occur pre-release including the consideration of the provision of Naloxone.⁴⁰⁴

392 Health Service Executive, *Annual Report and Financial Statements 2017*, p.99

<https://www.hse.ie/eng/services/publications/corporate/hse-annual-report-and-financial-statements-2017-pdf.pdf>

393 European Monitoring Centre for Drugs and Drug Addiction, *Prisons and the Criminal Justice System*, click 'Implications' Factsheet: http://www.emcdda.europa.eu/best-practice/briefings/prisons-and-the-criminal-justice-system_en

394 'I understand people can relapse, but you have to be honest': Inside Dublin's Drug Treatment Court, *thejournal.ie*, <http://www.thejournal.ie/drug-treatment-4158196-Aug2018/>

395 Ibid.

396 Ibid.

397 European Monitoring Centre for Drugs and Drug Addiction, *Prisons and the Criminal Justice System*, http://www.emcdda.europa.eu/best-practice/briefings/prisons-and-the-criminal-justice-system_en

398 Ibid.

399 Ministry of Justice and Public Health England (2017) *The impact of community-based drug and alcohol treatment on re-offending*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/674858/PHE-MoJ-experimental-MoJ-publication-version.pdf

400 Coolmine.ie, *Residential Services*, <https://www.coolmine.ie/services-new/residentials/>

401 Dillon L., Galvin B., Guiney C., Lyons S., & S.Millar (2017) *Focal Point Ireland: national report for 2017-Prison*, p.20 Health Research Board. Irish Focal Point to the European Monitoring Centre for Drugs and Drug Addiction <https://www.drugsandalcohol.ie/25265/1/NRPrison2017.pdf>

402 Ibid.

403 Bukten, A., Rikshheim Stavseth M., Skurtveit S., Tverdal A., Strang, J. & T.Clausen (2017) High risk of overdose death following release from prison: variations in mortality during a 15-year observation period, *Addiction*, Vol.112, Issue 8, pp.1432-1439

404 European Monitoring Centre for Drugs and Drug Addictions, *Interventions in prisons and the criminal justice system*, see 'Implications' Factsheet: http://www.emcdda.europa.eu/best-practice/briefings/prisons-and-the-criminal-justice-system_en

➔ Indicators for Standard 14

Indicator S14.1: Waiting lists for addiction services in prison: There are currently 44 individuals on a waiting list for the Drug Treatment Programme (18th September 2018). The Irish Prison Service also acknowledged there are waiting lists for counselling services.⁴⁰⁵

Indicator S14.2: Number of places on drug treatment programmes available in prison: The national Drug Treatment Programme is based in the Medical Unit of Mountjoy Prison. This programme allows for treatment for up to 18 individuals.⁴⁰⁶ The Programme is available to all prisoners from across the estate.

Indicator S14.3: Number of drug-free wings across the prison estate

The Irish Prison Service has acknowledged the need to provide more appropriate locations so that a prisoner can maintain his/her drug-free status.⁴⁰⁷

Indicator S14.4: Harm reduction options available in the prison estate: The Irish Prison Service has stated that they endorse and apply this approach where appropriate.⁴⁰⁸

Indicator S14.5: Availability of detoxification beds in the prison estate: The drug treatment programme is available to all prisoners from across the estate, and is run on the Mountjoy Campus. The programme is for people who have moved away from illicit drug use and is support through a biopsychosocial model of interventions.⁴⁰⁹

Indicator S14.6: Waiting lists for post-release addiction services: The number of recent prisoners on community waiting lists is not available. The Irish Prison Service states that all persons leaving custody who have an addiction need will be engaged with a community addiction service to meet their current level of need either through a specialist GP or a community addiction clinic.

PROGRESSIVE PRACTICE

Diverting Offenders with Drug, Alcohol and Mental Health Problems

The Ministry of Justice in the UK has recently announced a pilot project where by the Departments of Justice and Health have signed a protocol in five areas.⁴¹⁰ Local panels comprising officials from both departments provide information (including psychologist-provided evidence) to the court to enable judges to determine whether the individual needs treatment and is eligible for a Community Order.⁴¹¹ The Ministry of Justice has said that this has increased confidence in sentences, resulting in more Community Sentence Treatment Requirements being used.⁴¹²

405 Information provided by the Irish Prison Service to IPRT on 18th September 2018.

406 Dillon L., Galvin B., Guiney C., Lyons S., & S.Millar (2017) *Focal Point Ireland: national report for 2017-Prison*, Health Research Board. Irish Focal Point to the European Monitoring Centre for Drugs and Drug Addiction <https://www.drugsandalcohol.ie/25265/1/NRPrison2017.pdf>

407 Information provided by the Irish Prison Service to IPRT on 18th September 2018

408 Ibid.

409 Ibid.

410 The Impartial Reporter, 'New drive to divert vulnerable criminals away from jail' <http://www.impartialreporter.com/news/national/16410044.new-drive-to-divert-vulnerable-criminals-away-from-jail/>

411 Ibid.

412 Ibid.

Actions required



Action 14.1: The National Drugs Strategy, *Reducing Harm*,⁴¹³ *Supporting Recovery 2017-2025*, should be fully implemented.

Action 14.2: As recommended by the Inspector of Prisons,⁴¹⁴ those who complete detox programmes should be provided with immediate follow-up supports by the appropriate services for a specific duration as determined by professionals involved in the detox programme.

Action 14.3: The Irish Prison Service and the Department of Health should have an inter-agency protocol to ensure a continuum of care both upon admission to prison and post-release to the community. There should be publication of information on lengths of time waiting to access various forms of treatment including methadone programmes, residential drug treatment and other therapeutic supports.

Action 14.4: A new strategy should be developed by the Irish Prison Service in response to the emerging and changing drug trends and patterns among the prison population, working in conjunction with the Health Research Board (HRB) and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA).

Action 14.5 The Department of Health should increase provision of access to drug treatment residential drug treatment places available in the community including facilities that accept those who have been in prison irrespective of their category of offending behaviour.

Action 14.6 Services should be integrated to ensure better outcomes for people with dual diagnosis.

Privacy

Standard 15:

A prisoner's right to privacy, and that of his/her family members, is respected and protected.

Rationale

An individual's right to privacy is guaranteed by the Constitution of Ireland, *Bunreacht na hÉireann*, and the European Convention on Human Rights (ECHR). Sensationalistic media reporting can negatively impact both the privacy of the prisoner and his/her family, impeding future rehabilitation prospects.

Current context

In May 2018, the General Data Protection Regulation was introduced which builds on and expands 'the right to be forgotten'.⁴¹⁵ It remains to be seen how this will be interpreted in light of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016.

Professionals have responsibility to protect prisoner privacy. Guidance on securing confidential information has been recently published by Penal Reform International and recommends that: "a secure audit trail involves carefully kept records, which include the identity of the staff member who enters or modifies information in the system, as well as the date and time of any revisions. Audits should be carried out periodically by an identified oversight body."⁴¹⁶ The Guidance also states that "Only staff that have been trained and authorized to use prisoner file systems should be allowed to access and use the files. In many facilities there will be staff members who are specifically responsible for creating and maintaining files and registers."⁴¹⁷

The Press Ombudsman identifies a number of principles that journalists are required to respect in their reporting, and which, if breached give rise to a right of complaint to the Press Ombudsman.⁴¹⁸ These principles include: truth and accuracy, distinguishing fact and comment, fair procedures and honesty, respect for rights, privacy, protection of sources, court reporting, prejudice, children and

413 The Department of Health, *Reducing Harm, Supporting Recovery 2017-2025*, <https://health.gov.ie/blog/publications/reducing-harm-supporting-recovery-2017-2025/>

414 Inspector of Prisons (2018) *A Report by the Office of the Inspector of Prisons into the circumstances surrounding the death of Prisoner E on 25 March 2017 in Mountjoy Prison*

415 Leech, H (2017) 'What does the "right to be forgotten" mean? And when can I refuse?' *Irish Independent* 22nd March 2017 <https://www.independent.ie/business/data-sec/what-does-the-right-to-be-forgotten-mean-and-when-can-i-refuse-35556480.html>

416 Penal Reform International & Office for Democratic Institutions and Human Rights (2018) *Guidance Document on the Nelson Mandela Rules*, Point 35, p. 15 <https://s16889.pcdn.co/wp-content/uploads/2018/07/Mandela-Rules-Guidance-Document.pdf>

417 Ibid, Point 42, p. 16

418 Office of the Press Ombudsman, Prisoners, *How the Press Ombudsman Can Assist Prisoners* <http://www.presscouncil.ie/office-of-the-press-ombudsman-164/making-a-complaint/prisoners>

publication of the decision of Press Ombudsman/ Press Council.⁴¹⁹

The Broadcasting Authority of Ireland will also consider complaints made by prisoners, examining “the degree of harm or offence likely to be caused”⁴²⁰ by the content of the programme aired. The complaint should be made directly to the broadcaster within 21 days of broadcast⁴²¹ and the broadcaster has 10 days to reply.⁴²² Neither body currently makes accommodation for potential delays in mail/post in relation to the receipt of complaints from prisoners.

► Indicators for Standard 15

Indicator: S15.1: The number of complaints about breaches of privacy made by prisoners and/or their families to the Irish Prison Service, the Press Ombudsman and the Broadcasting Authority of Ireland.

- The number of enquiries made to the Press Ombudsman by prisoners is 40 since its establishment in 2008.⁴²³
- The number of fully processed complaints made by prisoners to the Press Ombudsman’s Office is four.⁴²⁴
- In total, the Broadcasting Authority of Ireland is aware of adjudicating on one complaint by a prisoner.⁴²⁵

The low uptake in making complaints may be attributed to lack of awareness of the complaints procedure; absence of data collection or aggregated data; prisoner disenfranchisement; fear of reprisal; or a perception that there is no effective sanction which follows where a complaint is upheld.

Actions required



Action 15.1: IPRT recommends that the Press Ombudsman and the Broadcasting Authority of Ireland review and extend timelines for prisoners to submit a complaint.

Action 15.2: The Press Ombudsman and the Broadcasting Authority of Ireland should consider developing guidance on the impact of post-release reporting on prisoners’ rights to privacy and family life.

Action 15.3: Professionals working with prisoners should be made aware of their responsibilities to ensure that prisoner privacy is respected.

419 Press Council of Ireland, *Code of Practice* <http://www.presscouncil.ie/press-council-of-ireland-1/code-of-practice->

420 See Broadcasting Authority of Ireland, *Code of Programme Standards*, p. 6 <http://www.bai.ie/en/codes-standards/#al-block-4>

421 Broadcasting Authority of Ireland, *Right of Reply Scheme*, p. 6 <http://www.bai.ie/en/codes-standards/#al-block-6>

422 Ibid, p. 7

423 Information provided by the Office of the Press Ombudsman, 13th August 2018

424 Ibid.

425 Information provided by the Broadcasting Authority of Ireland, 13th August 2018

C: Regimes

Out-of-cell time

Standard 16:
Every prisoner spends a minimum of five hours a day engaged in structured meaningful activity for five days a week, in addition to a further minimum seven hours of out-of-cell time.

Rationale

Time out of cell is crucial to support the principle of normalisation, highlighted by the Jesuit Centre for Faith and Justice:

*The principle of “normalisation” has been spoken about for decades, including within Prison Service documentation. To make prison life more like that of life in the community. The current daily routine could not, in any way, be considered normal.*⁴²⁶

Time out of cell is also of particular importance to facilitate and encourage prisoners to partake in meaningful activity during their sentence and has been identified as one indicator used to measure prison performance.⁴²⁷ HM Inspectorate of Prisons has identified a number of standards associated with time out of cell.⁴²⁸

Current context

In 2018, the Joint Committee on Justice and Equality recommended a minimum 12 hours' out-of-cell time with meaningful activity.⁴²⁹ Current out-of-cell time for 'ordinary' prisoners is up to eight hours in the Irish prison system. A typical regime was recently described as follows:

In general prison cells are unlocked at approximately 8.15am each morning for

*breakfast. Prisoners collect breakfast and return to cells, which are then locked from 8.45am to 9.15am. Cells are again unlocked for prisoners to attend work, school, visits and exercise. Prisoners return for lunch at 12:00pm and cells are locked at 12.30pm. Afternoon unlock commences at 2.15pm and prisoners return to structured activities in schools, workshops and visits. Evening tea is served from 4pm and cells are locked from 4.30pm to 5.20pm when evening recreation commences until all cells are locked at 7.30pm. This allows for total out cell time of up to 8 hours.*⁴³⁰

The description above provides an account of the daily regime for the 'ordinary' prisoner. However, Indicator 16.1 outlined below shows a significant proportion of prisoners are on a restricted regime, which means severely restricted time out of cell, and which falls far short of this standard.

► Indicators for Standard 16

Indicator S16.1: Hours out-of-cell for all prisoners, including prisoners on a restricted regime:

The latest Irish Prison Service Census report⁴³¹ shows that there are currently 536 prisoners on a 'restricted regime'.⁴³² This amounts to approximately 13% of the prison population.⁴³³ The vast majority of these prisoners (477 out of 536) were placed on protection voluntarily.⁴³⁴

Hours Locked-Up	Number of Prisoners (July Census figures 2018 ⁴³⁵)
23	5
22	30
21	368
20	73
19	60

426 Opening Statement to the Joint Committee on Justice and Equality (22nd March 2017) in Houses of the Oireachtas (2018) *Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing*, p. 98 https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

427 Prison Reform Trust, Inside Time Articles, *Time Out of Cell*, 1st April 2016 <http://www.prisonreformtrust.org.uk/PressPolicy/Comment/InsideTime/ItemId/323/vw/1>

428 HM Inspectorate of Prisons, *Time Out of Cell* <https://www.justiceinspectors.gov.uk/hmiprisoners/our-expectations/prison-expectations/purposeful-activity/time-out-of-cell/>

429 Houses of the Oireachtas (2018) *Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing*, p. 53 https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

430 Houses of the Oireachtas (2018) *Prison Service Data*, Parliamentary Question 551, 17th April 2018 <https://www.oireachtas.ie/en/debates/question/2018-04-17/551>

431 Irish Prison Service, *Census of Restricted Regimes July 2018* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/July-2018-Restriction.pdf

432 A restricted regime means that prisoners spend 19 or more hours a day locked in their cell.

433 Irish Prison Service, *Census of Restricted Regime Prisoners July 2018* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/July-2018-Restriction.pdf

434 Ibid.

435 Ibid.

The above data shows a significant percentage of the prison population are on 21-hour lock up. 225 of these 368 prisoners were in Mountjoy Prison.⁴³⁶

While data on the lengths of time individual prisoners spend on a restricted regime is not regularly published, recent information provided in response to a parliamentary question highlights the excessive periods prisoners can be held on this type of regime, with more than 50 individual prisoners held on a restricted regime for more than a year.⁴³⁷

The current approach to separating factions within the estate has a significant impact on prison resources.⁴³⁸ The impact of this on the daily regime of the prison environment creates logistical issues including staff redeployment but also impacts prisoners' access to education and activities.⁴³⁹ This issue has also been reported in both the most recent Mountjoy⁴⁴⁰ and Cloverhill⁴⁴¹ Visiting Committee reports.

Indicator S16.2: Number of prisoners who have daily access to a minimum of five hours structured educational, vocational and work programmes, and publication of this information: While publication of data on this specific indicator is limited, data shows that:

- 42.8% of the prisoner population participated in education activities in the week ending 2 February 2018.⁴⁴²
- 23% of the prison population was engaged in vocational training in the month of January 2018.⁴⁴³

PROGRESSIVE PRACTICE

Using Sport to Address Conflict

A new report⁴⁴⁴ just published in August 2018 identifies how sport can play a role in addressing conflict. The report recommends: "Bringing prisoners together for sport can resolve conflict. Governors should revise *keep apart* list policies and establishments should include gym staff in *keep apart* decision making."⁴⁴⁵ This is one possible approach that may create a 'space' for prisoners in addressing conflict with the support of professional mediators.

Actions required



Action 16.1: The Irish Prison Service must ensure that all prisoners including those on a restricted regime have access to a minimum of five hours meaningful activity, in addition to further out-of-cell time by the end of 2018.

Action 16.2: The Inspector of Prisons should undertake a review of the current restricted regimes practice (including separation policies) to examine reasons and lengths of time, and propose solutions to reduce the number of prisoners held on restricted regimes, promoting and encouraging greater access to time out of cell for all prisoners.

436 Ibid.

437 Houses of the Oireachtas (2018) *Prisoner Data*, Parliamentary Question 303, 29th May 2018 <https://www.oireachtas.ie/en/debates/question/2018-05-29/303/>

438 Ibid.

439 Cloverhill Prison Visiting Committee, *Annual Report 2016 to Minister for Justice and Equality Frances Fitzgerald TD*, p. 4 http://opac.oireachtas.ie/AWData/Library3/JUQdoclaid160118C_141948.pdf

440 *Annual Report 2016 from Mountjoy Visiting Committee to the Minister for Justice and Equality Frances Fitzgerald TD* http://www.justice.ie/en/JELR/Mountjoy_Prison_VC_Annual_Report_2016.pdf/Files/Mountjoy_Prison_VC_Annual_Report_2016.pdf

441 Cloverhill Prison Visiting Committee, *Annual Report 2016 to Minister for Justice and Equality Frances Fitzgerald TD* http://opac.oireachtas.ie/AWData/Library3/JUQdoclaid160118C_141948.pdf

442 Houses of the Oireachtas (2018) *Prisoner Rehabilitation Programmes*, Parliamentary Question 594, 17th April 2018 <https://www.oireachtas.ie/en/debates/question/2018-04-17/594/>

443 Ibid.

444 Meek, R (2018) *A Sporting Chance, An Independent Review of Sport in Youth and Adults Prisons*, Ministry of Justice, p. 42 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733184/a-sporting-chance-an-independent-review-sport-in-justice.pdf

445 Ibid.

Sentence management

Standard 17:
Every prisoner and his/her family members, where desired, are facilitated and actively involved in his/her sentence planning from the beginning of sentence through to the point of release.

Rationale

Sentence planning is intended to support the rehabilitation of the prisoner through addressing the causes of offending behaviour.⁴⁴⁶ Sentence plans can comprise educational and training programmes, drug/alcohol programmes and/or a focus on issues such as personal relationships or family reconciliation.⁴⁴⁷ The Council of Europe highlights the importance of having comprehensive, individual sentence plans and the need to include the active participation of individual prisoners in this process.⁴⁴⁸ Sentence planning is of particular importance for those serving long or life sentences and should aim at “securing progressive movement through the prison system”, ideally from the first day of sentence.⁴⁴⁹

Current context

The Irish Prison Service has acknowledged that further resourcing of integrated sentence management⁴⁵⁰ is required if prisoners are to receive individualised sentence planning.⁴⁵¹ The Irish Prison Service and the Probation Service make a commitment in their *Joint Strategic Plan 2018–2020* to work together with the prison based multi-disciplinary teams as part of Integrated Sentence Management to identify needs and set goals for individual prisoners, within agreed parameters, to improve prisoner engagement and outcomes.⁴⁵²

► Indicators for Standard 17

Indicator S17.1: The number of dedicated ISM officers across the estate and their caseloads:

There are currently 23 ISM coordinators for 2,533 eligible prisoners (those serving sentences of 1 year+). In July 2018, the Irish Prison Service appointed an ISM co-ordinator dedicated to the sentence management of prisoners selected for J-ARC, Community Support and Community Return.⁴⁵³

Actions required



- Action 17.1: The Department of Justice and Equality must adequately resource the role of ISM officers in order to support effective sentence planning.
- Action 17.2: The Irish Prison Service should publish data on caseloads, including the lengths of time prisoners are engaging with ISM and the number of prisoners with ISM plans, on a quarterly basis.

446 Penal Reform International & Office for Democratic Institutions and Human Rights (2018) *Guidance Document on the Nelson Mandela Rules*, Point 78, p. 23 <https://s16889.pcdn.co/wp-content/uploads/2018/07/Mandela-Rules-Guidance-Document.pdf>

447 Ibid.

448 Council of Europe, Committee of Ministers, *Recommendation Rec (2003) 23 of the Committee of Ministers to Member States on the management by Prisons Administrations of life-sentence and other long-term prisoners*, Point 9

449 Ibid, Point 8

450 Irish Prison Service, *Integrated Sentence Management* <https://www.irishprisons.ie/prisoner-services/integrated-sentence-management/>

451 Information received by IPRT at a meeting on information related to PIPS as of 30th of April 2018

452 Irish Prison Service & Probation Service, *Strategic Plan 2018–2020*, p. 7 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-PS-Strategic-Plan-2018-2020.pdf

453 Information provided by the Irish Prison Service to IPRT on 18th September 2018.

Life skills

Standard 18:
Prisoners are encouraged and facilitated to develop and maintain life skills and assume personal responsibility while in prison.

Rationale

Developing life skills in prison is an important aspect of prisoner rehabilitation. Research has found that the development of life skills such as recognition, interpretation, reflection, response and planning help prisoners in everyday life and is essential to rehabilitation.⁴⁵⁴

Current context

The Irish Prison Service has recommended expanding Independent Living Skills Units (ILSU) across the prison estate.⁴⁵⁵ The purpose of ILSUs is to replicate community living in so far as possible within a closed prison regime.⁴⁵⁶ ILSUs allow prisoners to develop skills such as preparing and cooking their own meals.

► Indicators for Standard 18

Indicator S18.1: The number of Independent Living Skills Units in the closed prison estate: There is an Independent Living Skills Unit in Wheatfield Prison and one in Midlands Prison. An ILSU is currently being developed in Mountjoy Prison, which is due to open later this year.⁴⁵⁷

Indicator S18.2: The number of prisoners across the closed prison estate who have access to communal dining: A total of 509 prisoners currently have access to communal dining: Loughan House (140); The Grove, Castlerea (55); Shelton Abbey (115); Independent Living Skills Unit, Midlands (38); Wheatfield (31) and Dóchas Centre (130).⁴⁵⁸

PROGRESSIVE PRACTICE

Units of Therapy and Education, Villabona, Spain

Units of Therapy and Education (UTE) have been successful in reducing re-offending in Spain. Prison officers and prisoners work together with therapeutic professionals to construct a goal-oriented environment.⁴⁵⁹ The Committee on Justice and Equality (2018) recommended this approach stating: “The Villabona project in Spain may be instructive in this regard, using an alternative model that immerses prisoners in an educational environment that teaches skills and, importantly, values such as empathy and kindness.”⁴⁶⁰

Action required

Action 18.1: The Irish Prison Service should increase the number of Independent Living Skills Units across the estate, increase the number of prisoners having access to communal dining, and advance technological developments that support learning, access to services and reintegration.

454 Jolley, M (2017) ‘Rehabilitating prisoners: the place of basic life skills programmes’, *Safer Communities*, 17(1), pp. 1–10

455 Gallagher, C (2018) ‘Life-sentence prisoners should get in-cell telephones’, *Irish Times*, 7th June 2018
<https://www.irishtimes.com/news/crime-and-law/life-sentence-prisoners-should-get-in-cell-telephones-1.3521700>

456 Kildarestreet.com, *Prison Accommodation Provision*, Parliamentary Question 304, 11th July 2017
<https://www.kildarestreet.com/wrans/?id=2017-07-11a.753>

457 Information provided by the Irish Prison Service on an IPRT visit to the Progression Unit, Mountjoy Prison, 18th May 2018.

458 Information provided by the Irish Prison Service to IPRT on 18th September 2018.

459 IPRT, *A Values Based Prison System: Spanish Delegate Visits Wheatfield Prison*, 3rd April 2012 <http://www.iprt.ie/contents/2310>

460 Houses of the Oireachtas, Joint Committee on Justice and Equality, *Report on Penal Reform and Sentencing*, Recommendation 15, p. 56 https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

Education

Standard 19:
Every prison provides each prisoner with access to a range of educational activities that meet the individual's needs and take into account their aspirations.

Rationale

Education is a vital component of rehabilitation. As highlighted by the Joint Committee on Justice and Equality: "Education and training facilities should be available to prisoners to equip them with the necessary skills for re-entry to society after release."⁴⁶¹ Access to education is important for its own sake but there is also evidence⁴⁶² that prisoners who participated in education programmes in prison were 43% less likely to re-offend than those who did not participate.

Current context

There are currently 220 full-time teachers in the Irish prison system.⁴⁶³ A current issue is the redeployment of prison staff, which is impacting on the closure of schools and workshops.

Key issues raised in the 2015 and 2016 *Annual Reports* of the Office of Inspector of Prisons included prisoners' access to schools, workshops, supports and/or intervention services. The Office highlights its growing concern about the regular redeployment of staff and the negative impact of this on a constructive regime for prisoners.⁴⁶⁴

The response to a recent PQ⁴⁶⁵ documents the hours that workshops were closed as a percentage of potential open hours:

Month	% Closed Hours
September 2017	31%
October 2017	23%
November 2017	24%
December 2017	28%
January 2018	22%
February 2018	24%

The same PQ highlights the number of days Education Centres were closed:

Month	No. of days per month closed due to unavailability of Prison Service staff (other than teaching staff) across 13 Education Centres
September 2017	19 days
October 2017	6.5 days
November 2017	8.5 days
December 2017	16.5 days
January 2018	5 days
February 2018	4 days
March 2018	18 days
April 2018	1 day

► Indicators for Standard 19

Indicator S19.1: Participation rates of prisoners in education: From 1st January 2018 to the end of April 2018, 31.85% of the prison population attended the prison Education Centres.⁴⁶⁶ Figures outlined in the table below show that the vast majority of prisons (with the exception of Midlands Prison) have seen a decrease in participation rates over the first half of 2018.⁴⁶⁷

461 Ibid.

462 Davis, LM, Steele, JL, Bozick, R, Williams, MV, Turner, S, Miles, JNV, Saunders, J and Steinberg, P (2014) *How Effective is Correctional Education, and Where do we go from here?* The Results of a Comprehensive Evaluation https://www.rand.org/pubs/research_reports/RR564.html

463 Irish Prison Service, *Prison Education Service* <https://www.irishprisons.ie/prisoner-services/prison-education-service/>

464 Office of the Inspector of Prisons (2017) *Annual Report for the years 2015 and 2016*, p. 21

465 Department of Justice and Equality (2018) Parliamentary Question 579, 17th April 2018 <http://www.inis.gov.ie/en/JELR/Pages/PQ-17-04-2018-579>

466 Kildarestreet.com, *Prison Education Service*, Written Answers, 12th June 2018 <https://www.kildarestreet.com/wrans/?id=2018-06-12a.1341>

467 Ibid.

Education – Participation Rates

Institution	January 2018	February 2018	March 2018	April 2018
Arbour Hill	70.9%	50.0%	52.6%	46.8%
Castlerea	45.5%	33.1%	33.6%	33.8%
Cloverhill	22.9%	19.0%	17.2%	17.1%
Cork	46.0%	38.6%	34.7%	32.9%
Limerick	43.7%	36.5%	33.9%	46.2%
Loughan House	81.7%	59.7%	61.2%	33.9%
Midlands	37.8%	27.4%	25.0%	58.5%
Mountjoy Female	54.0%	39.5%	36.9%	26.5%
Mountjoy Male	19.8%	19.5%	16.7%	18.0%
Mountjoy West	58.1%	42.5%	47.0%	35.9%
Portlaoise	50.2%	44.2%	42.1%	45.7%
Shelton Abbey	55.7%	42.3%	42.6%	49.5%
Wheatfield	23.8%	19.4%	15.2%	19.6%
Average All Prisons	38.8%	30.4%	28.9%	29.3%

Indicator S19.2: Access to education for prisoners on restricted regimes and regular publication of information of same:

Recent figures above provided by the Department of Justice and Equality show the limited access prisoners have to education. Reasons given for this include the Easter break and suspension of some classes due to unavailability of discipline staff as well as the increasing number of prisoners on protection.⁴⁶⁸ The number of prisoners on protection is linked to a decrease in education participation rates: ordinary prisoners have access to education in the morning while protection prisoners may have access to education in the afternoon.⁴⁶⁹ Furthermore, reduced participation rates are also attributed to many protection prisoners being unwilling to mix freely with other protection prisoners.⁴⁷⁰ This is an issue of particular concern for Mountjoy Prison; in Wheatfield, protection prisoners have a separate school.⁴⁷¹

Indicator S19.3: The number of people in prison completing further or higher education (including Open University courses and QQI courses) and regular publication of information on same:

There are currently 57 prisoners completing Open University Courses.⁴⁷² This compares with 108 in 2008.⁴⁷³

468 Houses of the Oireachtas (2018), *Prison Education Service*, Parliamentary Question 162, 28th June 2018 <https://www.oireachtas.ie/en/debates/question/2018-06-28/162/>

469 Ibid.

470 Ibid.

471 Ibid.

472 Kildarestreet.com, *Prison Education Service*, Parliamentary Question 515, 12th June 2018 <https://www.kildarestreet.com/wrans/?id=2018-06-12a.1341>

473 IPRT (2017) *Progress in the Penal System: A framework for penal reform (2017)*, p. 55 <http://www.iprt.ie/contents/3208>

Education Initiatives

PROGRESSIVE PRACTICE

Learning Together Initiative: Cambridge, United Kingdom⁴⁷⁴

The Learning Together Initiative has been in operation since 2014. The programme brings people under criminal justice supervision and people in university settings together to learn and study criminology. There is continued contact with the university for all students. Prisoners are released on temporary licence to attend and participate in conferences. This initiative currently takes place in Grendon and Springhill prisons. Prisoners reported the experience of being treated differently than when they are 'on the landing'.⁴⁷⁵ In evaluations of the programme, students reported an increase in self-efficacy and self-esteem.⁴⁷⁶

Prison Cloud, Belgium

Introduced in a new Belgian prison, PrisonCloud⁴⁷⁷ provides secure IT connections to facilitate prisoners in maintaining contact with the outside world, as well as providing further learning opportunities through the internet and e-learning. A number of services are available through PrisonCloud, including prisoners having access to information on the prison rules and their rights.⁴⁷⁸ It also allows prisoners to access their own judicial files.

Actions required



- Action 19.1:** The Education and Training Boards should record the frequency and proportion of school closures and identify and address the reasons for this in conjunction with the Irish Prison Service.
-
- Action 19.2:** Teachers from education centres must encourage prisoner participation and innovative methods of education for increasing levels of engagement.
-
- Action 19.3:** The Educational Training Boards and the Irish Prison Service should publish data on participation and completion rates for accredited learning courses and modules.
-
- Action 19.4:** The Irish Prison Service must review staff rosters and leave management practices to facilitate greater access to education and other activities for the prison population.
-
- Action 19.5:** The Irish Prison Service must also ensure better access to education for prisoners on a restricted regime.
-
- Action 19.6:** The Irish Prison Service must continue to examine secure access to technology in prisons as part of educational development and progression, essential to rehabilitation prospects for life on the outside.

474 This information was provided at a seminar, 'Learning Together: Education across Walls', held in the Progression Unit, Mountjoy on 5th April 2018. More information about the programme is available here <https://www.prc.crim.cam.ac.uk/directory/research-themes/learning-together>

475 Ibid.

476 Ibid.

477 Joldersma, C(ed.) (2016) *Prisons of the Future*, pp. 125–126 <http://cep-probation.org/wp-content/uploads/final-report1.pdf>.

478 Ibid, p. 126



Community engagement & involvement

Standard 20: Civil society access to prisons is encouraged and there are opportunities for prisoners to participate and engage in the community through structured forms of temporary release.

Rationale

Reconnecting and positively identifying with community and civil society is an important aspect of reintegration.

Current context

The Director General of the Irish Prison Service highlighted the important role civil society plays in prisons:

Benefits from taking this approach also come to prisons, prison staff, and the wider community. For example, prisoners benefit because people who see them as fellow citizens are visiting the prison voluntarily, not because it is a professional and paid duty; prison staff benefit because their environment is normalised by the presence of outside groups and they too can see that they are not cut off from the community outside; and the community benefits because knowledge about the reality of prison life and what prison are and are not will be disseminated.⁴⁷⁹

► Indicators for Standard 20

Indicator S20.1: The number and scale of NGO-run programmes in prisons: While the overall number of NGO-run programmes in prison is not known, the Irish Red Cross Programme has had significant success in Irish prisons. Prisoners who become Irish Red Cross volunteers complete an intensive course on basic first aid, disease prevention and health promotion.⁴⁸⁰ 360 prisoners across the estate have trained as healthcare and first aid volunteers, which represents 10% of the prison population.⁴⁸¹

Indicator S20.2: The number of prisoners on home leave or temporary release and rates of compliance: The Minister for Justice and Equality highlighted the success of the Community Return Programme as a structured form of release with a compliance rate of 90% since 2011. However, there have been concerns raised recently about reduced access to the programme. The number of successful completions of Community Return was 352 in 2015 compared to 206 in 2017.⁴⁸²

PROGRESSIVE PRACTICE

Book Club, England

A joint initiative between Oxfordshire County Council Library, the National Library Trust and Soha Housing Association at Huntercombe Prison in Nuffield has helped break barriers between prison and community through shared reading in prisons.⁴⁸³ Twenty prisoners and ten staff from Soha are members of the Breaking Barriers Book Club.

The National Literacy Trust as part of their Books Unlocked programme supports those in prison by providing free copies of Man Booker-shortlisted titles and the authors of these books often come to visit the prison as part of the programme.⁴⁸⁴ As part of the Books Unlocked Programme, there is a National Prison Radio where a free radio service is broadcast to 80,000 cells in prisons in England and Wales.⁴⁸⁵

Action required

Action 20.1: The Irish Prison Service and the community sector should work together to increase opportunities for prisoners and civil society to participate in exchanges between communities and prisons.

479 Europris, *Interview with Michael Donnellan, the Director General of the Irish Prison Service*, p. 4 http://www.irishprisons.ie/images/pdf/dg_europris_interview.pdf

480 Dunne, S (2017) 'Prisoner Red Cross volunteers making prison a safer place', *Irish Times*, 27th October 2017 <https://www.irishtimes.com/news/crime-and-law/prisoner-red-cross-volunteers-making-prison-a-safer-place-1.3270122>

481 Ibid.

482 Probation Service, *Annual Report 2017*, p. 51 http://www.justice.ie/en/JELR/Probation_Service_Annual_Report_2017.pdf/Files/Probation_Service_Annual_Report_2017.pdf

483 Prisoners' book club breaks down barriers, *Henley Standard* <http://www.henleystandard.co.uk/news/henley-on-thames/129215/prisoners-book-club-breaks-down-barriers.html?platform=hootsuite>

484 National Literacy Trust, *Books Unlocked*, <https://literacytrust.org.uk/programmes/books-unlocked/>

485 Ibid.

Political and civic participation

Standard 21: Prisoners are encouraged to engage with their political and civic rights.

Rationale

Promoting civic and political engagement supports active citizenship and reintegration. Therefore, it is important that due consideration is given to how prisoners can connect and engage with the civic and political process.⁴⁸⁶

Current context

Prisoners are a particularly disenfranchised group and the low uptake of voting in Irish prisons supports this finding. Approximately 1.45% of the prison population voted in Ireland's 2018 Referendum on the Eighth Amendment.⁴⁸⁷ There appears to be a gradual decline in prisoner participation over the last number of years: in 2012, 8% of prisoners voted in the Children's Referendum.⁴⁸⁸

► Indicators for Standard 21

Indicator S21.1: The number of prisoner representative groups in each prison: There are currently seven groups or councils across the prison estate.⁴⁸⁹

Indicator S21.2: The number of prisoners voting (%) in elections: In total 58 prisoners out of a total of 3,897 prisoners voted in Ireland's 2018 Referendum.⁴⁹⁰ Of these, 55 were males and three were females.⁴⁹¹ It is understood that no campaign groups visited prisons in the run up to

the referendum.⁴⁹² A breakdown of the number of prisoners registered to vote and who voted in each prison is provided:

Prison ⁴⁹³	Registered to Vote	Voted
Arbour Hill	6	5
Castlerea	0	0
Cloverhill	3	3
Cork	2	0
Dóchas	10	2
Limerick	Not available	0
Loughan	Not available	1
Midlands	8	2
Mountjoy	46	31
Portlaoise	Not available	0
Shelton Abbey	2	0
Wheatfield	45	14
Total	122	58

Indicator S21.3: The number of prisoners involved in other forms of social and community engagement: The Cloverhill Visiting Committee report⁴⁹⁴ highlights the activities carried out with the Red Cross. This included celebrating the Chinese New Year, with Chinese nationals preparing Chinese food for the occasion. Furthermore, there were a number of volunteers doing a six-month Community-Based Health First Aid course.⁴⁹⁵ The annual report of the Visiting Committee in Cork Prison highlights a hurley/joinery workshop, which enables prisoners to give back to the community by doing work for various local charities.⁴⁹⁶ The workshop employs/trains up to 20 prisoners daily.⁴⁹⁷

486 See Behan, C (2015) *Citizens with Convictions: Prisoners, Political Participation and Civic Engagement*, https://www.psa.ac.uk/sites/default/files/conference/papers/2015/Citizens%20with%20Convictions%20PSA%202015_5.pdf

487 Gallagher, C. Only 58 prisoners voted in the Abortion Referendum, *The Irish Times*, <https://www.irishtimes.com/news/crime-and-law/only-58-prisoners-voted-in-abortion-referendum-1.3531009>

488 'Prisoners can vote so why don't they?' (2016) *The Journal*, 26th February 2016 <http://www.thejournal.ie/prisoners-voting-2622117-Feb2016/>

489 Information provided by the Irish Prison Service to IPRT on 18th September 2018.

490 Gallagher, C (2018) 'Only 58 prisoners voted in the abortion referendum', *Irish Times*, 15th June 2018 <https://www.irishtimes.com/news/crime-and-law/only-58-prisoners-voted-in-abortion-referendum-1.3531009>

491 Kildarestreet.com, *Data Protection*, Parliamentary Question 513, 12th June 2018 <https://www.kildarestreet.com/wrans/?id=2018-06-12a.1333>

492 Gallagher, C (2018) 'Only 58 prisoners voted in the abortion referendum', *Irish Times*, 15th June 2018, <https://www.irishtimes.com/news/crime-and-law/only-58-prisoners-voted-in-abortion-referendum-1.3531009>

493 Information release to the *Irish Times* /Conor Gallagher posted on Twitter 18th June 2018 https://twitter.com/ConorGallaghe_r/status/1008786851329708032

494 Cloverhill Prison Visiting Committee, *Annual Report 2016* http://www.justice.ie/en/JELR/Cloverhill_Prison_VC_Annual_Report_2016.pdf/Files/Cloverhill_Prison_VC_Annual_Report_2016.pdf

495 Ibid, p. 15

496 Cork Prison Visiting Committee, *Annual Report 2016*, p. 2 http://www.justice.ie/en/JELR/Cork_Prison_VC_Annual_Report_2016.pdf/Files/Cork_Prison_VC_Annual_Report_2016.pdf

497 Ibid, p. 2

In Limerick, a number of prisoners participated in the Gaisce awards.⁴⁹⁸ In order to obtain an award, prisoners are required to partake in physical recreational activity for 26 weeks, undertake a community involvement activity, learn a personal skill for 13 weeks and engage in a team activity.⁴⁹⁹ Open prisons such as Loughan House engaged with Bóthar, where local farmers donate their calves to Loughan House, and the calves are reared there and sent on to Africa.⁵⁰⁰ Loughan House was also involved with Bikes for Africa, whereby bikes are refurbished and sent to Africa.⁵⁰¹ These are just some examples of positive forms of social and community engagement happening in our prison system.

Actions required



- Action 21.1:** Prison Education Centres should organise mock and real ‘hustings’ to encourage civic participation of prisoners.
- Action 21.2:** The Education and Training Boards could give consideration to increasing civic education, particularly at times of national votes (to encourage prisoner registration).
- Action 21.3:** Candidates should visit prisons during general elections and referendums, and encourage prisoners to use their vote.
- Action 21.4:** The Irish Prison Service should work towards increasing the number of prisoner representative groups across the estate.

PROGRESSIVE PRACTICE

UserVoice, England

UserVoice is a charity led by former prisoners.⁵⁰² It aims to promote dialogue between service users and service providers. It recruits and trains representatives for prisoner councils.⁵⁰³

Prisoner Policy Network, England

The Prisoner Policy Network was established in 2018.⁵⁰⁴ It is a network of prisoners, ex-prisoners and supporting organisations hosted by the Prison Reform Trust.⁵⁰⁵ The network aims to ensure that the collective experiences of prisoners are part of prison policy development nationally.⁵⁰⁶ The network presents the opportunity to create great change for the prison system.⁵⁰⁷

Irish Red Cross Programme

The work of the Irish Red Cross Programme in Irish prisons has been commended globally; Ireland being the first country in the world to introduce a Community-Based Health and

First Aid Programme in a prison setting.⁵⁰⁸ 800 prisoners have been recruited and half have completed the programme and graduated.⁵⁰⁹ The Irish Red Cross Volunteers have developed a number of projects helpful to the prison environment including a ‘Safe Zone’ in Castlerea Prison where the school is viewed as safe area and prisoners sign a form agreeing not to bully or assault another prisoner.⁵¹⁰ There are a number of other good examples of programmes developed by the Irish Red Cross.⁵¹¹

498 Limerick Prison Visiting Committee, *Annual Report 2016*, p. 2

http://www.justice.ie/en/JELR/Limerick_Prison_VC_Annual_Report_2016.pdf/Files/Limerick_Prison_VC_Annual_Report_2016.pdf

499 Ibid.

500 Loughan House Visiting Committee, *Annual Report 2016* http://www.justice.ie/en/JELR/Loughan_House_VC_Annual_Report_2016.pdf/Files/Loughan_House_VC_Annual_Report_2016.pdf

501 Ibid.

502 UserVoice <http://www.uservoice.org/our-story/>

503 Eaton, S (2018) *The Politics of the Prison and the Prisoner*, Routledge Press

504 Dixon, D (2018) *Launch of Prisoner Policy Network* <https://www.artsincriminaljustice.org.uk/launch-of-prisoner-policy-network/>

505 Ibid.

506 Ibid.

507 Marie Claire O’Brien (2018) *Getting Prisoners Heard In National Policy Making*, CLINKS

<https://www.clinks.org/community/blog-posts/getting-prisoners-heard-national-policy-making>

508 Irish Prison Service, Education and Training Boards Ireland and Irish Red Cross (2017) *Community Based Health & First Aid Prison Programme, Irish Support Information Pack*, p. 3

509 Ibid.

510 Ibid.

511 Ibid, pp. 3–4.

D: Complaints, accountability, inspections and oversight mechanisms

Complaints system

Standard 22:
Prisoners have access to a robust and effective complaints mechanism. All complaints are dealt with in a timely manner with the outcome of decisions clearly communicated to the prisoner with a satisfactory resolution if the complaint is upheld.

Rationale

Having access to a robust and effective complaints mechanism is of particular importance for individuals detained in closed institutions. A number of barriers to prisoners making complaints have been identified including: the absence of an effective complaints system, the slow nature of complaints procedures and response mechanisms, feelings that the problems faced in prison are inevitable, distrust in the complaints system, feelings of shame, fear of reprisal and absence of legal safeguards.⁵¹²

Current context

The Irish Prison Service is currently working on a new internal complaints process for prisoners, including a complaints recording system.⁵¹³ The new complaints policy is informed by the recommended complaints procedure⁵¹⁴ made by the Inspector of Prisons in 2016.⁵¹⁵ It was originally expected that this would be completed by end of 2017.⁵¹⁶

► Indicators for Standard 22

Indicator S22.1: Data on the number of internal complaints, in particular Category A complaints (upheld, resolved and dismissed), including the length of time it takes to complete and communicate outcomes of a decision to a prisoner:

Prison:	No. of 'Category A' Complaints made in 2017 ⁵¹⁷	Minimum No. Days: ⁵¹⁸	Maximum No. Days: ⁵¹⁹
Arbour Hill	1	45	45
Castlerea	9	42	222
Cloverhill	12	0	144
Cork	5	64	108
Limerick	3	115	194
Midlands	15	17	333
Mountjoy	9	13	108
Portlaoise	6	44	152
Wheatfield	4	71	181

512 Penal Reform International & Office for Democratic Institutions and Human Rights (2018) *Guidance Document on the Nelson Mandela Rules*, Point 136, p. 32 <https://s16889.pcdn.co/wp-content/uploads/2018/07/Mandela-Rules-Guidance-Document.pdf>

513 Information provided by the Irish Prison Service at a meeting on 27th March 2018

514 Information provided by the Irish Prison Service on 30th April 2018

515 Inspector of Prisons (2016) *Review, Evaluation and Analysis of the Operation of the present Irish Prison Service Prisoner Complaints Procedure* <http://justice.ie/en/JELR/Review,%20Evaluation%20and%20Analysis%20of%20the%20Operation%20of%20the%20IPS%20Prisoner%20Complaints%20Procedure.pdf/Files/Review,%20Evaluation%20and%20Analysis%20of%20the%20Operation%20of%20the%20IPS%20Prisoner%20Complaints%20Procedure.pdf>

516 Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Committee against Torture, Sixtieth session, *Summary record of the 1548th meeting*, p. 2 available at https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fSR.1548&Lang=en

517 KildareStreet.com, *Complaints Procedures*, Parliamentary Question 516, 12th June 2018 <https://www.kildarestreet.com/wrans/?id=2018-06-12a.1344>

518 This minimum and maximum number of days is based on information provided in KildareStreet.com, *Complaints Procedures*, Parliamentary Question 516, 12th June 2018 <https://www.kildarestreet.com/wrans/?id=2018-06-12a.1344>

519 Ibid.

Year ⁵²⁰	No of Category A ⁵²¹ Complaints Received	Investigation Completed	Ongoing	Unfounded	Withdrawn	Re-categorised
2017	70	61	0	8	0	1
2018 (1.1.18–26.6.18)	41	12	22	3	4	0

Year ⁵²²	Investigation Completed	Upheld	Not Upheld	Not Proved	Part Upheld
2017	61	6	53	0	2
2018	12	1	9	2	0

Since the publication of the above, recent data has been released to the *Irish Times*⁵²³ showing that in total there have been 47 'Category A' complaints made in 2018. Twenty-one were allegations of assault, three related to alleged racist incidents, six were claims of mistreatment and five were complaints of intimidation. Of these 47 complaints, only one has been upheld. Sixteen complaints were 'not upheld', two were 'not proved', three were 'terminated' and five were 'withdrawn.' The investigations relating to 20 allegations are described as 'incomplete'.

Overall analysis shows that very few complaints are upheld. This may be attributed to a number of reasons including insufficient evidence and unwilling witnesses. It could also indicate either complaints being unfounded or poor investigations. This may result in prisoners having a lack of confidence in the complaints system.

In 2017, the Office of the Ombudsman⁵²⁴ was involved in the redevelopment of the complaint-handling system, including facilitating a visit by an official from the Irish Prison Service to the Prisoner Ombudsman of Northern Ireland to provide an overview of how local complaints systems work between the Northern Ireland Prison Service and the Office of the Prisoner Ombudsman.⁵²⁵

There is an urgent need for reform of the complaints system, in particular of external oversight, which is discussed in the next standard.

Actions required



Action 22.1: The Irish Prison Service must ensure that prisoners receive the outcome of their complaints within a three-month period. The outcome should address the complaint and the reasons for the outcome, and provide a solution if the complaint was upheld.

Action 22.2: The Department of Justice and Equality and the Irish Prison Service should introduce a new internal complaints policy with a view to bringing Ireland's complaints system in line with best practice.

520 KildareStreet.com, *Irish Prison Service*, Parliamentary Question 161, 28th June 2018
<https://www.kildarestreet.com/wrans/?id=2018-06-28a.439&s>

521 'Category A' refers to the most serious type of complaint made by prisoners

522 KildareStreet.com, *Irish Prison Service*, Parliamentary Question 161, 28th June 2018
<https://www.kildarestreet.com/wrans/?id=2018-06-28a.439&s>

523 'Twelve sexual allegations made by prisoners against authorities', *Irish Times*, 13th August 2018
<https://www.irishtimes.com/news/crime-and-law/twelve-sex-allegations-made-by-prisoners-against-authorities-1.3594074?mode=sample&auth-failed=1&pw-origin=https%3A%2F%2Fwww.irishtimes.com%2Fnews%2Fcrime-and-law%2Ftwelve-sex-allegations-made-by-prisoners-against-authorities-1.3594074>

524 Office of the Ombudsman, *Annual Report 2017*, p. 45
<http://www.ombudsman.ie/publications/annual-reports/Ombudsman-Annual-Report-2017-ENG-PDF.pdf>

525 Ibid.

Independent complaints or appeal mechanism

Standard 23:
Prisoners have access to an external independent complaints and appeal mechanism, including access to a prisoner ombudsman or equivalent.

Rationale

As prisoners are detained in a closed environment, they are at increased risk of having their human rights violated. Prisoners' confidence in the complaints system is promoted by the existence of an external independent complaints and appeals mechanism.

Current context

The Office of the Ombudsman's *Annual Report 2017*⁵²⁶ identifies an expectation that the remit of the office would be extended to include prisoner complaints. This was a recommendation made by the Inspector of Prisons and accepted by the Tánaiste in 2016.⁵²⁷ As highlighted in Standard 22, the Office of the Ombudsman has been involved in the liaison between the Northern Ireland Prison Service and the Prisoner Ombudsman's Office to see how the process could work in Ireland.

► Indicators for Standard 23

Indicator S23.1: Prisoners' access to an independent external complaints mechanism: IPRT has been informed that this is unlikely to happen until 2019,⁵²⁸ despite UNCAT (2017) records stating that the timeline for establishing the Ombudsman's oversight role in the complaints system is by the end of 2017.⁵²⁹

PROGRESSIVE PRACTICE

Northern Ireland: Prisoner Ombudsman

In 2005, the Office of the Prisoner Ombudsman for Northern Ireland was established to investigate complaints where prisoners were unhappy with the decision of the Northern Ireland Prison Service.⁵³⁰ The system is completely independent of the Northern Ireland Prison Service. Since 2010 visitors can also make a complaint to the Prisoner Ombudsman.⁵³¹

Action required



Action 23.1: The State must ensure, as a matter of urgency, that the Office of the Ombudsman is adequately resourced to accept prisoner complaints.

526 Ibid.

527 Department of Justice and Equality, 'Tánaiste accepts recommendation to give Ombudsman a role in prisoner complaints', <http://justice.ie/en/JELR/Pages/PR16000125>

528 IPRT was informed about this at a meeting with the Department of Justice and Equality and the Irish Prison Service on the 27th of March 2018

529 Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Committee against Torture, Sixtieth session, *Summary record of the 1548th meeting*, p. 2 available at https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fSR.1548&Lang=en

530 Northern Ireland Prisoner Ombudsman website, 'About Us' <http://www.niprisonerombudsman.gov.uk/index.php/about-us/>

531 Ibid.

Inspections and monitoring

Standard 24:
Structures are in place for the regular inspection and monitoring of prisons. Inspection reports are made publicly available within a clear timeframe.

Rationale

Monitoring and inspection of places of detention are central to the protection of human rights of prisoners. The creation of independent monitoring bodies is an important factor in reducing torture.⁵³²

Current context

Establishing a National Preventative Mechanism (NPM) as part of the ratification of the Optional Protocol to the Convention against Torture (OPCAT) is crucial to preventing ill-treatment. The importance of an effective NPM has also been highlighted by Penal Reform International (PRI) (2018):

*Through preventive monitoring, National Preventative Mechanisms in particular can assess individual cases to identify systemic issues leading to serious incidents in a given prison or a wider prison system.*⁵³³

This point again underscores the importance of frequent domestic inspections and published reports.

► Indicators for Standard 24

Indicator S24.1: The State's ratification of OPCAT and establishment of a National Preventative Mechanism: **Not ratified:**

Ireland is one of only two EU countries which have not yet ratified the OPCAT. Afghanistan acceded to the OPCAT in April 2018.⁵³⁴

At the UNCAT hearing, the Government committed that “the bill [Inspection of Places of Detention] concerning the ratification for the Optional Protocol would be submitted to parliament in 2018”.⁵³⁵

Indicator S24.2: Frequency of publication of Inspector of Prisons reports: In 2017, the Inspector of Prisons published an *Annual Report for 2015 and 2016*. There has been no published prison inspection report in the last 12 months. Below is a breakdown of the most recent prison inspection reports of the Inspector of Prisons published by the Department of Justice and Equality:

Detention Centre:	Most recent published IoP Inspection Report ⁵³⁶ :
Arbour Hill	2012
Castlerea Prison	2009
Cloverhill Prison	2006
Cork Prison	2007
Dóchas Centre	2013 (Interim ⁵³⁷)
Limerick Prison	2012
Loughan House	2014
Midlands Prison	2006
Mountjoy Prison	2011, 2014 ⁵³⁸
Portlaoise Prison	2007
Shelton Abbey	2006
St Patrick's Institution (now part of Mountjoy)	2012
Training Unit (now closed)	2017
Wheatfield Place of Detention	2007

532 Carver, R and Handley, L. (2016) *Does Torture Prevention Work?* Liverpool University Press

533 Penal Reform International (2018) *Incident Management and Independent Investigations*, p. 9 https://s16889.pcdn.co/wp-content/uploads/2018/06/PRI_DMT_Incidents_Factsheet_WEB.pdf

534 IPRT (2018) Press Release: Ratification of Torture Prevention Treaty Will Bolster Ireland's Position on International Stage, <http://www.iprt.ie/contents/3303>

535 Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Committee against Torture, Sixty-first session Summary record of the 1551st meeting (paragraph 22) <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsmolqL9rS46HZRONmdQS5bOGWfW%2fInMPTdovNQQob%2bVR2P3YTotZM9KkFulmd-2KxTa7wIXFmsAKMZ%2bkNefJUoaewUmEbFTORzVRMieWwilm>

536 This information is based on what is published on the Department of Justice and Equality website through examining each year <http://www.justice.ie/en/JELR/Pages/Press-releases-prisons-and-probation?opendocument&start=0&year=2018> and also the Inspector of Prisons website, *Inspection of Prisons Reports* http://www.inspectorofprisons.gov.ie/en/iop/pages/inspection_of_prisons_reports

537 A follow up report was due on the Dóchas by the Inspector of Prisons six months on from the date of this report which has never been published. See *Interim Report on the Dóchas Centre By the Inspector of Prisons Judge Michael Reilly October 2013*, paragraph 1.13, p.5 <http://www.inspectorofprisons.gov.ie/en/IOP/Dochas%20Centre%20Report%20%202013.pdf/Files/Dochas%20Centre%20Report%20%202013.pdf>

538 The 2014 report focused on the Separation Unit of Mountjoy Campus. See, *An Overview of Mountjoy Campus with particular emphasis on the Separation Unit by the Inspector of Prisons Judge Michael Reilly 23rd July 2014*

Indicator S24.3: Reform of Prison Visiting

Committees: There has been no progress published on possible reform (e.g. standardisation of reports, appointment of committee members) of Prison Visiting Committees since 2017.

Actions required

Action 24.1: The Minister for Justice and Equality should expedite the introduction of legislation so that Ireland can ratify the OPCAT by the end of 2018.

Action 24.2: Legislators should progress the Inspection of Places of Detention Bill and ensure thorough pre-legislative scrutiny.

Action 24.3: The Office of the Inspector of Prisons should have an annual programme of independent prison inspections followed by published reports, and be adequately resourced to do so.

Action 24.4: The Department of Justice and Equality should reform the Prison Visiting Committees, including the appointment of members with multi-disciplinary expertise through the Public Appointments Service.

Investigations into deaths in custody

Standard 25:
The death of, or serious incident involving, a prisoner is investigated by an independent body immediately and the investigation report published promptly.

Rationale

The State has a duty of care to all persons in its care.⁵³⁹ As highlighted by Penal Reform International⁵⁴⁰ (2018), state authorities are obliged to carry out an **independent, impartial, prompt and effective investigation** into the circumstances and causes of any serious incident and to provide reparation or redress to victims and/or their families.

Current context

A number of prisoner deaths occur in prison and on temporary release every year. An international study from 2017 highlighted the increased risk of suicide for the prison population; male prisoners were found to be three times more likely to be at risk than the general male population and women in prison nine times more likely to be at risk than the general female population.⁵⁴¹

A recent analysis⁵⁴² shows that of 87 death-in-custody reports published since 2012, 12 reports raised the issue of the lack of record keeping and failure to comply with Standard Operating Procedures relating to prisoner checks.

Penal Reform International⁵⁴³ outlines a number of questions that monitoring bodies could be asking relating to deaths in custody:

- Is an internal procedure in place to identify lessons learned after every death?
- Have lessons learned been translated into reforms to address shortcomings identified?
- Are measures in place to prevent avoidable deaths, such as a comprehensive suicide prevention programme?
- Is statistical data on deaths in custody used to identify possible structural deficiencies?

539 Council of Europe, *European Convention on Human Rights*, Article 2,p. 6 https://www.echr.coe.int/Documents/Convention_ENG.pdf

540 Penal Reform International (2018) *Incident Management and Independent Investigations*, p. 2 https://s16889.pcdn.co/wp-content/uploads/2018/06/PRI_DMT_Incidents_Factsheet_WEB.pdf

541 Fazel, S, Ramesh, T and Hawton, K (2017) 'Suicide in prisons: an international study of prevalence and contributory factors', *The Lancet Psychiatry*,4(12), pp. 946–952 <https://www.sciencedirect.com/science/article/pii/S2215036617304303>

542 Leogue, J (2018) 'Concern over prison death records', *Irish Examiner*, 7th August 2018 <https://www.irishexaminer.com/breakingnews/ireland/concernoverprison-death-records-860463.html>

543 Penal Reform International (2018) *Incident Management and Independent Investigations*, p. 4 https://s16889.pcdn.co/wp-content/uploads/2018/06/PRI_DMT_Incidents_Factsheet_WEB.pdf

leading to a higher risk of death in custody? Is such data disaggregated to allow for analysis of discrimination for specific categories of prisoners?

Death in Custody Reports 2017: Date of Death vs. Date of Publication of the Inspector of Prisons' Report by the Minister for Justice and Equality

Outlined below is information related to the date of death and the length of time before publication of the investigation report for deaths in custody reports published to date in 2018.

2016, Prisoner	Date of Death	IoP Completion of Report ⁵⁴⁴	DJE Publication ⁵⁴⁵
Prisoner J (2016)	4 th December 2016	22 nd December 2017	26 th April 2018

2017, Prisoner ⁵⁴⁶	Date of Death	IoP Completion of Report ⁵⁴⁷	DJE Publication ⁵⁴⁸
A	3 rd January 2017	30 th November 2017	27 th March 2018
B	3 rd January 2017	30 th November 2017	23 rd February 2018
C	6 th March 2017	20 th December 2017	20 th August 2018
D	19 th March 2017	20 th December 2017	23 rd February 2018
E	25 th March 2017	15 th March 2018	18 th July 2018
F	13 th April 2017	15 th March 2018	25 th July 2018
G	Not known/ unpublished		
H	15 th May 2017	20 th December 2017	23 rd February 2018
I	13 th August 2017	15 th September 2017	12 th October 2017
J	Not known/ unpublished		
K	2 nd October 2017	30 th November 2017	17 th January 2018
L	6 th October 2017	7 th December 2017	17 th January 2018
M	11 th October 2017	10 th April 2018	30 th July 2018

Year 2018	Date of Death	IoP Completion of Report	DJE Publication
B	27 th January 2018	26 th March 2018	7 th August 2018
E	19 th February 2018	26 th April 2018	15 th June 2018

➔ Indicators for Standard 25

Indicator S25.1: Implementation of recommendations of investigations made by the Inspector of Prisons: While the number of recommendations fully implemented by the Irish Prison Service is not known, the Irish Prison Service has developed a matrix of recommendations and specific actions have been assigned to various stakeholders.⁵⁴⁹

544 Ibid

545 See Department of Justice and Equality website, Publications <http://justice.ie/>

546 Office of the Inspector of Prisons, *Death in Custody Reports* http://www.inspectorofprisons.gov.ie/en/iop/pages/deaths_in_custody_reports

547 Ibid

548 See Department of Justice and Equality website, Publications <http://justice.ie/>

549 Information provided by the Irish Prison Service as of 1st April 2018

Actions required



Action 25.1: Standard Operating Procedures should be followed by prison staff at all times.

Action 25.2: The Inspector of Prisons should be given the authority to publish reports directly. In the absence of this, the Department of Justice and Equality must commit to publishing investigation reports in a prompt manner.

Action 25.2: The Irish Prison Service should publish its plans/progress for the implementation of recommendations arising from the Inspector of Prisons' death in custody reports.



E: Safety and protection in Irish prisons

Solitary confinement

Standard 26: Solitary confinement is used as a last resort and only in exceptional circumstances. It is used for the shortest period possible, and for a maximum of 15 days. Reasons for and lengths of time a prisoner is held in solitary confinement must be recorded.

Rationale

Solitary confinement has damaging physical and psychological effects on an individual. Medical research demonstrates that the denial of meaningful human contact can lead to ‘isolation syndrome’⁵⁵⁰ with a range of symptoms including anxiety, depression, anger, self-harm and suicide. As highlighted in IPRT’s (2018) report⁵⁵¹ on solitary confinement, “the exceptional and devastating harm to prisoners’ mental health that can be caused by extended periods of isolation means the practice of holding any category of prisoner on 22- or 23-hour lock up must be abolished”.⁵⁵²

Current context

There were a number of positive developments in 2017 towards addressing the issue of solitary confinement, including: the introduction of the Prison (Amendment) Rules,⁵⁵³ the development of a policy on the elimination of solitary confinement⁵⁵⁴

by the Irish Prison Service, and the debating of the Prisons (Solitary Confinement) (Amendment) Bill 2016 (Private Members’ Bill) (PMB).⁵⁵⁵ However, this Bill has not progressed any further in 2018.

► Indicators for Standard 26

Indicator S26.1: The number of prisoners on 22–24-hour lock up: Census figures⁵⁵⁶ provided by the Irish Prison Service show that 12 prisoners were being held in solitary confinement in April 2018. This compares to 44 in April 2017.⁵⁵⁷ However, the most recently published census⁵⁵⁸ figures show an increase, with 35 individuals currently held in solitary confinement. Of these individuals held on 23-hour lock up, two were between the ages of 18 and 20, one was aged between 21 and 24, and two were over 25.⁵⁵⁹

Indicator S26.2: The duration spent by prisoners on 22–24-hour lock up: In a recent PQ⁵⁶⁰ it was stated that information on the duration of time prisoners spend on 22–24-hour lock up was not available.

PROGRESSIVE PRACTICE

IPRT: ‘Behind the Door’: Solitary Confinement in the Irish Penal System

Following a review of initiatives⁵⁶¹ to reduce the use of solitary confinement internationally, some key conclusions can be drawn and should be reflected upon by the relevant changemakers:

- The importance of prison activism, advocacy and media campaigns in inspiring public and political interest;
- The benefit of legal strategies in challenging

550 Penal Reform International & Office for Democratic Institutions and Human Rights (2018) *Guidance Document on the Nelson Mandela Rules*, p. 105 <https://s16889.pcdn.co/wp-content/uploads/2018/07/Mandela-Rules-Guidance-Document.pdf>

551 Martynowicz, A and Moore, L (2018) “Behind the Door”: *Solitary Confinement in the Irish Penal System* Foreword, p. 3 http://www.iprt.ie/files/Solitary_Confinement_web.pdf

552 Ibid.

553 Irish Statute Book, Prison (Amendment) Rules 2017 [http://justice.ie/en/JELR/SI%20276_of_2017_PRISON_\(AMENDMENT\)_RULES_2017.pdf/Files/SI%20276_of_2017_PRISON_\(AMENDMENT\)_RULES_2017.pdf](http://justice.ie/en/JELR/SI%20276_of_2017_PRISON_(AMENDMENT)_RULES_2017.pdf/Files/SI%20276_of_2017_PRISON_(AMENDMENT)_RULES_2017.pdf)

554 Irish Prison Service (2017) *Elimination of Solitary Confinement Policy* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Elimination-of-solitary-confinement-Policy.pdf

555 Prisons (Solitary Confinement) (Amendment) Bill 2016 <https://data.oireachtas.ie/ie/oireachtas/bill/2016/95/eng/initiated/b9516d.pdf>

556 Irish Prison Service, *Census of Restricted Regimes, April 2018* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/April-2018-Restriction.pdf

557 Irish Prison Service, *Census of Restricted Regimes, April 2017* http://www.irishprisons.ie/wp-content/uploads/documents_pdf/April-2017-Restriction.pdf

558 Irish Prison Service, *Census of Restricted Regime Prisoners, July 2018* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/July-2018-Restriction.pdf

559 Ibid, p. 6

560 KildareStreet.com, *Prison Service Data*, Parliamentary Question 512, 12th June 2018 <https://www.kildarestreet.com/wrans/?id=2018-06-12a.1330>

561 Martynowicz, A and Moore, L (2018) “Behind the Door”: *Solitary Confinement in the Irish Penal System*, p.29 http://www.iprt.ie/files/Solitary_Confinement_web.pdf

non-rights-compliant policies and practices which impact on individuals and groups;

- The need to put in place specific restrictions on isolation and requirements for time out of cell and association;
- The importance of resourcing support for prisoners in transitioning to the general population, for example, adequate assessment and staffing;
- The necessity of monitoring compliance with legislation and rights;
- The role played by strong leadership (political and prison/criminal justice management) in driving change and dealing with internal opposition;
- The need to consider ways of reducing the prison population and to encourage different responses to social harms

Actions required



Action 26.1: The Irish Prison Service must ensure that prisoners held in solitary confinement have at least two hours of meaningful human contact daily.

Action 26.2: Legislators should progress the Prisons (Solitary Confinement) (Amendment) Bill 2016, which provides for strict limitations on scope and the length of time for which solitary confinement can be imposed.

Action 26.3: The Irish Prison Service should reduce the number of prisoners being held in solitary confinement and develop and implement transition programmes for prisoners returning to (i) the general prison population (ii) the community.

Violence in Irish prisons

Standard 27:
Prisoners and everyone in the prison system feels safe and protected from violence in the prison environment.

Rationale

Research⁵⁶² has highlighted how methods of reducing violence traditionally focused on: treating violence as rule-breaking, punishing those who engage in fights, targeting prevention at those who staff identify as aggressive and separating perpetrators from victims. However, there has been a more recent shift in the traditional focus towards the use of conflict-centred strategies,⁵⁶³ whereby:

- conflicts are analysed and causes identified
- staff use dynamic security
- opportunities are provided to resolve differences
- managing conflict is viewed as a shared responsibility
- prisoners' perspectives are welcomed.

Findings from the same research⁵⁶⁴ highlighted a lack of knowledge about causes of violence and a tendency to label individuals as opposed to managing behaviour constructively. The report highlights:

*Thus, to prevent violence, the strategy must focus on recognising conflicts, understanding how they escalate, changing the structural contributors and knowing how to intervene.*⁵⁶⁵

Current context

The number of violent incidents across the prison estate (2012-2017) is outlined under Indicator 27.1.

A new therapy unit, National Violence Reduction Unit (VRU)⁵⁶⁶, is currently being set up by the Irish Prison Service to address the needs of those exhibiting violent behaviour. The objectives⁵⁶⁷ of the VRU are:

1. Reduce repeat violent offending
2. Improve psychological health, well being, pro-

562 Edgar, K (2018) *Ensuring a Safe Environment: A Conflict Centred Strategy*, Prison Reform Trust, p. 2 http://www.prisonreformtrust.org.uk/Portals/0/Documents/Ensuring_a_safe_prison.pdf

563 Ibid.

564 Edgar, K (2018) *Ensuring a Safe Environment: A Conflict Centred Strategy*, Prison Reform Trust, p. 4 http://www.prisonreformtrust.org.uk/Portals/0/Documents/Ensuring_a_safe_prison.pdf

565 Ibid, p. 5 http://www.prisonreformtrust.org.uk/Portals/0/Documents/Ensuring_a_safe_prison.pdf

566 This information has been provided by the Irish Prison Service, 4th September 2018.

567 Ibid.

- social behaviour and relational outcomes
3. Improve competence, confidence and attitudes of staff working with complex prisoners
 4. Increase efficiency, cost effectiveness and quality of services

This unit will be the first co-led unit with the Prison Psychology Service. The importance of staff as agents of change is the focus of the Unit.⁵⁶⁸ The criteria for admission is outlined in the Violent and Disruptive Prisoner Policy.⁵⁶⁹ A National Committee has been established to provide oversight and feedback in terms of referrals to the unit.⁵⁷⁰

The unit is based on the idea of Close Supervision Centres in the UK.⁵⁷¹ The Unit will accommodate six prisoners and an additional four prisoners admitted

for assessment⁵⁷². The assessment period is four months. All staff in the unit will be provided with seven weeks of specialised training from September 2018. PhD research⁵⁷³ is being carried out to review progress of the Unit. IPRT welcomes this monitoring, which was recommended in *PIPS 2017*.⁵⁷⁴

► Indicators for Standard 27

Indicator S27.1: The number of violent incidents across the prison estate: The number of assaults by prisoners on other prisoners decreased by 27% to 417 in 2017. Acts of violence by prisoners on staff was up by 1% to 104 incidents.⁵⁷⁵ The numbers of recorded assaults on prison officers by prisoners and prisoner-on-prisoner assaults, from 2014 to 2017, by prison, are outlined in the tables below:

Prisoner Assaults on Prison Officers:

Prison/ Place of Detention	2012	2013	2014	2015	2016	2017
Arbour Hill	0	0	1	0	0	0
Castlerea	7	5	9	11	1	13
Cloverhill	9	12	20	8	21	8
Cork	7	8	13	7	3	9
Dóchas Centre	3	7	8	5	26	14
Limerick	10	5	3	2	4	8
Loughan House	0	0	0	0	0	0
Midlands	10	7	13	17	7	15
Mountjoy (male)	19	34	30	22	12	18
St Pat's Inst.	36	49	20	0	0	N/A
Portlaoise	0	3	2	6	5	3
Shelton Abbey	0	0	0	0	0	0
Training Unit	0	0	0	0	0	0
Wheatfield	6	10	26	10	12	10
PSEC	0	7	6	3	5	6
OSG	0	0	0	0	2	0
Total	107	147	151	91	98	104

Prisoner-on-Prisoner Assaults:

Prison/ Place of Detention	2012	2013	2014	2015	2016	2017
Arbour Hill	4	7	6	5	0	0
Castlerea	73	103	119	117	139	79
Cloverhill	97	76	90	88	82	42
Cork	43	30	51	27	33	44
Dochas Centre	25	21	16	47	30	33
Limerick	45	31	37	24	5	18
Loughan House	1	0	0	1	0	0
Midlands	68	88	77	47	50	45
Mountjoy (male)	92	107	96	176	156	113
St Pat's Inst.	156	57	9	2	0	N/A
Portlaoise	12	5	11	2	15	14
Shelton Abbey	1	0	0	0	0	0
Training Unit	0	0	1	0	0	2
Wheatfield	98	77	74	47	55	24
PSEC	0	2	2	4	7	3
Total	715	604	589	587	572	417

568 Ibid.

569 This policy is currently not available on the Irish Prison Service website

570 Information supplied by Senior Management of Irish Prison Service, 3rd July 2018

571 This information has been provided by the Irish Prison Service as of the 30th of April 2018

572 Ibid.

573 Gallagher, O, O'Reilly, G and Regan, E, *Violent and Disruptive Behaviour in the Irish Prison Service: A Four Year Research Project* https://www.researchgate.net/profile/Orla_Gallagher3/publication/326127059_Violent_and_Disruptive_Behaviour_in_the_Irish_Prison_Service_A_Four-Year_Research_Project/links/5b3a2c1ba6fdcc8506e85fec/Violent-and-Disruptive-Behaviour-in-the-Irish-Prison-Service-A-Four-Year-Research-Project.pdf?origin=publication_detail

574 IPRT (2017) *Progress in the Penal System: A framework for penal reform (2017)*, p. 70 http://www.iprt.ie/files/Progress_in_the_Penal_System.compressed_.pdf

575 This does not include statistics for when a prison officer is injured during an intervention between prisoners

Indicator S27.2: The prevalence of sexual violence across the prison estate: It was reported⁵⁷⁶ that 12 allegations of sexual violence were made by prisoners against prison authorities up to August 2018.

Indicator S27.3: The number of prisoners kept in Close Supervision Cells and duration of time spent in these cells: Latest census⁵⁷⁷ figures show that nine prisoners are accommodated in Close Supervision Cells. Data is not published on the lengths of time prisoners spend in these cells. The Irish Prison Service committed at the UNCAT oral hearing to publishing overall lengths spent in Close Supervision Cells in quarterly statistics.⁵⁷⁸ This has not happened.

Indicator S27.4: The establishment of a therapy-focused unit for prisoners who are violent and disruptive: The unit was due to open in the first quarter of 2018,⁵⁷⁹ but delays have meant that the new timeline for the opening of the unit is now estimated to be November 2018.

Indicator S27.5: Supports available to staff (see Staff Training section, Standard 29)

PROGRESSIVE PRACTICE

Dynamic Security

Dynamic security is a practice that involves both proactive and regular interaction between prison staff and prisoners.⁵⁸⁰ It provides an opportunity for staff to anticipate warning signs about possible incidents before they occur.⁵⁸¹ This approach has proved to improve security in prisons.⁵⁸²

Principles for resolving conflicts in prison settings⁵⁸³

1. Analyse the prison as a conflict-generating environment.
2. The role of prison officer as ‘peacekeeper’ is critical, including placing emphasis on ‘dynamic security’⁵⁸⁴ and enabling officers to identify conflicts before they escalate.
3. Prisoners’ interests in a safe prison can be encouraged.
4. Rebuild trust – there are two approaches that should be followed in this respect: first, the primary aim of discipline is to ensure that all prisoners are safe, which leads to greater confidence by prisoners. The second is hearing the voice of both staff and prisoners.
5. Conflict resolution should be embedded in prison governance: “Most prisons lack options for prisoners who seek non-violent ways of resolving differences.”⁵⁸⁵ Approaches could include: wing forums, trained impartial mediators, violence reduction representatives or formal opportunities to negotiate conflict resolution.

576 ‘Twelve sex allegations made by prisoners against authorities’, *Irish Times*, 13th August 2018 <https://www.irishtimes.com/news/crime-and-law/twelve-sex-allegations-made-by-prisoners-against-authorities-1.3594074?mode=sample&auth-failed=1&pw-orig-in=https%3A%2F%2Fwww.irishtimes.com%2Fnews%2Fcrime-and-law%2Ftwelve-sex-allegations-made-by-prisoners-against-authorities-1.3594074>

577 Irish Prison Service, *Census Prison Population July 2018 – Cell occupancy – In-Cell Sanitation* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/July-2018-In-Cell.pdf

578 UN Web TV, Consideration of Ireland (Cont’d)-1551st Meeting 61st Session Committee Against Torture at 12.29-12.38 <http://webtv.un.org/watch/consideration-of-ireland-contd-1551st-meeting-61st-session-committee-against-torture/5526421662001/?term=>

579 See the *Fifth Report of the Implementation Oversight Group*, under Recommendation 15 http://www.justice.ie/en/JELR/Fifth_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality_-_February_2018.pdf/Files/Fifth_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality_-_February_2018.pdf

580 Penal Reform International & Office for Democratic Institutions and Human Rights (2018) *Guidance Document on the Nelson Mandela Rules*, p. 78 <https://s16889.pcdn.co/wp-content/uploads/2018/07/Mandela-Rules-Guidance-Document.pdf>

581 Ibid.

582 Ibid, p. 79

583 Edgar, K (2018) *Ensuring a Safe Environment: A Conflict Centred Strategy*, Prison Reform Trust, pp. 11–18 http://www.prisonreformtrust.org.uk/Portals/0/Documents/Ensuring_a_safe_prison.pdf

584 Dynamic security is based on consistent personal contact between prison officer and prisoner

585 Edgar, K (2018) *Ensuring a Safe Environment: A Conflict Centred Strategy*, Prison Reform Trust, p. 17 http://www.prisonreformtrust.org.uk/Portals/0/Documents/Ensuring_a_safe_prison.pdf

As highlighted by Edgar:⁵⁸⁶

Embedding conflict resolution means establishing structures that enable management and staff to bring conflicts to light and working with prisoners to try [to] find solutions. Governors need to be resourceful in trying to learn from prisoners what their main concerns are about. For example, they might use a prisoner council to raise and resolve some of the basic, structural conflicts in the prison [...] Conflict resolution can refine violence reduction strategies and empower governors, officers and prisoners in their efforts to make prisons safer.

Council of Europe Draft Recommendation on Restorative Justice

In 2018, the Council of Penological Co-Operation⁵⁸⁷ published a draft Recommendation concerning restorative justice in criminal matters. The Draft Recommendation states:

*Recognising that restorative justice may increase awareness of the important role of individuals and communities in preventing and responding to crime and its associated conflicts, thus encouraging more constructive criminal justice responses.*⁵⁸⁸

Democratic Therapeutic Communities

Democratic Therapeutic Communities (DTC) have been adopted in England to address and reduce violence in prisons. DTCs provide for group-based therapy, which places emphasis on personal responsibility and encourages social and democratic participation.

Case Study: Grendon Prison, England

Grendon Prison is an example of a DTC that has yielded positive results. The prison accepts high-risk offenders who have a history of serious

violent offending behaviour. Individuals must be willing and motivated to change. There is a contract (e.g. a prisoner must have had no positive drug tests for two months on admission and must accept responsibility for the offence⁵⁸⁹).

The prison's capacity is 238.⁵⁹⁰ It has five wings with 40 prisoners per wing. These wings are referred to as 'communities' and each community develops its own Constitution. Each wing is staffed by psycho-dynamically trained therapists, psychologists and prison officers, who all participate in and facilitate therapy groups.⁵⁹¹ Prisoners are referred to as 'residents' and are entitled to vote on all aspects of daily life, while staff maintain a veto on some issues.⁵⁹² The community can impose sanctions if rules laid out in the Constitution are broken; this allows prisoners to understand their responsibilities to the community. However, sanctions are typically used as a last resort with resolution primarily through constructive dialogue.⁵⁹³

The therapeutic process is a central tenet of Grendon Prison. HM Chief Inspector of Prisons found it allowed prisoners and staff to reflect on and challenge each other's behaviour to create an atmosphere of mutual respect.⁵⁹⁴ HM Chief Inspector of Prisons (2017) identified that conflict and poor behaviour were managed very well through the therapeutic process, with most behavioural issues successfully resolved within therapeutic groups. The Chief Inspector also noted that staff completed violence reduction documents very well. Grendon Prison also has a Prison Safety Custody Representative on each wing, who provided additional peer support to those on the wing.

The regime in Grendon allows prisoners have 10.5 hours out-of-cell time Monday to Thursday and seven hours out-of-cell time on the remaining days. The Inspectorate noted that time out of cell was "excellent" with a broad range of extra-curricular activities being offered. Family days are held every six months where prisoners can meet their families from 10am to 4pm. There are no segregation

586 Ibid, p. 18

587 Council of Europe, Draft Recommendation CM/Rec (2018) XX of the Committee of Ministers to member States concerning restorative justice in criminal matters
<https://rm.coe.int/draft-recommendation-cm-rec-2018-xx-concerning-restorative-justice-oct/168075f921>

588 Ibid.

589 HM Prison and Probation Service, Grendon Prison Information, see section on Reception Criteria
<http://www.justice.gov.uk/contacts/prison-finder/grendon>

590 Justice, Grendon Prison Information, <http://www.justice.gov.uk/contacts/prison-finder/grendon>

591 Rhodes, LA (2013) 'Imagining the injured child: Engaging the social at a therapeutic community in prison', *Childhood*, 20(3), p. 372

592 Cretenot, M (2015) *From National Practices To European Guidelines: Interesting Initiatives In Prisons Management*, pp. 29–31
<http://www.prisonobservatory.org/upload/EPOinterestinginitiatives.pdf>

593 Ibid.

594 HM Inspectorate of Prisons (2017) *Report on an Unannounced Inspection of HMP Grendon by HMP Chief Inspector of Prisons* p. 26
<https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2017/09/Grendon-Web-2017.pdf>

units to separate inmates from the wing.⁵⁹⁵

HM Chief Inspector of Prisons (2017) found prisoners reported feeling safe and although many prisoners in Grendon had a history of violence, the levels of violence were low.⁵⁹⁶ The report highlighted that what was outstanding at Grendon Prison was the positive relationships between staff and prisoners, and among prisoners and their peers. A reduction in re-offending occurred for prisoners who spent 18 months in the prison. Research has found that recidivism rates in Grendon Prison are approximately 20%, lower than those found in other prison regimes.⁵⁹⁷

The European Prison Observatory⁵⁹⁸ makes two key recommendations to EU member states:

- (1.) Recommendation 3: The EU collates evidence on positive mediation as a restorative practice and communicates this research to the penal systems of other member states.
- (2.) Recommendation 4: The EU should encourage the development of a trial and evaluation model of the Grendon model in each member state.

Action required



Action 27.1: The Department of Justice and Equality and the Irish Prison Service should consider the ethos of Democratic Therapeutic Communities in future planning, and use the ethos to inform units such as the Independent Living Skills Unit and the National Violence Reduction Unit.

Prisoner escorts

Standard 28:
The health and welfare of prisoners is prioritised while they are under escort.

Rationale

In response to the issues observed by the European Committee for the Prevention of Torture (ECPT) in many European jurisdictions, including overreliance on restraint, substandard basic safety requirements, and unnecessarily long periods of confinement during transport,⁵⁹⁹ the ECPT published a factsheet to ensure that transportation of detainees is undertaken in a humane, safe and secure manner.⁶⁰⁰

Current context

In 2017, the Department of Justice and Equality completed a *Value for Money and Policy Review of Prisoner Escort Services*. However this review is yet to be published.

► Indicators for Standard 28

Indicator S28.1: Independent inspections of prisoner escort services: No independent inspection of prison escort services has been published in Ireland. The ratification of OPCAT would provide for inspections of all forms of places of detention, including prisoner escorts.

Indicator S28.2: Publication of data on escorts including: numbers, distance, frequency and reason for escort, analysis of any impact on local prison staffing and regimes, recording of delays or cancellations of court or hospital appointments, lengths of time prisoners are held in cellular vehicles, adequate provision of rest breaks, complaints received while under escort and conditions of vehicles: No such data has been published.

Indicator S28.3: Introduction of a handcuffing-by-exception policy: No handcuffing-by-exception policy has been introduced in Ireland. UNCAT (2017) made a Concluding Observation to the State on this issue: “Ensure that prisoners who are transferred between facilities are not injured during transportation and ensure that handcuffing is used only as an exceptional measure, after appropriate

595 Cretenot, M (2015) *From National Practices To European Guidelines: Interesting Initiatives In Prisons Management*, pp. 29–31 <http://www.prisonobservatory.org/upload/EPOinterestinginitiatives.pdf>

596 HM Inspectorate of Prisons (2017) *Report on an Unannounced Inspection of HMP Grendon by HMP Chief Inspector of Prisons* p. 18 <https://www.justiceinspectors.gov.uk/hmiprison/wp-content/uploads/sites/4/2017/09/Grendon-Web-2017.pdf>

597 Rhodes, LA (2013) ‘Imagining the injured child: Engaging the social at a therapeutic community in Britain’, *Childhood*, 20(3), p. 372

598 Cretenot, M (2015) *From National Practices To European Guidelines: Interesting Initiatives In Prisons Management*, p. 32 <http://www.prisonobservatory.org/upload/EPOinterestinginitiatives.pdf>

599 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (2018) *Transport of Detainees*, p. 1 <https://rm.coe.int/16808b631d>

600 Ibid.

risk assessment.”⁶⁰¹ The CPT⁶⁰² recommends that the application of handcuffs should only be resorted to when the risk assessment of an individual case clearly warrants it.

Actions required



Action 28.1: The Department of Justice and Equality should publish its Value for Money and Policy Review of Escort Services in the Criminal Justice Sector in 2018, and act on the recommendations made by UNCAT and the CPT.

Action 28.2: The Department of Justice and Equality must ensure that the timeline of the end of 2018 for the introduction of legislation to ratify OPCAT is met, and expedite the Inspection of Places of Detention Bill, to ensure inspection of all settings where people are detained, including prisoner escort services.

Spotlight 2:

Staff, Training and Professional Relationships

Standard 29:
All staff receive relevant ongoing training and supports in order to effectively carry out their duties to a high standard.

Standard 30:
Good relationships between management, staff and prisoners are facilitated and encouraged. Management ensure that a positive working culture is created in the prison.

Rationale

Prisons are institutions where the most important aspect is relationships between people:

*the most important elements are human beings [...] Real change in any prison system cannot take place without the involvement of both staff and prisoners [...] The key feature for the success or failure of any prison system that is to be run in a decent and humane manner is the relationship between prisoners and the prison staff with whom they come into contact on a daily basis.*⁶⁰³

It is important that prison management carefully recruit and select staff who work to professional standards, as management will be held to account by the Government and public.⁶⁰⁴

The *Howard League for Penal Reform*⁶⁰⁵ identified a number of issues related to the role of the prison officer, some of which may also have relevance in this jurisdiction:

- dangerously low staffing levels as a result of high rates of retirement
- a poorly defined job description
- insufficient training

601 United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Concluding Observations on the Second Periodic Report of Ireland*, p. 6 https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En

602 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (2018) *Transport of Detainees*, p. 3 <https://rm.coe.int/16808b631d>

603 Guckin, J, Halai, A and Yagunov, D (2017) *Prison Management Booklet*, p. 8 <https://rm.coe.int/prison-management-booklet-eng/16807185bd>

604 Penal Reform International & Office for Democratic Institutions and Human Rights (2018) *Guidance Document on the Nelson Mandela Rules*, Point 188, p. 142 <https://s16889.pcdn.co/wp-content/uploads/2018/07/Mandela-Rules-Guidance-Documents.pdf>

605 Howard League of Penal Reform (2017) *The Role of the Prison Officer* <https://howardleague.org/wp-content/uploads/2017/11/The-role-of-the-prison-officer.pdf>

- a perceived lack of decision-making power, leaving officers feeling ignored, ineffective and unable to achieve their aims.

The role of the prison officer cannot be underestimated:

*Those who work in prisons perform an important public service, and they often work in difficult, stressful and sometimes dangerous conditions. They are required to work with individuals who have multiple needs, including mental health conditions, suicidal or self-harm tendencies and histories of abuse, deprivation and addiction. Therefore, it is likely that they will encounter violent and abusive prisoners, some of whom have posed major threats to public security in the past. In poorly managed facilities, staff might also be subjected to discrimination by colleagues or managers.*⁶⁰⁶

The diverse skillset of the prison officer must also be acknowledged:

*The role and functions of prison staff are often misunderstood or subject to negative stereotyping. The media and public might perceive their role as simply to lock people up. In fact, prison staff also play a key role in the rehabilitation and reintegration of prisoners and their job is complex and multi-faceted, requiring a specific and diverse skill set, including good interpersonal skills and the ability to deal with many different and often challenging situations and individuals.*⁶⁰⁷

There is a need for the role of the Prison Officer to receive greater acknowledgement by the State and general public:

Prison authorities should have accountability to an elected legislature and the public should be regularly informed about the State and aspirations of the prisons.

*Government ministers and senior administrators should make clear that they hold prison staff in high regard for the work they do and the public should frequently be reminded that prison work is an important public service.*⁶⁰⁸

Leadership within the prison system is given as the primary success factor for Grendon Prison (discussed earlier) in England. As HM Chief Inspector of Prisons⁶⁰⁹ highlighted:

This was in no small part down to the strong, principled and focused leadership of the prison, which provided more junior staff and prisoners with role models, exemplifying the positive behaviour and thinking expected of them. Not every prison can or needs to be a therapeutic community, but the values, principles and practice seen at Grendon could provide positive lessons and inspiration for other prisons.

Current context

The Irish Prison Service has developed a Higher Certificate in Custodial Care, a two-year programme for recruit prison officers that includes a number of modules including equality, diversity, social and cultural awareness, human rights and criminal justice, criminology and penology.⁶¹⁰

In 2018, the Irish Prison Service continued its recruitment campaign⁶¹¹ for new prison officers, the first recruitment that took place since 2008.⁶¹² This recruitment campaign placed emphasis on specific characteristics of tolerance and humanity, and particularly welcomed applications from females and ethnic minorities.⁶¹³

Despite concerns raised about prison staffing levels over the last year (following 148 retirements in 2017, 99 in 2016 and 100 resignations since 2016⁶¹⁴), the ratio of prison officer to prisoner in Ireland is relatively high at 0.76:1.⁶¹⁵ In some prisons this ratio is lower, such as the Midlands Prison where it is

606 Penal Reform International & Office for Democratic Institutions and Human Rights (2018) *Guidance Document on the Nelson Mandela Rules*, Point 187, p. 41 <https://s16889.pcdn.co/wp-content/uploads/2018/07/Mandela-Rules-Guidance-Document.pdf>

607 Ibid.

608 Coyle, A (2009) *A Human Rights Approach to Prison Management, Handbook for Prison Staff*, 2nd edn, p. 15 http://www.prisonstudies.org/sites/default/files/resources/downloads/handbook_2nd_ed_eng_8.pdf

609 Her Majesty's Inspectorate of Prisons (2017) *Report on an Unannounced Inspection of HMP Grendon by HM Chief Inspector of Prisons*, pp. 5–6 <https://www.justiceinspectors.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2017/09/Grendon-Web-2017.pdf>

610 Irish Prison Service, 'Irish Prison Service College' <https://www.irishprisons.ie/prison-support-units/irish-prison-service-college/>

611 RTÉ (2018) *Nearly 300 jobs available in prison service recruitment drive* <https://www.rte.ie/news/ireland/2018/0209/939436-prison-service-jobs/>

612 Ibid.

613 TheJournal.ie (2018) 'The Irish Prison Service needs more women and ethnic minorities to become prison officers', 11th February 2018 <http://www.thejournal.ie/mountjoy-prison-3844007-Feb2018/>

614 RTE (2018) *'Nearly 300 jobs available in prison service recruitment drive'* <https://www.rte.ie/news/ireland/2018/0209/939436-prison-service-jobs/>

615 Information related to prison officer:prisoner ratio provided by the Irish Prison Service on the 18th September 2018

0.68.⁶¹⁶ At the end of 2017, the Irish Prison Service had 3,186.06 whole-time equivalent staff (including civilian grades and headquarters staff).⁶¹⁷ The Irish Prison Service is fewer than 82 prison officers short of its authorised complement of 3,153 staff.⁶¹⁸

Despite this, the impact of staffing levels in 2017/2018 has been identified as an issue, with retired officers hired back on six-month contracts.⁶¹⁹ This issue has also resulted in the closure of workshops and schools, impacting on prisoner regimes (see Standard 18). Another reason that may be given for this issue is the high levels of sick leave, with civil service statistics showing the highest average working days lost by sickness at 15.7 for the Irish Prison Service.⁶²⁰

➔ Indicators for Standard 29

Indicator S29.1: Training in human rights and equality including UNCAT for existing and new staff: The Higher Certificate in Custodial Care includes a module on Human Rights. While the Irish Human Rights Commission previously provided training, it has not conducted training with the Irish Prison Service since it became the Irish Human Rights and Equality Commission.⁶²¹

Indicator S29.2: Adoption of CoE Code of Ethics for Prison Staff with annual assessments: In conjunction with University College Dublin, a Strategy and Policy Group has been set up for ethics training. The Irish Prison Service has developed a new *Code of Ethical Behaviour* for prison staff. As part of the training, there are two one-day workshops on 'Ethical Dilemmas in Prison Based Contexts'.⁶²²

616 Information also provided by the Irish Prison Service on the 1st April 2018

617 Irish Prison Service (2018) *Annual Report 2017*, p. 12

https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-annualreport-2017.pdf

618 Information provided by the Irish Prison Service on 18th September 2018

619 RTÉ (2018) 'Nearly 300 jobs available in prison service recruitment drive'

<https://www.rte.ie/news/ireland/2018/0209/939436-prison-service-jobs/>

620 Civil Service Sick Leave Statistics, *Average Working Days Lost per FTE*

<https://hr.per.gov.ie/wp-content/uploads/Civil-Service-Absenteeism-Rates-2017.pdf>

621 Information provided by IHREC to IPRT in September 2018.

622 Information provided by the Irish Prison Service on 30th April 2018

Indicator S29.3: Supports for staff: INSPIRE is a self-referral counselling service available to staff for personal issues.⁶²³ The Irish Prison Service has a *Well Being at Work Policy* to enhance physical and mental health supports for staff.⁶²⁴ The Irish Prison Service also states that the roll out of Critical Incident Stress Management is in progress, with peer support training provided to all Staff Support Officers.⁶²⁵

➔ Indicators for Standard 30

Indicator S30.1: Measuring the Quality of Prison Life (MQPL) survey or equivalent is conducted on an annual basis, with per-prison results published:

The Irish Prison Service has conducted an MQPL survey in seven prisons;⁶²⁶ however, this has not been published. The Prison Service states that it will carry out surveys on the attitudes of prisoners and staff in prisons every three to four years.⁶²⁷

PROGRESSIVE PRACTICE

Finland

Under the Prison Act 2006, prisoners are treated as individuals and their prison term aims at certain goals.⁶²⁸ The competency-based curriculum for prison officers is divided into three main areas: (1.) security and safety, (2.) rehabilitation and social integration, and (3.) law and ethics.⁶²⁹ The programme is broken down into five key areas:

- 1. Prison as the institution** (e.g. knowledge about the organisation of prison services)
- 2. Prison security** (e.g. communication, crisis-conflict management)
- 3. Imprisonment, convicted and remand prisoners** (e.g. knowledge about mental health, addiction and social problems)
- 4. Criminality** (theories behind criminality)
- 5. Prevention of criminal behaviour** (e.g. sentence planning).⁶³⁰

Norway

Norwegian prison officer training is underpinned by the belief that a prisoner can change – “they need to believe that a prisoner can change...a good prison officer is someone who sees the inmates where they are”.⁶³¹

Actions required



Action 29.1: The Irish Prison Service should provide relevant and refresher training and supports to staff, including on UNCAT and Section 42 of the Public Sector Duty.

Action 29.2: An examination of staffing levels should be conducted to address their impact on the current prison regime.

Action required



Action 30.1: The Irish Prison Service should facilitate and publish independent research to assess relationships between prisoners, staff and management in the prison environment.

623 Department of Justice and Equality, Speech by Ms Frances Fitzgerald, TD, Tánaiste and Minister for Justice and Equality at the Prison Officers Association Conference <https://www.irishprisons.ie/speech-ms-frances-fitzgerald-t-d-tanaiste-minister-justice-equality-prison-officers-association-conference/>

624 Irish Prison Service (2018) *Annual Report 2017*, p. 42 <https://www.irishprisons.ie/information-centre/publications/annual-reports/>

625 Ibid.

626 UN Web TV, Consideration of Ireland (Cont'd)-1551st Meeting 61st Session Committee Against Torture <http://webtv.un.org/watch/consideration-of-ireland-contd-1551st-meeting-61st-session-committee-against-torture/5526421662001/?term=>

627 Ibid.

628 Council of Europe (2017) *Staff Recruitment, Training and Development for the 21st Century: Information about the Training of the Prison and Probation Staff in Some Council of Europe Member States Provided by the National Prison and Probation Services*, p. 22 <https://rm.coe.int/information-about-the-training-of-the-prison-and-probation-staff-in-so/1680716583>

629 Ibid, p. 25

630 Ibid, pp. 26–27

631 Pratt, A and Eriksson, A (2014) *Contrasts in Punishment: An Explanation of Anglophone Excess and Nordic Exceptionalism*, Routledge, p. 20

Use of force

Standard 31:
Prison protocols emphasise de-escalation and conflict resolution approaches. Use of force and restraint are a measure of last resort.

Rationale

The use of force should always be a measure of last resort. This is of particular significance to many populations, such as children and women, who have often experienced trauma in childhood. Use of force may lead to re-traumatisation.

Current context

The Irish Prison Service has developed a protocol, *Conflict Management Operations and Training*,⁶³² which aims to minimise the use of force. In line with best practice, laws, policies and procedures should be made publicly available and accessible to all staff, internal and external monitors and prisoners.⁶³³ A new IT system has been introduced by the Irish Prison Service to record incidents of control and restraint.⁶³⁴ This may help identify the frequency of use of such measures.

► Indicators for Standard 31

Indicator S31.1: The number of incidents per prison per year de-escalated through conflict resolution approaches. While this data was not provided, the Irish Prison Service has stated that all prison staff learn de-escalation techniques as part of their training. 119 recruit prison officer received training on conflict resolution in 2018, and 380 staff completed training as part of their continuous professional development in 2018.⁶³⁵

Indicator S31.2: The number of incidents per prison per year in the Irish prison estate involving control and restraints. This information was not provided at the time of publication.

PROGRESSIVE PRACTICE

Training

Guidance on the Mandela Rules highlights that all staff should receive training on restraints before they begin duty and this should include experiencing instruments of restraint themselves.⁶³⁶ They should have, as a minimum, training on how to use different instruments of restraint safely, legitimately and proportionately, and how to use force to the minimum extent necessary, including how to determine when the use of restraints is no longer necessary.⁶³⁷ The Mandela Rules now specify minimum requirements for training including the concept of dynamic security and techniques for defusing violent situations.⁶³⁸

Restorative Practice in Prison-Based Settings, HMP Buckley, England⁶³⁹

Restorative practice is used in HMP Buckley, a young offenders' institution, to resolve conflict among prisoners and staff. Trained prisoners and staff host restorative meetings to resolve low-level conflicts. Formal restorative conferences are used for more serious matters. Joint staff and prisoner meetings take place to share knowledge about restorative practice. Since 2017, restorative approaches have been used in 56 cases of conflict.⁶⁴⁰ The project has helped improve relationships and values between prisoners and staff.

Restorative Justice and Staffing: Belgium

Research⁶⁴¹ has highlighted that while there is no set formula for employing restorative practice in prisons, one common requirement is additional training and education for prison staff. One

632 Irish Prison Service Protocol, *Conflict Management Operations and Training*. Unpublished. Information provided by the Irish Prison Service, May 2018

633 Penal Reform International & Office for Democratic Institutions and Human Rights (2018) *Guidance Document on the Nelson Mandela Rules*, p. 79 <https://s16889.pcdn.co/wp-content/uploads/2018/07/Mandela-Rules-Guidance-Document.pdf>

634 Information provided by the Irish Prison Service on 30th April 2018

635 Information provided by the Irish Prison Service to IPRT on 18th September 2018.

636 Penal Reform International & Office for Democratic Institutions and Human Rights (2018) *Guidance Document on the Nelson Mandela Rules*, p. 84 <https://s16889.pcdn.co/wp-content/uploads/2018/07/Mandela-Rules-Guidance-Document.pdf>

637 Ibid.

638 Ibid, point 187, p. 41

639 Restorative Solutions, *Restorative Prisons: Reducing Conflict and Harm within Prisons and Young Offender Institutions* <https://www.restorativesolutions.org.uk/management-services-and-consultancy/pathfinder-programmes-and-pilots>

640 Ibid.

641 Goulding, D, Hall, G and Steels, B (2008) 'Restorative prisons: towards radical prison reform', *Current Issues in Criminal Justice*, p. 240 https://www.researchgate.net/publication/46216008_Restorative_prisons_towards_radical_prison_reform

example of this has been the employment of restorative and therapeutic justice consultants in Belgium to commence, implement and oversee restorative practice, with the justice consultants reporting directly to the Governor of the prison.⁶⁴²

Actions required



Action 31.1: The Irish Prison Service should collate and publish data on the use of restorative mediation and conflict resolution, as well as on control and restraint interventions and their outcomes.

Action 31.2: All prison staff should be trained in restorative justice-based approaches.

Cohorts of prisoners at risk of discrimination

Standard 32:
Management in the prison system takes a proactive approach towards protecting anyone who is at risk of discrimination due to their age, gender, ethnicity, sexuality, disability or other.

Rationale

Some prisoners and staff are at increased risk of discrimination due to their status. With this in mind, the Irish Prison Service should proactively act against any form of discrimination against prisoners or prison staff.

Current context

The Public Sector Duty⁶⁴³ places a legal obligation on public bodies to promote equality, prevent discrimination and protect the human rights of both employees and service users. The Irish Prison Service has been involved in a pilot project with the Irish Human Rights and Equality Commission (IHREC) to assess and address specific equality and human rights issues for women in prison and to inform the Irish Prison Service approach to implementing the Public Sector Duty. The project builds on the work undertaken by the Commission in 2016 in the context of the examination of Ireland's record under the UN Convention on the Elimination of Discrimination against Women (CEDAW).⁶⁴⁴ Working groups have been established in Limerick female prison and Dóchas Centre with female prisoners and prison staff to undertake an initial assessment of equality and human rights issues for women prisoners with a view to developing an action plan for the Irish Prison Service in order to meet the requirements of Section 42 of the Irish Human Rights and Equality Commission Act 2014. Both working groups report on a periodic basis to a national steering committee chaired by the Director General of the Irish Prison Service.

⁶⁴² Ibid.

⁶⁴³ For more on the Public Sector Duty, see the Irish Human Rights and Equality Commission website <https://www.ihrec.ie/our-work/public-sector-duty/>

⁶⁴⁴ Information supplied by the Irish Human Rights and Equality Commission, 3rd September 2018.

➔ Indicators for Standard 32

Indicator S32.1: Progress towards implementation of the Public Sector Duty under s42 of the Human Rights and Equality Act across the prison system:

The two women's prisons, the Dóchas Centre and Limerick Female Prison, are currently being used as pilots for the implementation of the Public Sector Duty. These pilot projects are due to be completed by October 2018.

Indicator S32.2: Progress on implementation of strategies for vulnerable cohorts of people in prison:

Older people

- There have been some developments for older people, including plans to reopen the Training Unit to cater for the needs of older prisoners (aged 55+) in 2019.⁶⁴⁵ The Irish Prison Service and the Probation Service, in conjunction with other services, has committed to finalising the Older Adults in Prison Policy.⁶⁴⁶

Young people

- The Irish Prison Service and Probation Service *Joint Strategic Action Plan 2018–2020*⁶⁴⁷ commits to “develop[ing] innovative responses for specific groups of offenders” including proactive assessments of young adults (18–24) in custody and tailored sentence planning, including reintegration into the community.⁶⁴⁸

People with disabilities

- There is no strategy specifically targeting people with disabilities. However, the Irish Prison Service has acknowledged a need to cater for physically disabled prisoners.⁶⁴⁹

LGBT people

- The Irish Prison Service LGBT policy has not yet been published.

Travellers

- The Irish Prison Service Census has piloted an ethnic identifier question in the Dóchas Centre and Castlerea Prison. Training on how to ask this question is being carried out in conjunction with Traveller Rights Organisation, Pavee Point.⁶⁵⁰ An action to work to identify and improve engagement with Travellers in custody in offence-related interventions is also included by the Irish Prison Service and the Probation Service in their *Strategic Plan 2018–2020*.⁶⁵¹

Actions required



Action 32.1: State bodies including the Prison Service and the Probation Service should ensure the ongoing implementation of the Public Sector Duty.

Action 32.2 A coordinated policy approach to dealing with discrimination (including intersectional discrimination) should be developed by the Irish Prison Service.

645 Irish Prison Service, *Annual Report 2017*, p. 5

https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-annualreport-2017.pdf

646 Irish Prison Service and Probation Service, *Strategic Plan 2018–2020*, p. 11

http://www.justice.ie/en/JELR/Pages/Irish_Prison_Service_and_Probation_Service_Strategic_Plan_2018-2020

647 *Ibid.*, p. 5

648 *Ibid.*, p. 11

649 Information provided by the Irish Prison Service as of the 30th of April 2018

650 <http://www.paveepoint.ie/>

651 Irish Prison Service and Probation Service, *Strategic Plan 2018–2020*, p. 11

https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-PS-Strategic-Plan-2018-2020.pdf

Spotlight 3:

Women Who Offend

Standard 32.1:
A gender-sensitive approach should be adopted across the criminal justice system to respond to the distinct needs of women who offend.

Rationale

This new standard added to *PIPS 2018* is guided by the *UN Standard Minimum Rules for the Treatment of Women Prisoners* (the ‘Bangkok Rules’).⁶⁵² Women have a unique set of needs that require a distinct set of responses. As highlighted by the UN Bangkok Rules, “account shall be taken of the distinctive needs of women prisoners” and “providing for such needs in order to accomplish substantial gender equality shall not be regarded as discriminatory”.⁶⁵³ The same point was reiterated by the late Inspector of Prisons, who stated: “Treating women the same as men is not tantamount to achieving equality of gender.”⁶⁵⁴

The continued growth of the female prison population in Ireland reflects a global trend: the world’s female prison population has increased by 53% since 2000.⁶⁵⁵ This compares to 20% for the global male prison population.⁶⁵⁶ Some reasons given for this increase include: women being imprisoned as a result of poverty or discrimination; the impact of gender-based violence (a new report by the Prison Reform Trust⁶⁵⁷ highlights how domestic abuse is a driver for women’s offending); harsher drug laws; alongside the treatment of female ethnic minorities in criminal justice systems.⁶⁵⁸

There is a key opportunity to change and challenge a culture of sending women to prison for non-violent offences, and address core underlying social issues such as poverty, homelessness, domestic violence and abuse.

Current context

In its preliminary remarks to the Irish State on adult female prison establishments, the European Committee for the Prevention of Torture (CPT, 2015) identified that, as women comprise a small proportion of the prison system, “there is a risk that the gender-specific needs of female prisoners will be disregarded”.⁶⁵⁹ The Committee outlined some of the factors that should be considered in the treatment of female offenders:

*However, it is important that a number of factors is taken into account when dealing with women offenders, including sexual/physical abuse or domestic violence they have suffered before the imprisonment, a high level of mental health-care needs, a high level of drug or alcohol dependency, specific health-care needs of women, their caring responsibilities for their children and/or their families, and the high likelihood of post-release victimisation and abandonment by their families.*⁶⁶⁰

The two women’s prisons in Ireland (the Dóchas Centre in Dublin and Limerick Female Prison) are consistently the most overcrowded in the State. Published figures (5th July 2018) show both prisons to be operating above the Inspector of Prisons’ recommended capacity: 133% at the Dóchas Centre and 142% at Limerick Female Prison.⁶⁶¹ On that day, there were 174 females in prison in Ireland. This

652 United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the ‘Bangkok Rules’), *Resolution adopted by the General Assembly*
<https://www.penalreform.org/priorities/women-in-the-criminal-justice-system/international-standards/>

653 United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the ‘Bangkok Rules’), *Resolution adopted by the General Assembly*, p. 12
<https://s16889.pcdn.co/wp-content/uploads/2016/07/BangkokRules-Updated-2016-with-renumbering-SMR.pdf>

654 Inspector of Prisons (2011) *Standards for the Inspection of Prisons in Ireland – Women Prisoners’ Supplement*, p. 6
<http://www.inspectorofprisons.gov.ie/en/IOP/Standards%20for%20the%20Inspection%20of%20Prisons%20in%20Ireland-%20Women%20Prisoners%20Supplement.pdf/Files/Standards%20for%20the%20Inspection%20of%20Prisons%20in%20Ireland-%20Women%20Prisoners%20Supplement.pdf>

655 Penal Reform International (2018) *Global Prison Trends 2018*, p. 16
https://www.penalreform.org/wp-content/uploads/2018/04/PRI_Global-Prison-Trends-2018_EN_WEB.pdf

656 Ibid.

657 Prison Reform Trust (2017) “There’s a reason we’re in trouble” *Domestic abuse as a driver to women’s offending*
http://www.prisonreformtrust.org.uk/Portals/0/Documents/Domestic_abuse_report_final_lo.pdf

658 Penal Reform International (2018) *Global Prison Trends 2018*, p. 16
https://www.penalreform.org/wp-content/uploads/2018/04/PRI_Global-Prison-Trends-2018_EN_WEB.pdf

659 Council of Europe (2015) *Report to the Government of Ireland on the Visit to Ireland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, CPT/Inf 38, p. 53
<https://rm.coe.int/pdf%20/1680727e23>

660 Ibid.

661 Irish Prison Service, 2018 Prison Populations, 5th July 2018
<https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2018-prison-populations/>

compares to 142 on the same date in 2017.⁶⁶²

Snapshot Irish Prison Service 2018 *Prison Populations* figures demonstrate women's prisons have been consistently above capacity in 2018:

Date	Dóchas Centre (Capacity)	Limerick Female Prison (Capacity)
1 st January 2018	118%	113%
1 st February 2018	117%	121%
1 st March 2018	118%	138%
2 nd April 2018	119%	158%
1 st May 2018	127%	163%
1 st June 2018	139%	175%
2 nd July 2018	130%	171%
1 st August 2018	134%	125%
3 rd September	117%	117%

Females accounted for 14.5% of all persons committed to prison in 2017, and women made up 24.9% of committals to prison as a result of the non-payment of a court-ordered fine.⁶⁶³

At the annual Irish Prison Officers Association (POA) Conference in 2018, the increasing number of women prisoners over the previous six months was identified as an emerging trend.⁶⁶⁴

The European Committee for the Prevention of Torture (CPT, 2018) outlined the need for gender-sensitive monitoring in prisons.⁶⁶⁵ In relation to gender-sensitive prison management, staffing and training, the CPT states: "it is crucial that any prison accommodation unit holding women has female custodial staff in sufficient numbers at all times".⁶⁶⁶

In addition, "the development of more specialised

training for staff working with women in prison can be instrumental in addressing their specific needs".⁶⁶⁷

The *Strategic Review of Penal Policy*⁶⁶⁸ (2014) also recommended that "a new female centred approach" be adopted in the management of female offenders. The *Strategic Review of Penal Policy*⁶⁶⁹ identified issues such as the lack of appropriate gender-specific community sanctions and the impact that sentencing has on dependents (children or elderly relatives) of female offenders. In this respect, the judiciary has a significant role to play at sentencing stage. This is particularly relevant in the context of the State having ratified the UN Convention on the Rights of the Child (UN CRC) in 1992 and in the context of the 'best interests' principle being enshrined in the Constitution following the passing of the children's referendum in 2012.⁶⁷⁰ In April 2018, the Council of Europe (CoE)⁶⁷¹ adopted a Recommendation on children with imprisoned parents, which states in its basic principles:

*Where a custodial sentence is being contemplated, the rights and best interests of any affected children should be taken into consideration and alternatives to detention be used as far as possible and appropriate, especially in the case of a parent who is a primary caregiver.*⁶⁷²

The importance of pre-sentence reports by the Probation Service prior to the sentence being delivered in court is also relevant here in ensuring that the sentencing judge is made fully aware of the individual's family circumstances.⁶⁷³

IPRT welcomed the publication of the *Joint Probation Service – Irish Prison Service Strategy 2014–2016: An Effective Response to Women Who*

662 See Irish Prison Service, 2017 Prison Populations, 5th July 2017

<http://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2017-prison-populations/>

663 Irish Prison Service (2018) *Annual Report 2017*, p. 27 <https://www.irishprisons.ie/information-centre/publications/annual-reports/>

664 Kane, K (2018) 'Prison capacity now at 92% following "spike" in admissions, POA conference hears', *Irish Examiner*, 19th April 2018 <https://www.breakingnews.ie/ireland/prison-capacity-now-at-92-following-spike-in-admissions-poa-conference-hears-838237.html>

665 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (2018) Factsheet: *Women in Prison*, p. 1 <https://rm.coe.int/168077ff14>

666 Ibid, p. 6

667 Ibid, p. 7

668 *Strategic Review of Penal Policy (2014) Final Report*, p. 10 <http://www.justice.ie/en/JELR/Pages/PB14000244>

669 Ibid, p. 11

670 Department of Children and Youth Affairs, *The Referendum Relating to Children* https://www.dcy.gov.ie/documents/child_welfare_protection/childrensreferendum.htm

671 Council of Europe Committee of Ministers, *Recommendation CM/Rec(2018)5 of the Committee of Ministers to member States concerning children with imprisoned parents* <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438>

672 Ibid. Recommendation 2, p. 4 <https://rm.coe.int/draft-recommendation-children-with-imprisoned-parents-12-10-17/168075f421>

673 More information at Oxford Law Faculty (2018) *Safeguarding Children when Sentencing Mothers* <https://www.youtube.com/watch?v=L18nFBXzHII>

Offend,⁶⁷⁴ which recognises the need for a distinct approach. However, many of these recommendations have yet to be implemented and the timeline of the Strategy has now passed. The Irish Prison Service and Probation Service's *Strategic Plan 2018–2020* identifies an action to 'develop a range of responses for female offenders to afford them more opportunity and help realise their potential.'⁶⁷⁵

➔ Indicators for Standard 32.1

Indicator S32.1.1: Female prison committal rates and daily imprisonment rates: There were 1,344 female committals during 2017.⁶⁷⁶ This compares to 2,937 female committals in 2016.⁶⁷⁷ This is a welcome reduction. However, the average number of females in custody was 144, an increase of 2.9% on 2016.⁶⁷⁸ Overall, while the number of female committals has decreased (which likely can be attributed to the impact of the Fines (Payment & Recovery) Act 2014), there has been an increase in daily female prison population numbers.

Indicator S32.1.2: Access to and availability of gender-specific community sanctions: In 2017, 16% of all new court referrals to the Probation Service were female.⁶⁷⁹ The Probation Service highlights in its *Annual Report 2017* the BRIO (Building Recovery Inwards and Outwards) programme, a two-year education and training programme for women who experience dual issues of addiction and criminality,⁶⁸⁰ which is based on initial recovery and recidivism interventions.⁶⁸¹ It facilitates 12 women to develop awareness-building skills and become peer workers and trainers.⁶⁸² The BRIO programme

is due to be evaluated in 2018.⁶⁸³ In the *Joint Probation Service – Irish Prison Service Strategy 2014–2016: An Effective Response to Women Who Offend*, a number of commitments were made including: developing women-specific recidivism data; providing a one-stop shop delivering supported accommodation; and developing women-specific community return and community service options. IPRT would welcome further progress reports on these issues.

Indicator S32.1.3: Publication of data and research on women in the criminal justice system: Little progress appears to have been made in the publication of research on women, although the Penal Policy Review Implementation Oversight Group has given an overall grade C for the implementation status of most recommendations related to women.⁶⁸⁴

Indicator S32.1.4: Establishment of a step-down facility/supported accommodation for women upon release: The *National Strategy for Women and Girls 2017–2020*⁶⁸⁵ committed to the establishment of a step-down facility for women offenders by Quarter 1 of 2018. This has yet to happen despite the announcement by the Minister for Justice and Equality that additional funding would be made available for the step-down unit in Budget 2018.⁶⁸⁶ Given the commitment to improving the health and wellbeing of female offenders in the *National Strategy for Women and Girls 2017–2020*, consideration should be given to applying the gender-specific standards recently published by Public Health England.⁶⁸⁷

674 Joint Probation Service–Irish Prison Service Strategy 2014–2016, *An Effective Response to Women Who Offend* http://www.irishprisons.ie/images/pdf/women_strat_2014.pdf

675 Irish Prison Service and Probation Service, *Strategic Plan 2018–2020*, see Actions 3, 3.1–3.7, p. 9

676 Irish Prison Service (2018) *Annual Report 2017*, p. 33 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-annualreport-2017.pdf

677 Irish Prison Service (2017) *Annual Report 2016*, p. 31 http://www.irishprisons.ie/wp-content/uploads/documents_pdf/12631-IPS-annualreport-2016_Web.pdf

678 Irish Prison Service (2018) *Annual Report 2017*, p. 29 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-annualreport-2017.pdf

679 The Probation Service (2018) *Annual Report 2017*, p. 19 http://www.justice.ie/en/JELR/Probation_Service_Annual_Report_2017.pdf/Files/Probation_Service_Annual_Report_2017.pdf

680 Saol Project, BRIO Programme <http://www.saolproject.ie/BRIOHome.php>

681 Ibid.

682 Ibid.

683 Probation Service (2018) *Annual Report 2017*, p. 19 http://www.justice.ie/en/JELR/Probation_Service_Annual_Report_2017.pdf/Files/Probation_Service_Annual_Report_2017.pdf

684 Department of Justice and Equality (2018) *Fifth Report of the Implementation Oversight Group to the Minister for Justice and Equality, Recommendations 21–23* http://www.justice.ie/en/JELR/Pages/Penal_Policy_Review

685 Department of Justice and Equality (2017) *National Strategy for Women and Girls 2017–2020: Creating a Better Society for All*, Action 2.13, p. 46 http://www.justice.ie/en/JELR/National_Strategy_for_Women_and_Girls_2017_-_2020.pdf/Files/National_Strategy_for_Women_and_Girls_2017_-_2020.pdf

686 Department of Justice and Equality (2018) 'Minister Flanagan announces €2.6 billion allocation to Justice sector in Budget 2018' <http://www.justice.ie/en/JELR/Pages/PR17000324>

687 Public Health England (2018) Gender Specific Standards to Improve Health and Wellbeing for Women in Prison in England https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/687146/Gender_specific_standards_for_wom-

PROGRESSIVE PRACTICE

**Overarching Gender-Specific Principles,⁶⁸⁸
Public Health England**

1. The whole prison environment should be focused on promoting the mental and physical health and wellbeing of all women in prison.
2. The prison environment for women must be trauma-informed.
3. User involvement should be integrated into the development and delivery of health and wellbeing programmes within the prison.
4. All women in prison should have access to purposeful activity and time out of cell.
5. A structured programme of peer support should be available to all women.
6. Continuity of care for women on release to the community should be prepared for and ensured.

Centres for Women: England and Wales

There is a network of 50 women's centres in England and Wales where the needs of individuals can be addressed holistically, including access to the following services: counselling and mental health, drug treatment, employment skills, support for women experiencing domestic violence, literacy, CV support, child care and housing assistance.⁶⁸⁹ Some of these centres are residential, for example, Willowdene Farm, which has been in existence since 1988.⁶⁹⁰ In 2018, the Ministry of Justice announced plans to pilot at least five residential centres for women.⁶⁹¹

Actions required

- Action 32.1.1:** The judiciary should take into account the 'best interests' and 'voice' of the child (in accordance with domestic law and international obligations) when sentencing a primary caregiver.
-
- Action 32.1.2** The Probation Service should increase the availability of gender-specific community sanctions on a nationwide basis, and work with the judiciary to promote confidence in these sanctions as a direct alternative to imprisonment.
-
- Action 32.1.3:** The Department of Justice and Equality must ensure that all actions outlined in the *Joint Probation– Prison Service Strategy 2014–2016: An Effective Response to Women who Offend* are fully implemented.
-
- Action 32.1.4:** The Department of Justice and Equality must ensure the delivery of a step-down facility or supported accommodation for women leaving prison by the end of 2018. This must be met with a reduction in female prison spaces.

[en_in_prison_to_improve_health_and_wellbeing.pdf](#)

688 Further detail in the document on approaches to making these principles fully operational is included in the document https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/687146/Gender_specific_standards_for_women_in_prison_to_improve_health_and_wellbeing.pdf

689 Howard League for Penal Reform (2018) 'Howard League welcomes government U-turn on prisons for women' <https://howardleague.org/news/howard-league-welcomes-government-u-turn-on-prisons-for-women/>

690 Ibid.

691 Ministry of Justice (2018) *Female Offender Strategy*, p. 8 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/719819/female-offender-strategy.pdf

F: Reintegration

Parole system

Standard 33:
The parole system is fair, transparent and fully independent of Ministerial control.

Rationale

Individuals who are eligible for parole should be supported to adjust to life on the outside, since imprisonment can lead to institutionalisation. Supporting the individual during sentence and upon release decreases the likelihood of their re-offending and increases public protection. Decisions on parole should be fair and removed from political control.

Current context

At the Parole Board Conference 2018,⁶⁹² the Minister for Justice and Equality stated that the Parole Bill 2016⁶⁹³ would proceed through report stage over the succeeding weeks. IPRT has raised concerns in relation to the Parole Bill 2016,⁶⁹⁴ in particular that the first parole review would take place after 12 years as opposed to the current 7-year mark.

► Indicators for Standard 33

Indicator S33.1: The placement of the Parole Board on a statutory footing:

This has not happened. While IPRT has long advocated for the Parole Board to be removed from ministerial control and placed on an independent statutory footing, IPRT has deep concerns about some of the content of the current Parole Bill 2016.⁶⁹⁵

Indicator S33.2: Parole Board hearings occur in a timely manner, and outcomes are communicated promptly to parole candidates:

It is difficult to ascertain whether parole hearings are occurring in a timely manner, with outcomes communicated promptly to the candidate. While no reference is made to delays in Parole Board hearings in the Parole Board's *Annual Report 2016*,⁶⁹⁶ in total the caseload for 2016 was 344 with 280 cases carried over.

PROGRESSIVE PRACTICE

Parole Decisions, Belgium

The Sentence Implementation Courts in Belgium take a multi-disciplinary approach to parole. The court comprises one judge and two non-judicial assessors who hold a relevant degree (e.g. criminology/law/psychology) and have five years' experience in social integration in prisons.⁶⁹⁷

Actions required



Action 33.1: Legislators should address IPRT's⁶⁹⁸ concerns about the Parole Bill 2016, including reconsideration of the number of years an individual must wait to have his/her first review with the Parole Board.

Action 33.2: Legislators should establish the Parole Board on a statutory footing, removing the Board from ministerial control.

692 ACJRD, *Parole Board Conference 2018* <https://www.acjrd.ie/contents/371>

693 Houses of the Oireachtas, *Parole Bill 2016* <https://www.oireachtas.ie/en/bills/bill/2016/29/>

694 IPRT (2018) *Submission on the Parole Bill 2016 [PMB] Report Stage* [http://www.iprt.ie/files/IPRT_Submission_on_the_Parole_Bill_2016_\(print_no_border\).pdf](http://www.iprt.ie/files/IPRT_Submission_on_the_Parole_Bill_2016_(print_no_border).pdf)

695 Ibid.

696 Parole Board, *Annual Report 2016*, p. 12

http://www.justice.ie/en/JELR/Parole_Board_Annual_Report_2016.pdf/Files/Parole_Board_Annual_Report_2016.pdf

697 Griffin, D (2018) *Killing Time: Life Imprisonment and Parole in Ireland*, Palgrave Macmillan, p. 81

698 IPRT (2018) *Submission on the Parole Bill 2016 [PMB] Report Stage* [http://www.iprt.ie/files/IPRT_Submission_on_the_Parole_Bill_2016_\(print_no_border\).pdf](http://www.iprt.ie/files/IPRT_Submission_on_the_Parole_Bill_2016_(print_no_border).pdf)

Effective reintegration of prisoners

Standard 34:
All prisoners have comprehensive preparation and structured plans for release. National policy and legislation provides for a structured release system.

Standard 35:
Protocols are in place for inter-agency co-ordination in order to ensure the successful reintegration of prisoners on release.

Rationale

Reintegration is more than rehabilitation. Successful reintegration means that the individual is reintegrated into all aspects of society including employment, education and community involvement. A recent domestic study highlights the need to implement four types of rehabilitation previously identified:⁶⁹⁹ (1) Psychological (individual-level change) (2) Legal (criminal records and stigma) (3) Moral (reparation of harms caused) (4) Social (restoration of full citizenship). The authors concluded:

In other words, society must meet ex-offenders halfway by providing appropriate structural and criminal justice supports that help desisters to fulfil their potential and experience an authentic sense of social inclusion.⁷⁰⁰

One particular aspect IPRT would like to focus on is having a criminal convictions history. Having a criminal conviction can act as a significant barrier to reintegration. There are a number of good reasons⁷⁰¹ to wipe the slate clean:

- Maintaining barriers to full civic engagement

provides the conditions to create a ‘criminal underclass’, which is contrary to the public safety objective.

- By marginalising this group, society deprives itself of skills while paying substantial costs associated with lack of productivity.
- If there is no opportunity for a fresh start in circumstances where the individual presents no risk, it can diminish life chances and result in ‘disproportionate punishment’.

Current context

The importance of reintegration is outlined in the Irish Prison Service’s *Strategic Plan 2016–2018*, which states that it will ensure “a rehabilitative organisation which supports positive change, improved resettlement and reintegration opportunities for prisoners through targeted action and inter-agency collaboration and support”.⁷⁰²

IPRT⁷⁰³ has highlighted that reintegration should be prioritised in the work of the Probation Service, and that, working in conjunction with the Prison Service, performance indicators could be developed to assess reintegration. Key areas could include securing housing, employment and educational attainment, health, and addressing of substance abuse. In the *Joint Strategic Plan 2018–2020*,⁷⁰⁴ the Irish Prison Service and the Probation Service state their commitment to maximising joint working.

The Joint Committee on Justice and Equality (2018) also recommended “an inter-agency approach to release is needed to ensure that housing, employment, and addiction services are available to prisoners upon release”.⁷⁰⁵ Furthermore in response to recommendations made by the *Strategic Review of Penal Policy*, an inter-departmental inter-agency group has been established.⁷⁰⁶ At the time of publication, this group published its First Report of the Interagency Group

699 See McNeill, F (2012) ‘Four forms of “offender” rehabilitation: towards an interdisciplinary perspective’, *Legal and Criminological Psychology*, 17(1), 18–36, cited in Hart, W and Healy, D (2018) “An inside job”: an autobiographical account of desistance’, *European Journal of Probation*, p. 1–17

700 Hart, W and Healy, D (2018) “An inside job”: an autobiographical account of desistance’, *European Journal of Probation*, p. 14

701 McIntyre, TJ and O’Donnell, I (2017) ‘Criminals, data protection and the right to a second chance’, *58 Irish Jurist* (ns) 27, p. 2 <https://ssrn.com/abstract=3150591>

702 Irish Prison Service, *Strategic Plan 2016–2018*, p. 2 http://www.irishprisons.ie/wp-content/uploads/documents_pdf/strategic_plan_2016.pdf

703 IPRT (2018) *Submission to Inform the Role and Priorities of the Probation Service’s Strategic Plan 2018–2020*, pp. 8–9 http://www.iprt.ie/files/Final_IPRT_Submission_to_inform_the_role_and_priorities_of_the_Probation_Service1.pdf

704 Irish Prison Service and Probation Service, *Strategic Plan 2018–2020*, p. 4 http://www.justice.ie/en/JELR/Pages/Irish_Prison_Service_and_Probation_Service_Strategic_Plan_2018-2020

705 Houses of the Oireachtas (2018) Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing, p. 59 https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

706 Implementation of Penal Policy Review Group Recommendations, *Fifth Report of the Implementation Oversight Group to the Minister for Justice and Equality* (see Recommendation 3: Timeline and Milestones) http://www.justice.ie/en/JELR/Fifth_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality_-_February_2018.pdf

for a Fairer and Safer Ireland.⁷⁰⁷ We welcome the issues outlined in the report including the need to track the employment experiences of prisoners on release as well as examining whether rehabilitative interventions by the State are working. Other issues identified in the report are the lack of accommodation upon release, provision of medical cards and income supports that can only be achieved through inter-agency working. The report highlights some examples of existing protocols in place between State agencies.

In relation to spent convictions legislation, the Joint Committee on Justice and Equality⁷⁰⁸ (2018) called for an urgent review. The Committee highlighted how the current Act was “extremely limited in its application and fails to support rehabilitation of more serious offenders”.⁷⁰⁹ The current limitations of spent convictions legislation in Ireland continues to act as a barrier to employment for individuals upon release.⁷¹⁰

*The potential impact of convictions on individuals’ life chances has increased as mandatory vetting has become more widespread. Even where vetting is not required, internet search engines render criminal histories easily accessible to curious third parties. In the other direction, the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU) have developed privacy and data protection principles which require states to limit the availability of information about old convictions.*⁷¹¹

The authors also highlight how the legislation does not contain any anti-discrimination provision, so that employers can currently discriminate on the basis of a spent conviction.⁷¹²

As highlighted earlier [Standard 15: Privacy], a new European Union Regulation, the General Data Protection Regulation (GDPR), provides for a right to be forgotten. Further review is needed in order to assess how GDPR and Spent Convictions legislation will work together.

► Indicators for Standard 34/35

Indicator S34.1: The existence of a reintegration policy and/or legislation for prisoners:

There has been no progress on the establishment of a reintegration policy or legislation since 2017. However, IPRT welcomes the publication of the *First Report of the Interagency Group for a Fairer and Safer Ireland*.

Indicator S34.2: The review and expansion of spent convictions legislation:

There has been no review or expansion of the spent convictions legislation passed in 2016. Post-enactment scrutiny was published by the Department of Justice and Equality in 2017, with the Department stating that it is estimated that over 80% of convictions become spent after seven years.⁷¹³

707 Department of Justice and Equality, *First Report of the Interagency Group for a Fairer and Safer Ireland*, July 2018 http://www.justice.ie/en/JELR/Pages/Penal_Policy_Review

708 Houses of the Oireachtas (2018) *Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing* https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf

709 Ibid, pp. 58–59

710 See IPRT (2016) *Passing of Spent Convictions Legislation a Historic Step for Ireland, but Could Go Much Further* <http://www.iprt.ie/contents/2856>

711 McIntyre, TJ and O’Donnell, I (2017) ‘Criminals, data protection and the right to a second chance’, 58 *Irish Jurist* (ns) 27, p. 1 <https://ssrn.com/abstract=3150591>

712 Ibid, p. 8

713 Department of Justice and Equality (2017) *Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016, Post-Enactment Report* http://opac.oireachtas.ie/AWData/Library3/Post-enactment_Report_-_Criminal_Justice_Spent_Convictions_and_Certain_Disclosures_Act_2016_124838.pdf

PROGRESSIVE PRACTICE

Inter-Agency Working: Joint-Agency Response to Crime (J-ARC)

J-ARC is a joint initiative between An Garda Síochána, the Irish Prison Service and the Probation Service.⁷¹⁴ J-ARC has been rolled out in new areas including Waterford, Limerick and Dundalk.⁷¹⁵ There is also a new Youth J-ARC for young offenders aged 18–21 in Cork and Dublin. The Department of Education and Tusla are also involved in this programme.⁷¹⁶

The Irish Prison Service is also linked in with INTREO,⁷¹⁷ which sees IASIO⁷¹⁸ resettlement co-ordinators agree a programme plan with the individual. In terms of housing needs assessment, there is one point of contact in every area. However, while local authorities are engaging in identifying accommodation for those with high risk or need, deficits remain in the provision of access to wraparound services.⁷¹⁹

Freedom Bakery, Scotland

Freedom Bakery is a bakery employing individuals currently in prison or recently released.⁷²⁰ Prisoners are provided with training and receive qualifications in baking, making them employable not only in Freedom but in other bakeries. Around 80 businesses buy the Freedom range of breads and pastries.

Spent Convictions

In neighbouring jurisdictions, the maximum custodial sentence eligible to become spent is 30 months in Northern Ireland and 48 months in England and Wales, compared to just 12 months in Ireland.⁷²¹

Kickstart

'Kickstart' is a new jobs initiative set up in 2018 by the Probation Service, which matches grants of up to €30,000 to organisations providing employment for people with criminal convictions.⁷²²

Actions required

Action 34.1: Legislation and policy must be developed that provides clarity on release and enables greater access to supports upon release.

Action 34.2: Legislators should review the spent convictions legislation introduced in 2016 with a view to expanding its application, including provision on anti-discrimination.

Action required

Action 35.1: Inter-agency co-operation by stakeholders including the Irish Prison Service, the Probation Service and community-based organisations is vital and should be a priority and mandated to ensure successful reintegration.

714 Irish Prison Service, *Joint Agency Response to Crime* <https://www.irishprisons.ie/media-item/joint-agency-response-crime-jarc/>

715 Department of Justice and Equality, 'Minister Flanagan welcomes progressive achievements of Irish Prison Service and Probation Service in 2017' <http://www.justice.ie/en/JELR/Pages/PR18000177>

716 Information provided by the Irish Prison Service on 30th April 2018

717 Intreo is a single contact point for employment and income supports https://www.welfare.ie/en/Pages/Intreo_home.aspx

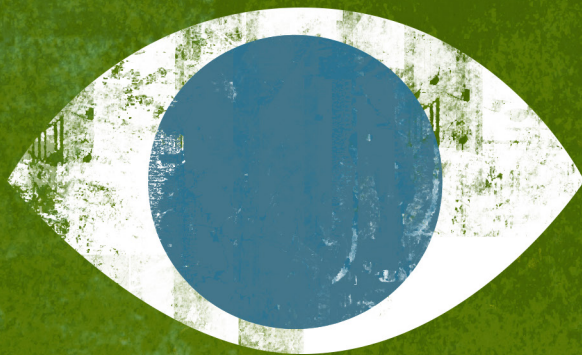
718 More information here <http://www.iasio.ie/>

719 Information provided by the Irish Prison Service on 30th April 2018

720 Rise and shine: Glasgow bakery gives ex-cons a fresh start', *Guardian*, 20th July 2018 <https://www.theguardian.com/lifeand-style/2018/jul/20/baking-bread-scotland-reform-prisoners-jails-offenders-rehabilitation-crime-justice-cooking>

721 IPRT (2016) *Passing of Spent Convictions legislation a Historic Step for Ireland, but Could Go Much Further* <http://www.iprt.ie/contents/2856>

722 Probation Service, KickStart 2018 – New Scheme aims to create jobs and support social enterprise in the criminal justice sector <http://www.pprobation.ie/EN/PB//WebPages/WP18000018>



PIPS 2018 Conclusions: Are we making progress in our penal system?

The IPRT *Progress in the Penal System* project seeks to drive positive change in Ireland's penal system through setting standards of best practice and benchmarking progress towards these standards on an annual basis.

Since the publication of *PIPS* in October 2017, there has been some limited progress towards improvement in our penal system. IPRT's overall assessment of progress over the last 12 months across each of the 35 standards has found:

- 3 standards: 'progress'
- 4 standards: 'regress'
- 10 standards: 'mixed'
- 13 standards: 'no change'
- 5 standards: 'insufficient data' (to make a full assessment)

The increase in prisoner numbers since the latter half of 2017 is of particular concern, and risks reversing the significant progress achieved by the State since 2011. If prisoner numbers are allowed return to previous levels, Ireland will not pave the way as a leading model of international best penal practice as we believe it can.

To address rising prisoner numbers, the stakeholders we have identified as '*changemakers*' – the judiciary, probation, State bodies (including education, health, housing), media, and politicians – all have a significant role to play. *PIPS* aims to inspire these *changemakers* to work together towards a more effective and humane penal system, one that supports safer and more equal communities.

A continual challenge is the lack of robust data published by State bodies that could better inform research, policy and practice, and expedite improved processes, practices and policies. We welcome the Department of Justice and Equality's recently published *Data and Research Strategy 2018–2020*,⁷²³ which has the aim of addressing this gap. Without settled consensus across the criminal justice system and beyond on fundamental issues like penal policy creation and sentencing principles it will be difficult to ensure that any positive progress which has been achieved is not lost.

This year's *PIPS* report highlights three key issues: (1) the number of people with severe mental illness presenting in our prison system, (2) the increasing numbers of women being detained in prison, with the

two women's prisons being the most overcrowded prisons in the State, and (3) staffing issues that have resulted in closure of schools and workshops, impacting on the daily regimes of prisoners. These issues need to be urgently addressed.

There are many innovative approaches that can be taken to address the range of issues, as identified throughout this report.

Positive developments within the penal system must also be acknowledged. These include: better cross-agency approaches through the initiatives such as the Joint-Agency Response to Crime (J-ARC) and the Interagency Group on Cooperation for a Fairer and Safer Ireland, as well as more structured release of prisoners through the Community Return Programme and Community Support Scheme. These positive programmes should be extended in 2019.

IPRT welcomes the commitment by the Minister for Justice and Equality to introduce legislation to ratify OPCAT by the end of 2018. We would strongly welcome this step forward, and hope that next year it will be one of many positive actions taken that will be reported in *PIPS 2019*.

What is clear is that no individual body can achieve substantial change on its own. The mutual and inter-dependent relationships between criminal justice agencies and government departments mean that the involvement of the identified *changemakers* is crucial. Change in the penal system is linked to addressing wider social issues such as housing, educational disadvantage and social exclusion, which presents in many forms. It is hoped that this report will inspire many to see their role in advocating for change.

Although the prison system cannot solve these wider social issues, progressive reform can certainly ensure that issues of social exclusion and inequality are not further compounded. Implementation of the short-term actions laid out in this report will support a more humane, just and equal penal system, one that helps build a safer society for all.

This time next year, IPRT will again be assessing progress on achieving the 35 standards set out in *PIPS*. We look forward to working constructively with all stakeholders over the next 12 months towards achieving positive change in the penal system in Ireland.

723 Department of Justice and Equality (2018) *Data and Research Strategy 2018–2020: Supporting delivery of "A safe, fair and inclusive Ireland"* available at: http://www.justice.ie/en/JELR/Department_of_Justice_and_Equality_Data_and_Research%20Strategy_2018–2021.pdf/Files/Department_of_Justice_and_Equality_Data_and_Research%20Strategy_2018–2021.pdf





Progress in the Penal System (PIPS) A framework for penal reform (2018)