Progress in the Penal System (PIPS)

A framework for penal reform
(2019)

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.**

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**

Irish Penal Reform Trust

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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ISBN: 978-1-9998837-4-4

Design: Hexhibit

Acknowledgements

The Irish Penal Reform Trust (IPRT) would like to express sincere gratitude to the donor-advised family fund and the Community Foundation for Ireland for providing the financial support which has made the *Progress in the Penal System* (PIPS) project and this publication possible.

IPRT would like to thank the PIPS Advisory Group: Professor Aislinn O'Donnell (Chair), Professor Ian O'Donnell, Niall Walsh and David Perry BL. Thanks also to the Chairperson of IPRT, Dr. Seamus Taylor and the other IPRT board members who provided feedback on this report. Additionally, IPRT thanks the stakeholders who gave their time and insight in a closed consultation session on PIPS 2019.

IPRT would like to acknowledge the engagement of the Irish Prison Service with the PIPS project, and in particular, Edel Higgins and Alan Callaghan, who kindly co-ordinated and supplied material to inform PIPS 2019.

Ireland as a leading model of international best penal practice is the overall vision of the PIPS project. In its third year, IPRT believes that the PIPS project is gathering momentum among the key stakeholders involved to work towards realising this vision.

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

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Senior Research & Policy Projects Manager, Irish Penal Reform Trust

List of acronyms

APT	Association for the Prevention of Torture
CMH	Central Mental Hospital
CoE	Council of Europe
CPT	European Committee for the Prevention of Torture
CSO	Community Service Order
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
EPR	European Prison Rules
HIQA	Health Information and Quality Authority
HSE	Health Service Executive
HSU	High Support Unit
ICCPR	International Covenant on Civil and Political Rights
IHREC	Irish Human Rights and Equality Commission
ILSU	Independent living skills unit
IOG	Implementation Oversight Group
IPS	Irish Prison Service
ISM	Integrated sentence management
MQPL	Measuring the quality of prison life
NPM	National preventive mechanism
OiP	Office of the Inspector of Prisons
OPCAT	Optional Protocol to the Convention against Torture
PICLS	Prison In-Reach and Court Liaison Service
PPRG	Penal Policy Review Group
POA	Prison Officers Association
PQ	Parliamentary question
UNCAT	United Nations Convention against Torture
VC	Visiting Committee
WHO	World Health Organization
WTE	Whole-Time Equivalent

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Executive Summary

The PIPS project was initiated as a three-year IPRT project in 2016. It aimed to set out a clear vision for the future of the penal system in Ireland, taking as its starting point that as a small wealthy country, Ireland should work towards the goal of becoming a leading model of international best penal practice.

In its first year, PIPS 2017 set out the guiding principles and values of penal reform. Informed by international human rights standards and best practice, 35 standards were created. Clear rationales were outlined as to why these standards were important. Indicators were also put forth to make an assessment of the standards on an annual basis, with short term actions identified for improvement in the 35 areas.

PIPS 2018 focused on the important role of a number of 'changemakers' in reducing the prison population. These included: the judiciary, the Probation Service, as well as other stakeholders such as departmental bodies including Education, Health and Housing. PIPS 2018 spotlighted three issues where IPRT believed urgent action was required: mental health, staffing, and the distinct needs of women in the criminal justice system.

In its third year, PIPS 2019 places a strong focus on accountability in the penal system – the thread of accountability runs through all of its 35 standards. The need to strengthen two core pillars of a robust accountability framework emerges: the further publication of criminal justice data and research; and independent reports from inspection and monitoring bodies. PIPS 2019 again spotlights the standard of mental health (where there has been little change to 2018), along with prison healthcare and the complaints system.

2018 was the first year where the standards were assessed against the categories set out below. The assessment of progress against the standards for both 2018 and 2019 is:

PIPS Assessment of Standards	2018	2019
Progress:	3	7
Regress:	4	6
Mixed:	10	10
No change:	13	10
Insufficient data:	5	2

In 2019, there has been slightly more 'progress' identified than in 2018. For example, progress is evident in the area of community engagement within prisons, where projects have been commended both nationally and internationally (Standard 20). IPRT welcomes the opening of the National Violence Reduction Unit (NVRU), as well as publication by the IPS of data on violent incidents across the estate and on restraint techniques (Standard 27). There has also been a review of prisoner escort services, with a recommendation by the Department of Justice and Equality that a detailed framework should govern the performance of prisoner escort services (Standard 28). IPRT also welcomes the signing into law of the Parole Act 2019, the introduction of the *Criminal Justice (Rehabilitative Periods) Bill 2018,* and an initial review of the current spent convictions legislation by the Joint Committee on Justice and Equality (Standards 33-35).

Despite these positive and welcome developments, **there has been regress in a number of key areas including the most fundamental principle of penal reform: that imprisonment is used as a last resort.** There continues to be an increase in daily prison population numbers and an increase in the number of committals for short sentences of less than 12 months (Standard 2). Ireland is moving further from the goal of an imprisonment rate of 50 per 100,000, and enshrining the principle of imprisonment as a last resort in statute has not happened. As a result, overcrowding remains a common feature of the prison system in 2019, with evidence that people in prison are sleeping on mattresses on floors (Standard 3). This is totally unacceptable in 21st century Ireland.

2019 has also seen an increase in the number of people placed on restricted regimes. Limited out-of-cell time is also an issue for the general prison population, as a result of staffing shortages and redeployment as evidenced in Prison Visiting Committee reports (Standard 16). What is further disappointing is the lack of up-to-date reports published by inspection and monitoring bodies to give an insight into current prison conditions in Ireland (Standard 24).

Some of the standards assessed are identified as 'mixed'. For example, while IPRT welcomes further publication of research and data, there appears to be little progress towards the implementation of core penal policy recommendations (Standard 1). Similarly for women, while we welcome the opening of a step-down facility for women leaving prison, overcrowding in women's prisons remains a chronic feature and there is still no open provision for females (Standards 6 and 32.1). Furthermore, while there has still been no review of the healthcare needs of prisoners, a Terms of Reference has been agreed upon by the Department of Justice and Equality, the Department of Health and the Irish Prison Service with a tendering process in place (Standard 12).

'Insufficient data' is identified for two standards – education and developing positive relationships and work culture – as there was very limited information to make a proper assessment. IPRT would particularly welcome further publication of data on participation rates in education by the prison population (Standard 19).

In total, 10 standards were assessed as 'no change' in the past 12 months. This include two of IPRT's 2019 spotlight areas: mental health, with no change in the number of prisoners with serious mental illness awaiting to be transferred to the Central Mental Hospital (Standard 13); and the complaints system, where prisoners remain without access to an independent complaints mechanism (Standard 23).

Above all, it has been disappointing to see an increase in daily prison population numbers over the three years of the PIPS project. Imprisonment as a last resort is a fundamental principle of penal reform and the PIPS project. PIPS highlights clearly how increasing prison population numbers impact on all aspects of the prison system, for example, overcrowding and a decrease in the number of prisoners having access to single cell accommodation. We again highlight that prison numbers must be reduced in a number of ways: through enshrining the principle of imprisonment as a last resort in statute and using community based sanctions; through diverting people with mental illness away from the prison system; and supporting the needs of individuals upon release, including issues of homelessness, addictions, and the need for improved spent convictions legislation in Ireland.

There is still an opportunity to turn this around, as examples of progressive penal practice in Ireland in 2019 show. For example, human rights as a fundamental part of recruit prison officer training (Standard 29), work towards the implementation of the Public Sector Duty for women and other developments in particular for minority groups such as Travellers at risk of discrimination (Standard 32), the development of a social enterprise strategy, and a review of the limited spent convictions legislation are all promising (Standards 33-34).

We hope that the short-term actions identified in this report will be considered by the relevant stakeholders as key actions to progress in 2020, in order to achieve the overall PIPS vision of having a world class penal system in Ireland.

Foreword

The *Progress in the Penal System* project encourages us to be more ambitious for the prison. It exhorts us to acknowledge that, no matter what they have done, prisoners possess the capacity to redirect their lives. They are not entirely defined by their pasts; their life stories can be re-narrated and later chapters can be very different in style and substance to earlier ones. Hope is the state of remaining open to this possibility. Devoid of hope, imprisonment is pointless pain.

The prison cannot be seen in isolation. A decent prison system exists in a sentencing environment that is parsimonious (punishment is used sparingly) and proportionate (the punishment fits the crime). It exists in a political environment that is evidence-driven, innovative and compassionate, recognising the multiple layers of disadvantage under which many prisoners have toiled.

A hopeful and decent prison system must be underpinned by robust mechanisms of accountability. To ensure that high standards are striven for – and maintained – requires clarity around role expectations and independent monitoring. In this regard Ireland has been a laggard.

Visiting Committees have the potential to act as local watchdogs but, as currently constituted, they lack credibility. Prisoners do not have access to an ombudsman. The Office of the Inspector of Prisons has been slow to generate momentum, with reports appearing infrequently and in arrears. The state has not ratified the optional protocol to the UN Convention against Torture. There is a dearth of basic information about how prison life is experienced.

While the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has had a positive impact, several years elapse between visits and its focus is not limited to the prison system.

The IPRT has done a great deal to shine a bright light into the closed world of the prison. But there is a limit to what one organisation can do. The time has long since passed for the accountability deficit to be addressed at the highest levels of government. There is no excuse for continuing to deny some of the most vulnerable members of Irish society the protections they deserve.

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Introduction:

Progress in the Penal System (PIPS): A Framework for Penal Reform sets out our clear vision for the future of Ireland's penal system, with an ambition for Ireland to lead as a model of best practice internationally – a penal system where the people who cause harm are held accountable, where the system is held accountable for minimising the harmful effects of detention, and where society is also held accountable for the social injustices, inequalities and trauma that underlie much offending. Now in its third year, the 2019 PIPS edition examines accountability in the penal system, and proposes a new way forward that involves all of society.

Overview

Progress in the Penal System (PIPS): A Framework for Penal Reform is a project of the Irish Penal Reform Trust (IPRT), conceived in 2016 as a medium to set out our vision and expectations of Ireland's penal system, and to benchmark progress towards achieving this vision. In October 2017, the first PIPS report set out guiding principles and values of penal reform, including:

- Prison is damaging in itself, and therefore must be used as a last resort.
- The deprivation of liberty is the punishment, and prison conditions cannot be used as further punishment.[1]

Informed by international human rights standards and best practice, IPRT developed 35 standards that we expect the penal system to not just meet but to exceed. These standards are grouped into six thematic areas: creating an effective and humane penal system; prison conditions; regimes; complaints, accountability and inspection mechanisms; safety and protection and reintegration. A series of indicators is used to benchmark current progress under each standard. IPRT identifies short-term actions that should be taken to achieve progress on our vision. These actions are assigned to key stakeholders – government departments, agencies, policymakers, legislators, judiciary and many others – who all have a crucial role to play in creating positive change

Current edition

PIPS 2019 focuses on the importance of oversight and robust accountability across the penal system, particularly in the 'closed world' of prisons. After all, as the Association for the Prevention of Torture (APT) notes:

> *Deprivation of liberty, which is characterised by an imbalance of power between representatives of the authority and detainees, results in risks of all types of abuse, including ill-treatment and torture. These risks are further heightened because of the closed and isolated nature of places of detention. Internal and external oversight is necessary in order to reduce the opacity typical of places of deprivation of liberty as well as to guarantee respect for prisoners' rights and to force authorities to be accountable.*[2]

The PIPS value of accountability should guide the work of the entire penal system, but most particularly prisons, given that prisons typically accommodate "the most multiple disadvantaged members of society". [3]

Part 1 of PIPS 2019 examines the issue of accountability and oversight in the penal system; it sets out the importance of robust accountability structures to an effective and humane penal system; examines current accountability mechanisms in the penal system; and outlines the role of the PIPS project as an accountability mechanism.

Part 2 sets out the 35 Standards PIPS applies to the penal system in Ireland; this comprehensive analysis include an overview, indicators of progress, and an assessment of developments over the last 12 months, including a 'top line assessment' and some examples of progressive practice.

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

2 APT Detention Focus, *Inspection Mechanisms*, https://www.apt.ch/detention-focus/en/detention_issues/29/

3 Bicknell, C., Evans M. and Morgan, R. (2018), *Preventing Torture in Europe*, Council of Europe, p.109.

How to read PIPS

The overall purpose of PIPS is to track progress across a broad range of areas in Ireland's penal system, all underscored by the fundamental principle that prison is damaging in itself and therefore should be used sparingly, with community sanctions as the default response.

When reading PIPS, it is important to consider how each of the 35 Standards interrelate. Just because a prison is small in size, does not mean it is a well-functioning prison; however, having a small prison can allow for positive relationships between staff and prisoners to flourish, thus resulting in a reduced likelihood of violence. Similarly, offering a broad range of educational courses will not be meaningful if a significant number of prisoners are locked up for 21 or more hours per day. It is therefore important that each of the standards is not read in isolation, but is considered as part of an interconnected whole.

IPRT uses a wide variety of research methods to gather the evidence on which to base our annual assessment, including: a comprehensive desk review of published information and reports; requesting information directly from stakeholders; parliamentary questions; and more.

On the basis of the evidence gathered, we make a top-line assessment and then apply one of the following categories to each standard regarding progress made over the 12-month period: progress; regress; mixed; no change; and insufficient data. These are explained below.

PIPS 2019: Assessment of progress

In PIPS 2019, we conduct a repeat assessment of the performance of the penal system in Ireland. In doing so, we identify areas that have seen improvement, areas that have seen stasis, and areas where regress has occurred. These are summarised overleaf.

Three issues are spotlighted in this edition of PIPS, all of which relate to accountability:

- prison healthcare;
- mental healthcare; and
- prisoner complaints mechanisms

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**	There have been improvements in publication of research and data, but no significant progress on implementation of core penal policy recommendations, such as enshrining the principle of imprisonment as a last resort in statute, and the establishment of a Consultative Council to advise on penal policy.
S2	Imprisonment as a last resort	**Regress**	Ireland's imprisonment rate in July 2019 stood at 82 per 100,000. In 2018, there was an increase in the number of committals for short sentences and in the daily average number of persons in custody.
S3	Safe custody limits	**No change**	Overcrowding has remained a feature across the closed prison estate over the last 12 months.
S4	Size of prisons	**No change**	No change to the size of prisons across the estate.
S5	Minimum security settings	**No change**	No new low-security facilities opened in the last 12 months.
S6	Open prison provision	**No change**	Open provision in Ireland remains at the same rate in 2019.
S7	Humane prison conditions	**Regress**	Prison conditions cannot be adequately assessed in the absence of recent independent inspection reports. Due to overcrowding, people have been sleeping on mattresses on floors.
S8	In-cell sanitation	**Regress**	Slopping out continues to affect similar numbers. There has been a significant increase in the number of prisoners toileting in the presence of others.
S9	Single cell accommodation	**Regress**	Slight decrease in the number of prisoners having access to single-cell accommodation, with proposals to double up cells as a response to prison overcrowding.
S10	Separation of remand from sentenced prisoners	**Mixed**	Overall increase in the number of people held on remand. There has been a slight decrease in the number of persons on remand sharing a cell with sentenced persons.
S11	Family contact	**Mixed**	Positive steps include the introduction of parenting programmes in a number of prisons, and a review of prison visiting times to better facilitate school-going children. A national strategy for children affected by imprisonment has not been developed.
S12	Access to healthcare services	**Mixed**	A tendering process for a prisons healthcare review has commenced. Issues of access to healthcare were raised in a number of Visiting Committee reports.
S13	Mental healthcare	**No change**	29 prisoners were awaiting transfer to the Central Mental Hospital at the end of April 2019. There continue to be waiting lists for prison psychology services.
S14	Drug and alcohol treatments	**Mixed**	Insufficient data available to assess this standard in 2018. Information provided in 2019 showed 314 people on a waiting list to access drug treatment in prisons, and poor prisoner to addiction counsellor ratios.
S15	Privacy	**Mixed**	The Press Ombudsman has made presentations to prisoners on how to make a complaint. A very low number of privacy complaints were made by prisoners and their families to the IPS.
S16	Out of cell time	**Regress**	Increase in the number of prisoners on restricted regimes, and reports of limited out-of-cell time for the general prisoner population due to staffing levels.
S17	Integrated sentence management [ISM]	**No change**	No change in the number of ISM coordinators across the estate.
S18	Life skills	**No change**	No new opening of an Independent Living Skills Unit across the estate.
S19	Education	**Insufficient data**	Insufficient data available to measure progress in this area.

Standard	Theme	Assessment	Rationale
S20	Community engagement & involvement	Progress	There have been positive community projects within the prison estate throughout the year, including the Red Cross Programme, Bohemian Foundation and Progression Park Run.
S21	Political & civic participation	Mixed	Voting rates were slightly higher for the presidential election in 2018 and local elections/divorce referendum in 2019 than the May 2018 referendum. However, voting rates remain very low at 3–4% of the prison population.
S22	Complaints system	No change	A new internal complaints system is due to be introduced in quarter 3 of 2019.
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	No change	No prison inspection report has been published in 2018/2019, and no reform of Prison Visiting Committees. Timelines for publishing legislation to ratify OPCAT have not been met.
S25	Investigations into deaths in custody	Mixed	A low number of investigation reports have been published. Significant action has been taken by the IPS towards addressing a recurring issue identified by the OiP in reports.
S26	Solitary confinement	Regress	There has been an increase in the number of people held in solitary confinement. No data published on the use of prolonged solitary confinement.
S27	Violence in prisons	Progress	A National Violence Reduction Unit opened in November 2018. The unit is co-led by prison psychology and the prison governor. Data on assaults is now published consistently by the IPS.
S28	Prisoner escorts	Progress	A review on prisoner escort services has been published, including a recommendation that a detailed framework should govern the performance of prisoner escort services.
S29	Staff training	Progress	Positive developments include a focus on human rights as part of recruit prison officer training. The IPS has also introduced a Protected Disclosures Policy.
S30	Developing positive relationships and work culture	Insufficient data	Insufficient data published to gauge positive relationships and work culture.
S31	Use of force	Progress	IPRT welcomes that the IPS is recording and publishing information on the use of restraint techniques.
S32	Cohorts of prisoners at risk of discrimination	Mixed	There has been progress towards implementation of the Public Sector Duty, particularly with women in prison. Progressive developments include the continued work of the Travellers in Prison Initiative. However, there has been little progress for other groups such as individuals with disabilities and foreign nationals.
S32.1	Women who offend	Mixed	While the number of female committals has decreased, there was an increase in the daily female population, and women's prisons have been consistently overcrowded in 2018 and 2019. A step-down facility for women leaving prison opened in summer 2019.
S33	Parole system	Progress	*The Parole Act 2019*, which places the Parole Board on a statutory footing, became law in July 2018. The Parole Board must be fully resourced.
S34 /S35	Reintegration	Progress	There has been an Oireachtas review of existing spent convictions legislation and a Private Members Bill, the *Criminal Justice (Rehabilitative Periods) Bill 2018*, which aims to broaden the range of convictions that can become spent.

PART 1:
Context

1. Accountability in the penal system

IPRT's vision is of a penal system where the people who cause harm are held accountable in a way that does not cause further harm; where the penal system is held accountable for minimising the harmful effects of detention; and where society is also held accountable for failing to address the social injustice, inequalities and trauma that underlie so much offending behaviour.

Holding the penal system to account means asking whether it is achieving justice, repairing harm and contributing to safer communities. [4] A penal system that locks up too many people for too long in crowded prison conditions does not achieve justice, repair harm or enhance community safety.

Research from Ireland on what victims need from the criminal justice system is scarce. However, international research finds that crime survivors want the criminal justice system to focus more on rehabilitating people than punishing them, and to support a range of non-custodial alternative approaches; these were the findings of a recent US national survey, by a margin of two to one, in order "to stop the cycle of crime and protect future generations from falling through the cracks".[5] The survey also found that, by a margin of three to one, victims prefer holding people accountable through options beyond prison, such as community sanctions, mental health treatment and drug treatment.[6]

Other research finds that crime victims do not equate accountability with confinement; instead, they want a justice system built around a set of principles that focuses on rehabilitation, victim safety and the provision of ample services to both victim and offender.[7] It is critical that we keep this in mind when considering the meaning of accountability in the penal system. More broadly, there has been no recent survey on the characteristics of the prison population in Ireland nor how society perceives crime, punishment or victimisation.

Holding people to account can be done through other approaches, for example, restorative justice. Another way of making the system itself more accountable and communities safer is through justice reinvestment; examples of the latter include diverting money into crime prevention, early intervention and diversion programmes in order to address the causes of crime in communities where there is a high concentration of offending.[8]

Effective systems of accountability are essential to a functioning penal system. This includes robust systems of independent oversight to ensure human rights abuses do not occur behind prison walls; it also requires that the safety of prisoners and staff is strengthened through nurturing a culture that openly encourages trusted complaints mechanisms, which reduce tension on prison landings.

Above all, accountability in the penal system matters because punishing people is done in our name. For this reason, we must ensure a transparent and fair penal system. The system should provide us, the general public, with a clear insight into the penal system. This can only be achieved by having robust accountability structures in place. Only through this can we, the general public, question, challenge and hold to account bodies within the penal system.

4 See 'Prison's Broken Promise' in Sered, D. (2019) *Until We Reckon: Violence, Mass Incarceration and the road to Repair*. New York: The New York Press.

5 Alliance for Safety and Justice (2016), *'Crime Survivors Speak': The First-Ever National Survey of Victims Views on Safety and Justice*, p. 28, https://allianceforsafetyandjustice.org/wp-content/uploads/2019/04/Crime-Survivors-Speak-Report-1.pdf.

6 Ibid.

7 Justice Policy Institute and the National Center for Victims of Crime (2018), *Smart, Safe, and Fair: Strategies to Prevent Youth Violence, Heal Victims of Crime, and Reduce Racial Inequality*, http://www.justicepolicy.org/uploads/justicepolicy/documents/Smart_Safe_and_Fair_9_5_18.pdf.

8 Just Reinvest NSW, *What is justice reinvestment?* http://www.justreinvest.org.au/what-is-justice-reinvestment/.

2. Accountability in penal policy

Accountability in the penal system involves tracking the implementation of policy. Ireland has a long history of far-sighted progressive penal policy that has not been fully implemented, dating as far back as 1985 when the *Report of the Committee of Inquiry into the penal system,* (often referred to as 'the Whitaker Report') was published.[9] The report made a number of recommendations that remain relevant to enhancing accountability structures in the penal system. These include: prisoners should have the right to have grievances investigated by the Ombudsman; and that steps should be taken to bring about greater confidence in Prison Visiting Committees through examination of the appointments process and duties.

More recently, an implementation mechanism was built into the most recent comprehensive penal policy statement, the *Strategic Review of Penal Policy* (2014).[10] To date, the Implementation Oversight Group of the Strategic Review of Penal Policy has published seven progress reports on the implementation of 43 recommendations.[11] However, despite the introduction of this mechanism, minimal progress appears to have been achieved in the implementation of recommendations made. In some cases, regress has occurred.

One clear example of a retraction on an agreed penal policy recommendation relates to mandatory and presumptive sentencing. Following a detailed analysis of the law in Ireland and in other jurisdictions, the Law Reform Commission (2013) recommended that mandatory and presumptive minimum sentencing for certain drug and firearms offences should be repealed and should not be extended to other offences.[12] Similarly, the Penal Policy Review Group[13] (PPRG, 2014) recommended that no further mandatory or presumptive minimum sentences should be introduced. Yet, despite this, in 2019 new mandatory minimum sentences for repeat sex offenders passed both Houses of the Oireachtas.[14] This is one clear example of a lack of accountability in implementation of penal policy.[15]

O'Donnell (2013) previously described the lack of follow-through on penal policy recommendations in Ireland.[16] There are examples where commissions were established with specific terms of reference, yet there appears to have been little follow-through on the implementation of recommendations made many years later.

For example, in 2007, the National Commission on Restorative Justice[17] was established to examine how restorative justice could be mainstreamed in the Irish criminal justice system. In its (2009) report, the Commission made 66 recommendations and in its foreword, stated: "Victims, offenders, their families and their communities can all benefit from a restorative approach to criminal behaviour and the Commission strongly recommends national implementation, in a structured way, which will see a move from the existing two adult pilot projects, through an expansion phase of at least six more developmental projects, to national implementation."[18] The national implementation of these projects never materialised.

This shows the importance of monitoring and implementation of policy recommendations, essential to accountability in the penal system.

9 Committee of Inquiry into the Penal System (1985), *Report of the Committee of Inquiry into the Penal System*, Dublin: Stationery Office.

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

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

12 Law Reform Commission (2013), *Report Mandatory Sentences*, https://www.lawreform.ie/news/report-on-mandatory-sentences.405.html

13 See Recommendation 34 of Department of Justice and Equality (2014), *Strategic Review of Penal Policy, Final Report, July 2014*, http://www.justice.ie/en/JELR/Strategic%20Review%20of%20Penal%20Policy.pdf/Files/Strategic%20Review%20of%20Penal%20Policy.pdf.

14 Department of Justice and Equality (2019), 'Minister for Justice and Equality, Charlie Flanagan, T.D., and Minister of State Kevin 'Boxer' Moran, T.D., announce passage of the Criminal Law (Sexual Offences) (Amendment) Bill 2018', http://www.justice.ie/en/JELR/Pages/PR19000042.

15 An important development during the period is a decision by the Supreme Court in May 2019, which declared unconstitutional a law requiring that a mandatory five-year minimum sentence be imposed on some persons convicted under a section of the Firearms Act. See: 'Supreme Court rules mandatory firearm sentence unconstitutional', *The Irish Times*, https://www.irishtimes.com/news/crime-and-law/courts/supreme-court/supreme-court-rules-mandatory-firearm-sentence-unconstitutional-1.3893157

16 O'Donnell, I. (2013), 'Penal policy in Ireland: The malign effect of sustained neglect', *An Irish Quarterly Review*, Vol. 102, No. 407, p.318

17 Department of Justice and Equality, 'National Commission on restorative justice established' http://www.justice.ie/en/JELR/Pages/PR07000321.

18 Department of Justice and Equality (2009), *National Commission on Restorative Justice Final Report* (p.3), http://www.justice.ie/en/JELR/NCRJ%20Final%20Report.pdf/Files/NCRJ%20Final%20Report.pdf.

A data-driven approach is a core pillar that supports accountability in penal policy. In this respect, IPRT welcomes that the Department of Justice and Equality has published its *Data and Research Strategy 2018–2021*, alongside the regular publication of statistics by the Irish Prison Service (IPS).[19, 20] However data published remains insufficient to identify consistent trends and draw firm conclusions on a range of issues in the penal system. Improvements in this area are necessary to advance penal policy more broadly.

3. Accountability in the courts

The overuse of short prison sentences has been a consistent theme in the penal system in Ireland. In 2018, the biggest increase in prison committals was of people serving sentences of less than three months and more generally less than 12 months.[21] This is despite the introduction of the Criminal Justice (Community Service) (Amendment) Act 2011, which provides that the court shall consider making a community service order as an alternative to a sentence of less than 12 months.[22] There has been no analysis of the impact of this legislation, and deeper interrogation is needed to understand the reasons why there has been an increase in the number of short sentences handed down by the courts.

Scant levels of data on sentencing have been published. In 2010, a pilot project and website called the Irish Sentencing Information System was set up to give the public an insight into how the courts sentence people.[23] As part of the overall project, researchers attended courts in selected areas and recorded information on sentences being imposed.[24] However, gaps were identified regarding the approach of the project, including the need for new IT systems and more efficient data collection methods, in order to produce a nationally representative picture of sentencing information.[25]

The publication of sentencing data must be a priority in order to identify trends and inform the development of proposed sentencing guidelines, as highlighted by Guilfoyle (2019):

> *Sentencing information is vital to the creation of sentencing guidelines. The first step to creating sentencing guidelines is to understand current sentencing practices and trends. … It would be a damaging and regressive step if sentencing guidelines were to end up causing sentences to increase and the prison population to expand. Therefore, it is of the utmost importance that Ireland has the infrastructure needed to collect and analyse the data that is required to monitor this, as well as other issues, prior to the introduction of any sentencing guideline.*[26]

IPRT welcomes that the Law Reform Commission, in its Fifth Programme of Law Reform, will consider to what extent the general principles of sentencing, combined with a suitable sentencing information database, could provide the basis for a structured sentencing system.[27]

Under the Judicial Council Act 2019, a Sentencing Guidelines and Information Committee will be established.[28] One of the functions of the Committee will include to 'collate in such a manner as it considers appropriate, information on sentences imposed by the courts.'[29] Under the Act, a Judicial Conduct Committee will be established whose function will be to investigate complaints against judges.[30]

IPRT welcomes the above developments, particularly the importance of collating sentencing data in order to promote judicial accountability, ensuring that the principle of imprisonment is used as a last resort.

19 Department of Justice and Equality, *Data and Research Strategy 2018–2021* (2018), http://www.justice.ie/en/JELR/Pages/Department_of_Justice_and_Equality_Data_and_Research_Strategy_2018-2021.

20 Irish Prison Service, 'Statistics and information', https://www.irishprisons.ie/information-centre/statistics-information/.

21 Irish Prison Service (2019), *Annual Report 2018*, https://www.irishprisons.ie/information-centre/publications/annual-reports/.

22 Irish Statute Book, *Criminal Justice (Community Service) (Amendment) Act 2011*, http://www.irishstatutebook.ie/eli/2011/act/24/enacted/en/print#sec1.

23 McCarthaigh, S. (2010), 'Website to give overview of criminal sentencing', *The Irish Examiner*, 3 August 2010, https://www.irishexaminer.com/ireland/icrime/website-to-give-overview-of-criminal-sentencing-126823.html.

24 Guilfoyle, E. (2019), 'Before sentencing guidelines, we need sentencing information', *Irish Legal News*, 12 June 2019, https://www.irishlegal.com/article/dr-eoin-guilfoyle-before-sentencing-guidelines-we-need-sentencing-information.

25 Ibid.

26 Ibid.

27 Law Reform Commission (2019), *Report Fifth Programme of Law Reform*, https://www.lawreform.ie/_fileupload/Programmes%20of%20Law%20Reform/LRC%20120-2019%20-%20Fifth%20Programme%20of%20Law%20Reform.pdf.

28 Houses of the Oireachtas (2019), *Judicial Council Act 2019*, https://www.oireachtas.ie/en/bills/bill/2017/70/.

29 See Section 23 (2) (d) of the *Judicial Council Act 2019*.

30 Houses of the Oireachtas (2019), *Judicial Council Act 2019*, https://www.oireachtas.ie/en/bills/bill/2017/70/.

4. Accountability within the 'closed world' of prisons

Accountability and oversight structures have a different significance in the 'closed world' of prisons. Accountability in the prison system encompasses much more than the prevention of human rights violations behind closed doors: it involves ensuring the prison system meets its own mission to provide "safe and secure custody, dignity of care and rehabilitation to prisoners"[31] and that it does everything it can to minimise the harmful effects of imprisonment on people so held.

The 'urgency' of external scrutiny is underscored by international human right standards, including the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), which highlight the important functions of both internal and external inspections in the penal system.[32] These rules set out: the importance of inspectors having due authority, including unlimited access to both prisoners and prisons; the necessity of having qualified individuals with expertise on the inspection team, including health-care professionals;[33] and reasonable timeframes as to whether recommendations made by inspectors will be implemented.[34] Similarly, the European Prison Rules state the importance of an independent monitoring body, whose findings on the treatment of prisoners should be made public.[35]

4.1 Systems of internal oversight

Accountability in the prison system must begin at institutional level. In Ireland, the Prison Rules 2007 state that governors should carry out daily inspections of prisons and should also make a number of unannounced visits to the prison at night.[36] To our knowledge, this is not monitored or reported anywhere.

IPRT has previously called for the establishment of the IPS as an independent prisons authority on a statutory basis. In July 2019, following publication of a report by the Inspector of Prisons, the Minister for Justice and Equality announced that a Prison Service Board will be established, with an independent chairperson.[37] Three committees, dealing with audit, risk and culture, will report to the Board, and an internal audit function will also be established to improve internal governance.[38] The Board (either itself or through its committees) will uphold professional standards of performance across all prison service activities, as well as develop and monitor ethical standards and organisational values.[39] This new development must be met by adequate resources in order to ensure the governance infrastructure has the capacity to monitor, review, report and evaluate.

4.2 Functions of external oversight

An effective system of external oversight should fulfil three distinct functions, which are summarised below.[40]

a) **Preventive function:** An inspection regime should deter and prevent violations of rights inside the prisons. Oversight functions should be exercised at any time and without interference from Government.

b) **Improvement function:** Bodies authorised to visit places of detention should have the power to make recommendations for improvement

31 Irish Prison Service, *Mission and Values* https://www.irishprisons.ie/about-us/mission-and-values/.

32 In both cases, the objective of inspections shall be to ensure that prisons are managed in accordance with existing laws, regulations, policies and procedures, with a view to bringing about the objectives of penal and correction services, and that the rights of prisoners are protected. See Rule 83 (2) of the *United Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, https://cdn.penalreform.org/wp-content/uploads/1957/06/ENG.pdf.

33 See Rule 84 (2) of the *United Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, https://cdn.penalreform.org/wp-content/uploads/1957/06/ENG.pdf.

34 "The prison administration or other competent authorities, as appropriate, shall indicate, within a reasonable time, whether they will implement the recommendations resulting from the external inspection"; See Rule 85 (2) of the *United Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, https://cdn.penalreform.org/wp-content/uploads/1957/06/ENG.pdf.

35 CoE (2006), *European Prison Rules, Part VI Inspection and Monitoring*, Rules 92, 93.1, 93.2, p.32, https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae.

36 Irish Statute Book, Rule 77(1) *Prison Rules*, 2007, http://www.irishstatutebook.ie/eli/2007/si/252/made/en/print#article77.

37 See 'Statement by Minister for Justice and Equality, Mr. Charlie Flanagan T.D. accompanying the publication of the report by Inspector of Prisons pursuant to section 31(2) of the Prisons Act 2007 into allegations of wrongdoing in the Irish Prison Service', http://www.justice.ie/en/JELR/Pages/PR19000206.

38 Ibid.

39 Ibid.

40 IPRT (2009), *IPRT Position Paper 7: Complaints, Monitoring and Inspections in Prisons*, http://www.iprt.ie/files/IPRT_Position_Paper_7_-_Complaints,_Monitoring_and_Inspection_in_Prisons.pdf.

to practices found to be in breach of human rights standards or in breach of law governing the management of prisons on the national level.

c) **Individual complaints review function:** The system of external oversight should include an easily accessible mechanism for external and independent review of individual complaints brought forward by prisoners.

4.3 Domestic systems of external prisons oversight

Office of the Inspector of Prisons

The Inspector of Prisons is responsible for the independent inspection of the 12 prisons in Ireland, as set out under the Prisons Act 2007. [41] Since 2012, the Inspector of Prisons (OiP) has also been responsible for conducting investigations into deaths occurring in custody (either in prison or on temporary release).[42] The Inspector also has an oversight role in investigations into category A (serious) complaints; however, it is unclear how effectively this has operated in practice.

IPRT is concerned that the resourcing of the OiP has not kept pace with its increasing remit. The most recent published report on an inspection of a closed prison remains a report on the Mountjoy Prison Campus, with particular emphasis on the Separation Unit there, which was published in 2014.[43] The most recent annual report published by the Inspector was in 2017, and related to combined years of 2015 and 2016.[44] The absence of published reports on recent inspections means that current prison conditions cannot be subjected to public scrutiny. This should be a matter of serious concern to everyone.

Reports made by the OiP are submitted to the Minister for Justice and Equality, who has powers to omit or redact any finding from the report before publication.[45] While redactions do not generally happen in practice,[46] publication of reports is often delayed. In the case of reports on investigations into deaths in custody, significant delays may amount to a breach of Ireland's obligations under the European Convention on Human Rights.[47]

Accountability in Ireland's prison system must be improved through legislative amendments to empower the OiP to publish reports directly, and through adequate resourcing of the Office so that it can fulfil its important remit.

This should be met with an undertaking by Government that all of the Inspector's recommendations will be implemented without delay, with progress on implementation of recommendations made public. Increased public scrutiny will result in improved accountability in prisons, which will consequently improve the lived experiences of everyone within the penal system.

Prison Visiting Committees

The system of monitoring prisons by Prisons Visiting Committees is governed by the Prisons (Visiting Committees) Act 1925.[48] Committee members are appointed by the Minister for Justice and Equality. Duties and powers of the Committees include visiting the prison frequently and reporting to the Minister on any abuses observed in the prison, or on any matters that the Committee feels needs to be brought to his or her attention.[49] A prisoner can also request a meeting with the Visiting Committee or an individual member of it through the governor. However, the Committees' function does not include a formal power to adjudicate on individual complaints or to make any binding recommendations to the governor or any other member of the Prison Service.

Although some Visiting Committees function well, there is a lack of independence in the appointment of committee members. In addition, there is no standardisation of Visiting Committee reports in terms of structure and quality of content.[50] IPRT has observed that years of Visiting Committee reports on St Patrick's Institution failed to identify

41 Irish Statute Book, Part 5, Section 31 of the *Prisons Act 2007*, http://www.irishstatutebook.ie/eli/2007/act/10/enacted/en/html.

42 Office of the Inspector of Prisons, 'What We Do' http://www.inspectorofprisons.gov.ie/en/iop/pages/what_we_do.

43 Department of Justice and Equality, Overview of Mountjoy Prison Campus with particular emphasis on the Separation Unit by the Inspector of Prisons Judge Michael Reilly http://www.justice.ie/en/JELR/Pages/PB14000234.

44 Office of the Inspector of Prisons (2017), *Annual Report for the years 2015 and 2016*, http://www.inspectorofprisons.gov.ie/en/iop/pages/annual_reports.

45 Section 31 (4) of Prisons Act 2007, http://www.irishstatutebook.ie/eli/2007/act/10/enacted/en/html.

46 Some parts of the 'Report by Inspector of Prisons pursuant to section 31(2) of the Prisons Act 2007 into allegations of wrongdoing in the Irish Prison Service' were redacted: http://www.justice.ie/en/JELR/Pages/PR19000206.

47 See IPRT (2009), *IPRT Position Paper 7: Complaints, Monitoring and Inspection in Prisons*, p. 7, http://www.iprt.ie/files/IPRT_Position_Paper_7_-_Complaints,_Monitoring_and_Inspection_in_Prisons.pdf.

48 Irish Statute Book, *Prisons (Visiting Committees) Act,1925*, http://www.irishstatutebook.ie/eli/1925/act/11/enacted/en/print.html.

49 Ibid. (For more on Visiting Committee functions, see Section 3 (1) (a) –(d))

50 See variation in the standard and quality of Prison Visiting Committee reports here: http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

the culture of impunity that existed in that prison, as identified by the Inspector of Prisons in 2012[51] and previously highlighted in successive prison chaplaincy reports.[52]

It is clear that overall reform of the system of Visiting Committees is needed. This will require a Government review of the existing functions and powers of the Visiting Committees, as well as the appointments and reporting process, with a view to strengthening their role as a lay monitoring mechanism; this should comprise multi-disciplinary expertise, including in relevant human rights standards. To further enhance accountability, IPRT proposes that a reformed Prison Visiting Committee system adopt a 'citizens' assembly' approach whereby committee members are representative of all Irish society.

This would be a valuable step towards improving accountability in the system, and involving all citizens in oversight of what is, after all, done in our name.

External complaints mechanism

A key element in prisons accountability is a functioning internal complaints system, combined with an easily accessible mechanism for independent external review, such as a prisoner ombudsman or access to the general ombudsman. Although there are commitments to extend the remit of the Ombudsman to include prisoner complaints appeals, there is currently no independent body in Ireland to which individual prisoners can make complaints,[53] and confidence in the internal complaints system is low.[54] As noted above, Visiting Committees can hear complaints made by prisoners; however, they have little access to remedy to resolve complaints made by prisoners.[55]

The importance of prisoners being able to access an external complaints mechanism should be considered in the context of Ireland's dark history of coercive confinement where many human rights violations occurred in these institutional settings.[56] It is of critical importance that every measure possible is taken to ensure that people who are deprived of their liberty – and most especially those held in restricted regimes or who have specific needs such as disabilities – have confidence in their access to making a complaint safely, including a supportive prison culture where staff and prisoners alike feel able to raise concerns.

The benefits to both staff and prisoners were previously highlighted by former Northern Ireland Prison Ombudsman, Pauline McCabe, who outlined how complaints are "important opportunities for addressing difficulties, encouraging constructive behaviour and attitudes and helping to keep prison safe."[57] She went on to describe how there are "many instances where our reports and recommendations are very helpful to members of staff trying to do a good job in circumstances where prison policy or custom and practice is not fit for purpose."[58]

In short, a robust and functioning complaints system in which staff and prisoners have confidence will support better management of prisons – through identifying systemic problems that need to be addressed – and ultimately better outcomes for everyone in the prison system.

4.4 International systems of external prisons oversight

A number of international treaties and monitoring processes hold the State to account in its treatment of people in detention and across the wider criminal justice system. Of particular relevance to the deprivation of liberty are the UN Convention against Torture (UNCAT) and the European Convention on Human Rights (ECHR). Ireland's compliance with UNCAT was reviewed by the UN Committee against Torture

51 See Office of the Inspector of Prisons (2012) *Report on an Inspection of St. Patrick's Institution by the Inspector of Prisons Judge Michael Reilly*, http://www.justice.ie/en/JELR/Appendix%20A%2005.10.pdf/Files/Appendix%20A%2005.10.pdf.

52 See for example *Irish Prison Chaplains Annual Report Submitted to the Minister for Justice & Law Reform. November 2010*, https://www.drugsandalcohol.ie/14298/1/prison_chaplains_report_final_2010.pdf

53 Under the Prison Acts 2007, the Office of the Inspector of Prisons has a limited role in relation to individual complaints made by prisoners. See Prisons Act 2007, section 31(6), http://www.irishstatutebook.ie/eli/2007/act/10/enacted/en/html.

54 In its most recent report on Ireland, the CPT (2015) highlighted the lack of trust prisoners had in the complaints system and recommended "that the Irish authorities take steps to promote the complaints system and enhance the trust in it among the prisoners." See CoE, CPT/Inf (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) from 16 to 26 September 2014*, p. 65, https://rm.coe.int/pdf%20/1680727e23.

55 See Duties and Powers of Visiting Committees, section 3(1) (a) in the Irish Statute Book, Prisons *(Visiting Committees) Act, 1925*, http://www.irishstatutebook.ie/eli/1925/act/11/enacted/en/print.html.

56 For more on the issue of coercive confinement in Ireland see O'Sullivan E. and O'Donnell I.(2007) 'Coercive confinement in the Republic of Ireland: The waning of a culture of control', *Punishment and Society*, Volume: 9 issue: 1, pp. 27–48.

57 Paper delivered by Northern Ireland Ombudsman, Pauline McCabe, at IPRT's '*Strengthening Accountability Behind Bars*' seminar and launch, 30 March 2012.

58 Ibid.

in July 2017[59] and, prior to that, in 2011.[60] These two periodic reviews identified serious concerns, including overcrowding, lack of in-cell sanitation, the imprisonment of children (2011), solitary confinement and gaps in prisons oversight (2017). IPRT acknowledges the active engagement of the Irish State in these processes, and also the significant progress made on responding to the 2011 Concluding Observations in particular. Holding Ireland to account on the international stage remains an important lever for reforms.

Since 1993, the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has also held Ireland to account through undertaking unannounced visits to places of detention approximately every four years. The mandate of the CPT focuses not only on potential ill-treatment of people detained but also on the result of organisational failings or inadequate resources.[61] After each visit, the CPT sends a report to the State and requests a detailed response to the issues highlighted. The CPT last visited Ireland in 2014; the report on its visit –published in November 2015 – remains the most recent published inspection report of a closed prison in Ireland.[62] The CPT is due to visit Ireland again in 2019.

In the absence of a fully resourced and functioning prisons inspectorate at domestic level, Ireland is effectively dependent on international oversight of our prisons in learning about what takes place behind prison walls. This means ratification of the Optional Protocol for the Convention against Torture (OPCAT), which Ireland signed in 2007, is even more urgent. Ratification of the OPCAT would both improve domestic oversight, through the creation of a national preventive mechanism (NPM), and add an additional level of international oversight, by way of inspections by the UN Sub-Committee against Torture.[63] It is of critical importance that Government meets its restated commitments to ratify the OPCAT during 2019.

5. Accountability in the media

The media plays an important role in holding the State to account, yet media reporting on crime and punishment must also be held to account. While the media ostensibly acts in the public interest, often it is driven more by what the public is interested in.[64] For example, murder accounts for less than 0.009% of recorded crime, yet makes up over 15.8% of crime reportage.[65] Public interest is not served by reportage that heightens disproportionate fear, or that interrupts positive reintegration programmes by reporting on named individual prisoners accessing temporary release. Post-release media reporting can severely hamper an individual's prospects of reintegration. It is important that the privacy rights of the individual and his/her family is respected at all stages of the criminal justice system, and that the media are held to account when privacy rights are breached.

59 Committee against Torture (2017), *Concluding observations on the second periodic report of Ireland (advance unedited version)*, https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/INT_CAT_COC_IRL_28491_E.pdf.

60 Committee against Torture (2011), Consideration of reports submitted by States parties under article 19 of the Convention, *Concluding observations of the Committee against Torture, Ireland*, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fIRL%2fCO%2f1&Lang=en

61 Bicknell C., Evans M. and Morgan, R. (2018), *Preventing Torture in Europe*, Council of Europe, p.109.

62 CoE (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) from 16 to 26 September 2014, https://rm.coe.int/pdf%20/1680727e23.

63 United Nations Human Rights, *Optional Protocol to the Convention Against Torture (OPCAT) Subcommittee on Prevention of Torture*, https://www.ohchr.org/EN/HRBodies/OPCAT/Pages/OPCATIntro.aspx

64 See News Values identified in: Galtung, J. and Ruge, M. H. (1965), 'The structure of foreign news: The presentation of the Congo, Cuba and Cyprus crises in four Norwegian newspapers', *Journal of Peace Research*, Vol. 2, Issue. 1, pp. 64-90.

65 Press Council of Ireland (2008), 'Address by Professor John Horgan at *Public Forum on Crime and Media*, https://www.presscouncil.ie/address-by-professor-john-horgan-at-public-forum-on-crime-and-media-april-2008.

6. PIPS as an accountability mechanism

Given the current gaps in accountability structures in the penal system, particularly regarding the prison system, PIPS is itself a central mechanism to identify issues related to accountability in our penal system. Furthermore, PIPS has a strong focus in the area of oversight, with thematic issues such as the complaints system, investigations into deaths in custody and inspection mechanisms all highlighted.

Alongside PIPS, IPRT continues to campaign for improved oversight of Ireland's prison system. Our goal is that by 2022, Ireland's independent systems of prison monitoring and inspection will be functioning well, with regular reporting on Ireland's prison system, and that a culture of progress, best practice and human rights will be entrenched. Until then, PIPS will continue to provide a focal point for public scrutiny, ultimately acting as a catalyst for continuous improvement.

7. Conclusion

PIPS 2019 highlights that accountability must be a fundamental feature of the penal system, penal policy, the courts, the prison system and more broadly, the media in its reporting of crime and punishment.

In 2003, professor of criminology Ian O'Donnell stated:

> *"Leniency is a hallmark of a confident system, a responsible media and a well-informed public. A civilised society gains nothing from the construction of unnecessary penal institutions. On the other hand, a weak government sometimes uses punishment to give the impression of decisive action."*[66]

In 2019, we have established broad cross-party and cross-agency recognition that prison building and putting more people in prison will not reduce crime or the number of victims, nor will it help build safer communities. Ireland has the policy foundations to build a world-class penal system, in which imprisonment is used only as a sanction of last resort, where the harmful effects of imprisonment are minimised when prison is the only appropriate response. IPRT believes that in 2019 there is the public and political will to make this a reality. PIPS offers a roadmap to get us there.

66 O'Donnell, I. (2003), 'Punishment and society', *Studies: An Irish Quarterly Review*, Vol. 92, No. 367, pp. 258-265.

PART 2:

The 35 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 maximum prisoner population of 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 treated 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 is unlocked for a minimum of 12 hours per day, including a minimum of five hours per day engaged in structured meaningful activity for five days a week.**
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

Section A:
An effective and humane penal system

Standard 1:
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.[67] 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 penal environment. Therefore, implementation, regular review and evaluation of penal policy are imperative.

Current context

In recent years there has been broad consensus on the goals of penal policy in Ireland, as reflected in a number of domestic reports,[68] [69] including the Department of Justice and Equality *Strategic Review of Penal Policy* (2014) by the Penal Policy Review Group (PPRG).[70] These goals include: making Ireland a safer society through reducing reoffending; promoting crime reduction through rehabilitation; and reducing reliance on prison as a sanction, while encouraging the use of community sanctions.

The PPRG made 43 policy recommendations in its strategic review. In order to monitor progress on these recommendations, an Implementation Oversight Group (IOG) was established. The Seventh Report of the IOG to the Minister for Justice and Equality was published in February 2019.[71] In the letter accompanying the report, the Chairperson outlined some of the progress achieved since 2014.[72] They noted:

67 See the guiding principles and values of penal reform outlined in Section 1.1 (Introduction: A Vision for the Penal System in Ireland) in IPRT's *Progress in the Penal System (PIPS): A Framework for Penal Reform* (2018), https://pips.iprt.ie/progress-in-the-penal-system-pips/part-1-how-progress-can-be-achieved/1.1-introduction-a-vision-for-the-penal-system-in-ireland/

68 Houses of the Oireachtas (2013), *Joint Committee on Justice, Defence and Equality, Report on Penal Reform*, https://webarchive.oireachtas.ie/parliament/media/penal-reform-report-13-march-2013-final.pdf

69 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

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

71 Department of Justice and Equality, Penal Policy Review, *Implementation Reports*, Seventh Report of the Implementation Oversight Group to the Minister for Justice and Equality, http://www.justice.ie/en/JELR/Pages/Penal_Policy_Review.

72 Department of Justice and Equality (2019), *Letter from the Chairperson of the Implementation Oversight Group to the Minister*

> *The Penal Policy Review Group, following the Thornton Hall Review Group, represented a step-change in thinking about penal policy in Ireland. Its great strength was its ability to achieve consensus amongst a wide variety of participants, from Department of Justice and Equality officials to NGOs. Now, almost five years after the report was first published, the Implementation and Oversight Group continues its work reporting on the progress of its implementation. A lot has changed in that period; the Community Return scheme has shown success, the interdepartmental and interagency group on a Safer and Fairer Ireland has been established, your Department now has a Data and Research Strategy, and the Victims' Directive has now been transposed into Irish law.* [73]

The Chairperson also expressed concerns, however, about the lack of progress on embedding the foundations of progressive penal policy:

> *Furthermore, some of the statutory underpinnings which the Penal Policy Review Group thought important to its blueprint for a renewed penal policy remain absent. Recommendation 32, which recommended that the principle that imprisonment be a measure of last resort be enshrined in statute has not been implemented. Legislation on community sanctions (Recommendation 9) is also still awaited. Core elements of the Penal Policy Review Group's report concerning support for the policymaking process have also not been progressed, such as the establishment of a Consultative Council.*[74]

The Group is examining its current operation in order to look at "possible ways forward to ensure the promise of the Penal Policy Review Group's vision is fulfilled".[75]

Indicators for Standard 1

1.1 **Establishment of a Consultative Council (new)**
A chairperson formally accepted appointment to the Consultative Council on 3 November 2015 and invitations to members were issued.[76] However, since then no initial meeting has taken place.[77]

1.2 **Number of Penal Policy Review Group (PPRG) recommendations that have been fully implemented**
According to the assessment by the IOG, only 5.4% of the 55 areas have been described as fully implemented in its Seventh Report. [78]

1.3 **Number of recommendations of Joint Committee on Justice, Defence and Equality (2013) *Report on Penal Reform* that have been implemented**
None of these five recommendations has been fully implemented.

for Justice and Equality, http://www.justice.ie/en/JELR/Seventh_Progress_Report_of_IOG_covering_letter.pdf/Files/Seventh_Progress_Report_of_IOG_covering_letter.pdf.

73 Ibid.

74 Ibid.

75 Ibid.

76 See 'Timeline/milestones' of Recommendation 42 in the *Seventh Report of the Implementation Oversight Group to the Minister for Justice and Equality*, http://www.justice.ie/en/JELR/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf/Files/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf

77 Ibid.

78 The classifications are based on assessments by the IOG. The classification and assessments are available in the implementation reports. The seventh report of the Implementation Oversight Group are available to access here: http://www.justice.ie/en/JELR/Pages/Penal_Policy_Review.

Table: Recommendations on penal policy yet to be fully implemented

Report on Penal Reform (2013)	Progress	Analysis
1. Reduce the prison population by one-third over 10 years.	Daily average number of persons in custody:[79] 2013: 4,158 2014: 3,915 2015: 3,722 2016: 3,718 2017: 3,680 2018: 3,893	There was progress on reducing the average number of persons in custody 2013-2017. However, 2018 saw a 5.8% increase in the daily average number of persons in custody from 2017 figures.
2. Commute sentences of less than six months imposed for non-violent offences and replace with community service orders.[80]	Committals under sentence of six months or less (excl. fines committals):[81] 2013: 1,964 2014: 1,631 2015: 1,622 2016: 1,518 2017: 1,755 2018: 2,109 .	There was a decrease in the number of persons committed for sentences of less than six months 2013–2016. However, numbers began to rise again in 2017. 2018 had the highest number of committals under sentence of six months or less over the six-year period. The biggest increase in the numbers committed under sentence in 2018 was for those serving sentences of less than three months, which increased by 34.3%.[82]
3. Increase remission from 25% to 33% for all sentences over one month and establish an enhanced remission scheme of up to half sentence.	A review of enhanced remission has been completed by the Irish Prison Service (IPS).[83]	Standard remission remains at 25% and enhanced remission at 33%.
4. Introduce a single piece of legislation that would form the basis of a structured release system.	No single piece of legislation has been introduced. However, on 23 July 2019, the *Parole Act 2019* was signed into law.[84]	When the Parole Act 2019 is commenced, the Parole Board will have the power to make binding decisions on the release of eligible prisoners. This system applies to life-sentenced prisoners and those serving long sentences (8 years and over).

79 These figures have been extracted from annual reports of the IPS, https://www.irishprisons.ie/information-centre/publications/annual-reports/

80 It is not possible to extract the number of people who served sentences of less than six months for solely non-violent offences; therefore, the numbers used here refer to all sentences handed out for less than six months.

81 This information has been extracted from IPS annual reports.

82 Irish Prison Service, *Annual Report 2018*

83 See 'Timeline/Milestones' outlined under Recommendation 28,*Seventh Report of the Implementation Oversight Group to the Minister for Justice and Equality*, http://www.justice.ie/en/JELR/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf/Files/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf.

84 Houses of the Oireachtas (2019), *Parole Act 2019*, https://www.oireachtas.ie/en/bills/bill/2016/29/.

5. Address overcrowding and prison conditions with increased use of open prisons.	As of 24 June 2019, six prisons were operating above the Inspector of Prisons' (OiP) recommended bed capacity.[85]	There has been no increase in the use of open prisons in 2018–2019. Overcrowding has been a major feature of the closed prison estate in 2018–2019 (See Standard 7). The under-utilisation of open prison capacity[86] in the context of overcrowding has been raised. On 1 July 2019, occupancy rates at Loughan House and Shelton Abbey were 80% and 85% (See Standard 6.).[87]

1.4 **Number of recommendations of the Joint Committee on Justice and Equality (2018) *Report on Penal Reform and Sentencing*[88] that have been implemented.**

There were 29 recommendations made by the Joint Committee. The report covered a wide range of issues including: prison numbers, overcrowding, inspections, post-release supports, recidivism, parole and the rights of victims.

One welcome recommendation was for a review of the *Criminal Justice (Spent Convictions and Certain Disclosures Act) 2016*.[89] On 10 July 2019, an initial Committee debate examined how the current legislation could be improved.[90]

The Parole Act 2019 has been signed into law.[91] This will place the Parole Board on a statutory footing [92], a recommendation also made by the Committee.

While the recommendations made by the Committee were in 2018 and thus, relatively new, there has been limited progress towards the implementation of the majority of its recommendations. Some of the recommendations are outlined opposite.

85 See IPS, *Daily Prison Population on 24 June 2019*, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/24-June-2019.pdf.

86 Department of Justice and Equality (2019), 'Parliamentary Questions, PQ 472, 8 May 2019', http://www.justice.ie/en/JELR/Pages/PQ-08-05-2019-472.

87 IPS, *Prisoner Population* on 1 July 2019, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/01-July-2019.pdf.

88 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

89 Irish Statute Book, Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016, http://www.irishstatutebook.ie/eli/2016/act/4/enacted/en/html.

90 Houses of the Oireachtas, Committee Videos, Spent Convictions, 10 July 2019, https://www.oireachtas.ie/en/oireachtas-tv/video-archive/committees/2747/.

91 Houses of the Oireachtas, *Parole Act 2019*, https://www.oireachtas.ie/en/bills/bill/2016/29/.

92 Department of Justice and Equality, *Minister Flanagan welcomes new law to set up independent Parole Board*, http://www.justice.ie/en/JELR/Pages/PR19000191.

Recommendation	Current Status 2019
Prison numbers should be capped in each institution with a clear strategy to reduce prison populations by half over a fixed amount of time	There has been no capping of prison numbers, and prison numbers have increased.
The establishment of an independent complaints mechanism for prisoners	Prisoners in 2019 still have no access to an independent complaints mechanism
Solitary confinement should be phased out	There continues to be a high number of prisoners placed on restricted regimes; 67 people were held in solitary confinement in July 2019.[93]
Prisons should aim for an accommodation policy of one person, one cell and the necessary resources should be made available to realise this aspiration	There has been no progress on achieving single-cell occupancy throughout the prison estate as recommended by the Committee. (See Standard 9 for more detail)

1.5 **Publication of relevant Data and Research to inform evidence-led criminal justice policy**

The Department of Justice and Equality published its *Data and Research Strategy 2018-2021* [94] in 2018. IPRT welcomes that the Department is commissioning research in the areas of recidivism and confidence in the criminal justice system.[95]

The Prison Psychology Service has placed increased emphasis on the importance of research and evaluation of new initiatives, with PhD studies focusing on the National Violence Reduction Unit and on engagement with life sentenced prisoners. A doctoral study on an early engagement initiative with 18-24 year olds in the prison system is also underway with University of Limerick, and a review of the Building Better Lives Programme for sexual violence in conjunction with University College Dublin.[96] These developments are promising in terms of supporting evidenced-based policy and practice.

1.6 **Adoption and Implementation of PIPS standards**

There has been no formal adoption of PIPS standards by relevant bodies. However, PIPS standards have been welcomed by the Office of the Inspector of Prisons, the IPS and the Probation Service. The Office of the Inspector of Prisons has stated that the PIPS standards will be considered in the development of its inspection framework.[97]

Analysis

A wide number of progressive penal policy recommendations have been made in Ireland in recent years. However, implementation of these recommendations has been slow and, in some cases have never been implemented.

In this respect, IPRT welcomed that a monitoring mechanism was introduced to track the implementation of the 43 recommendations made by the Penal Policy Review Group. However, despite this, challenges still present regarding both monitoring and implementation. By its seventh implementation report in 2019, the IOG assessed that only three of 55 areas (across the 43 recommendations) have been 'fully implemented'. One of the 'fully implemented' areas relates to a decision to *not* proceed with open prisons for

93 Irish Prison Service, *Census of Restricted Regime (July 2019) Report*, https://www.irishprisons.ie/information-centre/statistics-information/census-reports/

94 Department of Justice and Equality, *Data and Research Strategy 2018-2021*, http://www.justice.ie/en/JELR/Pages/Department_of_Justice_and_Equality_Data_and_Research_Strategy_2018-2021.

95 Department of Justice and Equality, *Department of Justice and Equality Research Opportunities: Request for Tender for Research Services*, http://www.justice.ie/en/JELR/Pages/DJE_Request_for_Tender_for_Research_Services.

96 Information received by the Prison Psychology Service, 5th September 2019

97 Department of Justice and Equality (2019), Parliamentary Questions (PQ 42, 26th June 2019), http://www.justice.ie/en/JELR/Pages/PQ-26-06-2019-42

weekend sentencing.[98]

The other two areas described as 'fully implemented' relate to: improving the standard of conditions in Cork Prison;[99] and progress towards the tendering process of an open centre for women.[100] It could be viewed that the former was achieved through the opening of the new Cork Prison in 2016; however, throughout November 2018–May 2019 the prison experienced regular overcrowding, with a number of prisoners sleeping on mattresses.[101] Regarding the open centre, the assessment of 'fully implemented' was given on the basis of a decision being made to proceed with the facilities and a tender being issued, as opposed to such a facility being opened. (Subsequently, in 2019 the facility was opened - see Standard 32.1). How the IOG assesses performance on implementation of recommendations may need to be reviewed, to be fully reflective of the current situation.

Much work needs to be done to ensure that penal policy is not only agreed upon but that these recommendations are effectively monitored, implemented, evaluated and evolve.

The collation and publication of data and research is vital to driving evidence-informed policymaking. In this regard, IPRT welcomes the commitment by the Department of Justice and Equality to data and research evident in the publication of its strategy. As part of this ongoing process, the Department of Justice and Equality might consider consultations with key criminal justice stakeholders as part of the research-agenda-setting process, and consider the funding of longitudinal empirical research projects in order to inform penal policy-making in Ireland into the future.

Status of Standard 1: Mixed

Actions required	
Action 1.1:	The Department of Justice and Equality should publish the terms of reference, including budget and powers of the Consultative Council. Following this, a date must be set for the Consultative Council initial meeting to advise on issues related to penal policy.
Action 1.2:	The Department of Justice and Equality should consult with a range of criminal justice stakeholders as part of the agenda-setting process for its research programme and projects; it should also consider the commissioning of large-scale independent empirical research projects.

98 See 'Timeline and Milestones' and 'Implementation Status' under Recommendation 13, Department of Justice and Equality (2019), *Implementation of Penal Policy Review Group Recommendations, Seventh Report of the Implementation Oversight Group to the Minister for Justice and Equality*, http://www.justice.ie/en/JELR/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf/Files/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf.

99 See Recommendation 15, Ibid.

100 See Recommendation 18, Ibid.

101 See Houses of the Oireachtas (2019), "Dáil Debates, Prisoner data, 7 February 2019', https://www.oireachtas.ie/en/debates/question/2019-02-07/135,and Houses of the Oireachtas, *Prisoner Data*, 13 June 2019, https://www.oireachtas.ie/en/debates/question/2019-06-13/99.

Standard 2: 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

One of IPRT's core guiding principles is '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.[102] Separation from family can lead to a breakdown in relationships, while the experience of imprisonment itself can result in institutionalisation, which can have profound damaging effects on the individual. Imprisonment can also act as a barrier to employment upon release, as well as a significant barrier in accessing other supports such as housing. Community sanctions, by contrast, can motivate and provide individuals with a sense of purpose by participating in and making a contribution to society, while also allowing those who have caused harm to 'pay back' or make reparation directly to the community.

Current context

As of 1 July 2019, Ireland's imprisonment rate is 82 per 100,000,[103] and is ranked 39th out of 56 European countries. Nordic countries ranked near the lowest: Iceland at 37 per 100,000, Finland at 51 per 100,000 and Sweden at 59 per 100,000.[104]

Ireland saw an 8% increase in the number of prisoners in custody between 1 January 2018 (3,631) and 31 December 2018 (3,911).[105] The numbers in custody exceeded 4,000 on 26 occasions in 2018.[106] In May 2019, the Minister acknowledged the increase in prison numbers:

> *I regret the reversal of the trend towards lower prisoner numbers...*[107]

There were significant increases in those committed for sentences of less than 12 months (excluding fines committals).[108]

- Numbers committed under sentences of less than three months increased by 34.3% (the largest percentage increase of committals under sentence).
- Numbers committed under sentence of three to less than six months increased by 15.1%.
- Numbers committed under sentence of six to less than 12 months increased by 12.6%.

Council of Europe (CoE) *Annual Penal Statistics* also show Ireland's high turnover ratio of prisoners, at 71.4% in 2017 compared to a European average of 45.8%.[109]

One welcome reduction has been in the number of committals for default of court-ordered fines, from 2,261 in 2017 to 455 in 2018 – a 79.8% decrease.[110] This significant drop has largely been a result of the implementation, since 2016, of the Fines (Payment and Recovery) Act 2014.[111]

In 2018, there was also a 12.8% increase in the number of community service orders handed down on 2017. However, the number of people accessing structured early release programmes, such as Community Return,[112] has declined from 455[113] in 2014 to 221[114] in 2017, dropping slightly to 218[115] in 2018. A Joint Strategy Steering Committee consisting of representatives of the IPS and the

102 IPRT (2010), Community Sanctions, http://www.iprt.ie/files/IPRT_Position_Paper_8_-_Community_Sanctions.pdf.

103 World Prison Brief, *Ireland, Republic of* http://www.prisonstudies.org/country/ireland-republic.This is based on a national estimated national population of 4.92 million at the beginning of July 2019.

104 Ibid.

105 IPS (2019), *Annual Report 2018*, p.2, https://www.irishprisons.ie/information-centre/publications/annual-reports/.

106 Ibid, p.25.

107 Department of Justice and Equality (2019), 'Parliamentary Questions, PQ 194, 14 May 2019', http://www.justice.ie/en/JELR/Pages/PQ-14-05-2019-194.

108 IPS (2019), *Annual Report 2018*, p.25, https://www.irishprisons.ie/information-centre/publications/annual-reports/.

109 Aebi, M.F. and Tiago, M.M. (2018), *Prison Populations SPACE I – 2018*, CoE Annual Penal Statistics, p.98, http://wp.unil.ch/space/files/2019/06/FinalReportSPACEI2018_190611-1.pdf.

110 IPS (2018), *Annual Report 2018*, p.30, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Annual-Report-2018.pdf.

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

112 The Probation Service, *Community Return*, http://www.justice.ie/EN/PB//WebPages/WP16000037.

113 The Probation Service, *Annual Report 2014*, p.55 http://www.probation.ie/EN/PB/0/DA97577818D7C6E9802580210034E547/$-File/Probation+Service+Annual+Report+2014+web.pdf

114 The Probation Service, *Annual Report 2017*, p.51 http://www.probation.ie/EN/PB/0/7FCE7C57127D82C2802582B7003C36AD/$-File/Annual%20Report%202017%20-%20FINAL.pdf

115 The Probation Service, *Annual Report 2018*,p.58 http://probation.ie/EN/PB/0/07726AB57B55779A8025841C0032A094/$File/

Probation Service examined the decline in numbers and concluded that reasons for this related to: unacceptable risk relating to feuding gangs; lack of willingness to change behaviour and engagement with services; and the increasing number of prisoners who had no stable address to which to return. [116] Revised practices are to be announced by the Minister for Justice and Equality.

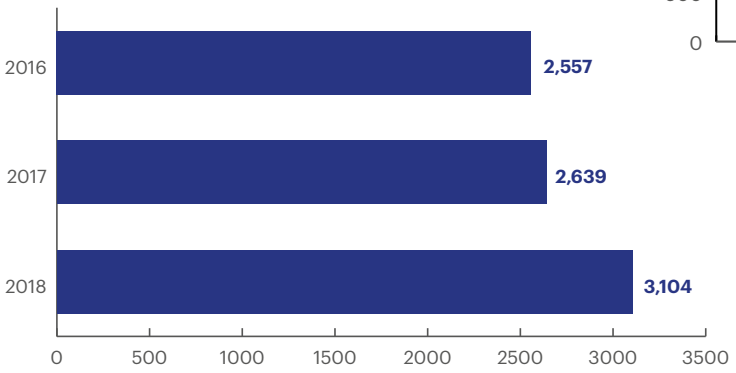
According to *Care After Prison* 2018 statistics,[117] there has been an 86% completion rate for the Community Support Scheme (set up to support the early release of prisoners serving sentences of three to 12 months).

Indicators for Standard 2

2.1 **Principle of Imprisonment as a last resort enshrined in domestic legislation (new)**
The principle of imprisonment as a last resort has not been enshrined in legislation, despite it being a recommendation made by the Penal Policy Review Group in 2014.[118]

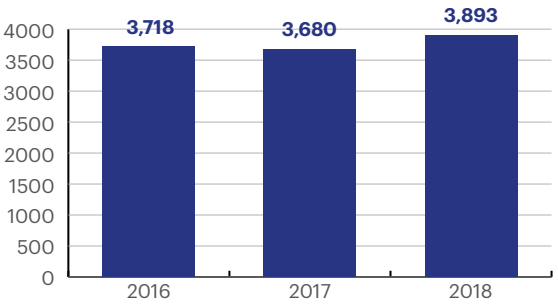
2.2 **Committals under sentence (less than 12 months, excluding fines) (new)**
Despite the introduction of legislation that requires judges to consider an alternative to a sentence of imprisonment for less than 12 months,[119] the chart below shows an increase in the number of committals under sentence of less than 12 months by 21.3% between 2016 and 2018. [120]

Committals under Sentence (less than 12 months, excluding fines)



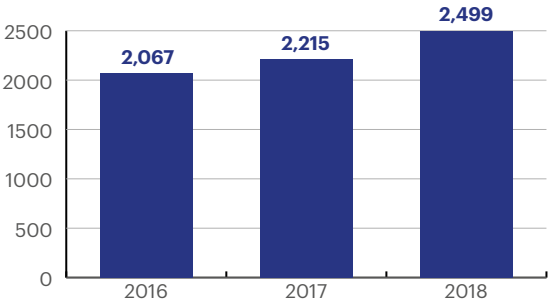
2.3 **Daily average number of prisoners in custody**
The chart below highlights the daily average number of persons in custody in Ireland. It shows an increase by 5.8% from 3,680 in 2017 to 3,893 in 2018. [121]

Daily Average Number of People in Custody



2.4 **Use of alternatives to custody as a substitute for short-term prison sentences**
While statistics show an increase in the use of imprisonment, there was also an increase in the number of community service orders (CSO) handed out, which rose by 12.8% from 2,215 in 2017 to 2,499 in 2018.[122]

Number of Community Service Orders



ProbationServiceAnnualReport2018.pdf

116 Department of Justice and Equality (2019), 'Parliamentary Questions, PQ 252, 18 June 2019), http://www.justice.ie/en/JELR/Pages/PQ-18-06-2019-252.

117 These statistics have been taken from 'CAP 2018 statistics' in Care After Prison, *Strategic Plan 2018-2020*, p.13, http://careafterprison.ie/wp-content/uploads/2019/04/Strategic-Plan-2018-2020.pdf.

118 See Recommendation 32 of the *Strategic Review of Penal Policy, Final Report*, July 2014, http://www.justice.ie/en/JELR/Strategic%20Review%20of%20Penal%20Policy%20Accessible.pdf/Files/Strategic%20Review%20of%20Penal%20Policy%20Accessible.pdf.

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

120 Figures provided in the IPS (2018), *Annual Report 2018*, p.23, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Annual-Report-2018.pdf.

121 Figures provided in the IPS (2019), *Annual Report 2018*, p.23, https://www.irishprisons.ie/information-centre/publications/annual-reports/.

122 Probation Service (2019), *Annual Report 2018*, p.57 http://www.probation.ie/en/PB/Pages/News19000023.

Analysis – Standard 2

There continues to be an over-reliance on imprisonment for persons convicted of less serious offences, despite its damaging social and economic impact on individuals, families and communities. Of particular concern is the significant increase in the number of committals under sentence for less than 12 months (excluding fines) in 2018.

In-depth research on sentencing and judicial attitudes is required in order to make sense of these trends. Further analysis is needed to ascertain whether CSOs are being used as a direct alternative to short-term prison sentences or whether the increase in the use of CSOs in 2018 relates to the impact of the commencement of the Fines (Payment and Recovery) Act.[123] In any case, while there was an increase in the use of CSOs in 2018, these numbers are still lower than peaks in 2011 and 2012 at 2,738 and 2,569 respectively.[124]

Daily prisoner numbers are also impacted by the increasing number of prisoners serving long sentences. The number of prisoners committed on sentences of five to 10 years increased by 9.6% from 2017 to 2018. The numbers committed on sentences of 10 year plus increased by 22.2%. Although the number committed for a life sentence showed a decrease of 4.5% from 2017 to 2018[125], this cohort has grown steadily. In 2001, there were 139 people serving a life sentence in custody; at that time the average number of years served by a life-sentenced prisoner before release was 15.[126] In 2018 the average number of years served by a life sentenced prisoners was 17.5 years and as of the 31st of January 2019, there were 348 life sentenced prisoners in custody.[127]

As can be seen through the large reduction (79.8% decrease) in the number of committals for default of court-ordered fines, from 2,261 in 2017 to 455 in 2018, legislation can have a profound impact on prison population numbers and can drive the population upward or downwards. Therefore, impact assessment of all proposed legislation is required in order to avoid sentence inflation and expansion of the prison population.

Status of Standard 2: Regress

Actions required	
Action 2.1:	A high-level group should be established by the Department of Justice and Equality to take a shared responsibility in identifying solutions and assigning actions to address the issue of overcrowding in Irish prisons. Representation should comprise legislators, the judiciary, the IPS, the Probation Service, community-based organisations and other government departments, including the Department of Health and the Department of Housing, Planning and Local Government.
Action 2.2:	The Law Reform Commission should prioritise its examination of a structured sentencing system, with the inclusion of sentencing principles, in its programme of work for 2020.
Action 2.3:	The Courts Service should collate and publish data on the use of sentencing across courts in a systematic manner.
Action 2.4:	Legislators should implement their own recommendations including commuting sentences of less than six months for non-violent offences to CSOs.
Action 2.5:	Impact assessment of all proposed legislation must be conducted.

123 See Section 16 Statute Book, *Fines (Payment and Recovery) Act 2014*, http://www.irishstatutebook.ie/eli/2014/act/7/enacted/en/html

124 See The Probation Service, *Annual Report 2012* , p. 35 http://www.probation.ie/en/PB/Pages/WP16000121

125 IPS (2019) *Annual Report 2018*, p.25

126 Griffin D. (2018), Killing Time, Life Imprisonment and Parole in Ireland, p.5, Palgrave MacMillan.

127 The Parole Board, *The Parole Board Annual Report 2018*, http://www.justice.ie/en/JELR/Parole_Board_Annual_Report_2018.pdf/Files/Parole_Board_Annual_Report_2018.pdf

PROGRESSIVE PRACTICE

Extension of presumption of short sentences in Scotland

Under Scottish legislation, a court must not pass a sentence of three months or less unless it considers that no other method of dealing with the person is appropriate. [128] In June 2019, the Scottish Parliament approved the Presumption Against Short Periods of Imprisonment Order, [129] which extends the presumption against short sentences from three months or less to 12 months or less.

In Ireland, the Criminal Justice (Community Service) Amendment Act 2011 [130] sets out that if a court is of the opinion that an appropriate sentence for the convicted offence is less than 12 months, then the court shall consider making a CSO as an alternative to that sentence. [131] However, the language set out under Scottish legislation is stronger than in our domestic legislation. In Scotland:

(i.) A court must not pass a sentence of imprisonment for a term of three months or less unless the court considers that no other method of dealing with the person is appropriate; and

(ii.) If a court passes a custodial sentence, judges must state the reason for their opinion on why no other method is appropriate in dealing with the person and have those reasons entered in the record of the proceedings. [132]

The above requirement is not legislated for in Ireland, despite a recommendation made by the Penal Policy Review Group (2014):

> *The Review Group recommends that, in all cases where a custodial sentence is imposed by a court, the court should set out its reasons in writing for so doing. The Group further recommends that this requirement be incorporated in statute.* [133]

Sentencing developments in Ireland

IPRT welcomes that the Law Reform Commission will examine structured sentencing in its *Fifth Programme of Law Reform*.[134,135] The project will examine to what extent general principles of sentencing combined with a suitable sentencing database could provide for a more structured sentencing system.

Other developments in this area include the Judicial Council Act 2019.[136] This includes provision for the establishment of a Sentencing Guidelines and Information Committee. The functions of the Committee will be to:

- prepare and present draft sentencing guidelines;
- make amendments to guidelines adopted by the Judicial Council;
- monitor the operation of guidelines;
- collate information on sentences imposed by the courts; and
- disseminate information to judges. [137]

The Committee may also conduct research on sentences imposed by the courts.[138] In addition, the Bill includes the establishment of a Judicial Studies Committee, to facilitate the continuing education and training of judges. [139]

128 Part One, Section 17 (Short Sentences) in the *Criminal Justice and Licensing (Scotland) Act 2010*, https://www.legislation.gov.uk/asp/2010/13/contents.

129 The Scottish Parliament Justice Committee (2019), *Presumption Against Short Periods of Imprisonment (Scotland) Order 2019*, https://sp-bpr-en-prod-cdnep.azureedge.net/published/J/2019/6/21/Presumption-Against-Short-Periods-of-Imprisonment--Scotland--Order-2019/JS052019R14.pdf

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

131 See Section 3(a) (1) (a) of the Act.

132 See Part One, Section 17 (Short Sentences) in the *Criminal Justice and Licensing (Scotland) Act 2010*, https://www.legislation.gov.uk/asp/2010/13/contents

133 Department of Justice and Equality (2014), *Strategic Review of Penal Policy Final Report*, p.94, http://www.justice.ie/en/JELR/Pages/PB14000244

134 See IPRT (2018), Submission to the Law Reform Commission on its consideration of its 5 Programme of Law Reform, Proposal 2#: Review of Sentencing/Potential of Sentencing Guidelines, http://www.iprt.ie/files/IPRTSubmission_LRC5thProg_Sentencing_final.pdf.

135 Law Reform Commission (2019), *Fifth Programme of Law Reform*, https://www.lawreform.ie/news/fifth-programme-of-law-reform.857.html.

136 Houses of the Oireachtas, *Judicial Council Act 2019*, https://www.oireachtas.ie/en/bills/bill/2017/70/

137 See Section 23 (2) of the *Judicial Council Act 2019*, https://www.oireachtas.ie/en/bills/bill/2017/70/

138 See Section 23 (4)(c).

139 See Part 3, Section 17(2) of the *Judicial Council Act 2019*, https://www.oireachtas.ie/en/bills/bill/2017/70/.

Standard 3: Safe custody limits

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

Rationale

Safe custody limits ensure the safety of both prisoners and staff. Prisoners should not be detained in overcrowded conditions as it is unsafe and may result in detrimental consequences. [140]

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 a 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.

Current context

On 31 July 2019, official capacity of the prison estate was recorded as 4,244, including both closed and open prisons.[141] Prison occupancy levels based on official capacity was recorded at 95.7%.[142]

During 2018 and 2019, a number of prisons exceeded the OiP's recommended capacity levels, on a regular basis.[143] Exceeding capacity has been a persistent feature for the two women's prisons, Dóchas and Limerick Female Prison, which have operated at 110% and 163% respectively.[144]

In the UK, the Justice Committee defines 'usable operational capacity' as:

> *...the sum of all establishments' operational capacity less 2,000 places. This is known as the operating margin and reflects the constraints imposed by the need to provide separate accommodation for different classes of prisoner i.e. by sex, age, security category, conviction status, single cell risk assessment and also owing to geographical distribution.*[145]

Currently, both the OiP and IPS provide diverging capacity levels, as can be seen from Indicator S3.1. The OiP has not published or updated maximum capacity levels since 2013.[146]

According to information received by the IPS, close supervision cells and safety observation cells are not included in capacity figures.[147]

The IPS acknowledges that the actual number of beds in commission may not match official operational capacity figures due to factors such as renovation, window installation/replacement programmes and cells temporarily out of commission for maintenance reasons.[148]

On 16 April 2019, the number of usable operational cells across the estate was recorded at 3,149.[149] The prison population on the same date was 4,043.[150]

140 Prisoners should not be held in overcrowded conditions. Provision should be made for alternative community sanctions to address this issue. See CoE, Committee of Ministers, Recommendation No. R (99) 22 concerning prison overcrowding and prison population inflation.

141 World Prison Brief, *Ireland, Republic of*, http://www.prisonstudies.org/country/ireland-republic.

142 World Prison Brief, *Ireland, Republic of*, http://www.prisonstudies.org/country/ireland-republic.

143 IPS, *Daily Prisoner Population*, https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/.

144 IPS, *Daily Prisoner Population*, 4 July 2019, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/04-July-2019.pdf.

145 See 'Box 1: Prison population key terms' in *Prison Population 2022: Planning for the Future, 2. The prison population current and projected*, https://publications.parliament.uk/pa/cm201719/cmselect/cmjust/483/report-files/48306.htm.

146 Office of the Inspector of Prisons, *An Assessment of the Irish Prison System by the Inspector of Prisons Judge Michael Reilly May 2013*, http://www.inspectorofprisons.gov.ie/en/IOP/An%20Assessment%20of%20the%20Irish%20Prison%20System%20(PDF%20-%201.15MB).pdf/Files/An%20Assessment%20of%20the%20Irish%20Prison%20System%20(PDF%20-%201.15MB).pdf.

147 Information provided by the IPS to IPRT on 5 July 2019.

148 Information provided by the IPS to IPRT on 5 July 2019.

149 Information provided by the IPS to IPRT on 20 August 2019.

150 IPS, 2019 Prison Populations, https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2019-prison-populations/.

Indicators for Standard 3

3.1 **Each closed prison operating at least 10% below capacity** [151]

Table: Capacity levels of prisons

Prison	Numbers in custody, 10 April 2019	Capacity per IPS	IPS occupancy rate	Capacity per OiP[152]	OiP occupancy rate
Arbour Hill	137	138	99%	131	105%
Castlerea	319	340	94%	300	106%
Cloverhill	421	431	98%	414	102%
Cork	299	296	101%	N/A	Not provided
Limerick (M)	224	210	107%	185	121%
Limerick (F)	39	28	139%	24	163%
Midlands	854	845	101%	870	98%
Mountjoy (M)	691	755	92%	N/A	Not provided
Mountjoy-Dóchas (F)	129	105	123%	105	123%
Portlaoise	230	291	79%	291	79%
Wheatfield	505	550	92%	550	92%
Total	3,848	3,989			

Analysis

Given the capacity levels outlined above, the vast majority of closed prisons are operating at unsafe levels. The CoE, in its *White Paper on Prison Overcrowding*, demonstrates the need to treat capacity levels above 90% as urgent:

> *If a given prison is filled at more than 90% of its capacity this is an indicator of imminent prison overcrowding. This is a high risk situation and the authorities should feel concerned and should take measures to avoid further congestion.* [153]

In the past, other countries such as Norway have placed a large number of prisoners on a waiting list before they could serve their sentence due to a lack of prison space.[154]

Unsafe custody limits or overcrowding conditions in prisons lead to an elevated risk of violence. Overcrowding was previously identified as a critical factor that resulted in the death of Gary Douch in Mountjoy prison.[155] The *Report of the Commission of Investigation into the Death of Gary Douch* concluded that measures should be taken to reduce and eliminate overcrowding within a definitive time period. This recommendation is a

151 There are two operational capacities from the OiP and the IPS which are taken from *2019 Prison Populations*. The OiP has not provided capacity levels for some prisons; see, https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2019-prison-populations/.

152 N/A refers to capacities that have not been set by the Inspector of Prisons.

153 CoE (2016), *White Paper On Prison Overcrowding*, Point 20, p.7, https://rm.coe.int/white-paper-on-prison-overcrowding-cm-2016-121-add3-e/16807c886b.

154 CoE (2019), Report to the Norwegian Government on the visit to Norway carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 28 May to 5 June 2018, p.31, https://rm.coe.int/1680909713.

155 Mc Morrow, G. *Report of the Commission of Investigation into the Death of Gary Douch Volume One Executive Summary and Recommendations*, http://www.justice.ie/en/JELR/DouchGary%20-%20Volume%201%20-%20Executive%20Summary%20and%20Recommendations%20(PDF%20-%20507KB).pdf/Files/DouchGary%20-%20Volume%201%20-%20Executive%20Summary%20and%20Recommendations%20(PDF%20-%20507KB).pdf.

reminder of the urgent attention required to ensure that all prisons are operating at safe custody limits.

The Commission of Investigation also emphasised the importance of reflecting true prison capacity:

Statistics on prison capacity should be presented in a manner that accurately reflects the capacity of a prison to house prisoners in accommodation which meets acceptable standards.[156]

As the limits set by the OiP were established in 2013, IPRT believes that these limits now need to be revised and updated. IPRT believes that the ideal safe custody limit should be one person per cell.

Status of Standard 3: No Change

Actions required	
Action 3.1	In 2020, the OiP should set safe custody limits for the prison system.
Action 3.2	Legislators should consider introducing legislation that would allow governors to refuse to take prisoners once a prison exceeds safe custody limits.
Action 3.3	The IPS should publish figures that reflect actual prison capacity, taking into consideration the impact of closure of cells and wings.

PROGRESSIVE PRACTICE

Progressive practice on overcrowding

In 2019, the CoE held a high-level conference on prison overcrowding.[157] A key finding from the conference was that collectively, participants considered reducing overcrowding in prisons as a shared responsibility among prosecutors, judges, prisons and probation services, as well as members of the government responsible for the prison service.[158] A number of solutions were offered by the Nordic and Latvian experiences in addressing overcrowding, summarised below.[159]

- Reducing prison populations is possible. Doing this requires long-term work, political will, careful law planning and drafting (including impact assessment on costs and benefits), as well as effective implementation among practitioners and effective follow-up mechanisms.
- Reducing prison populations requires effective alternatives to imprisonment such as community sanctions and other measures.
- Reducing prison populations requires measures to prevent recidivism and facilitate reintegration – for example interventions based on the 'normality principle', such as education and vocational training and treatment programmes.
- The approach also requires multi-agency cooperation, including co-operation between prison management and other authorities.

156 Ibid, p.37.

157 CoE (2019), *High-level Conference on prison overcrowding*, https://www.coe.int/en/web/cdpc/high-level-conference-on-prison-overcrowding.

158 CoE (2019), Key messages and conclusions of the *High Level Conference 'Responses to Prison Overcrowding'*, p.1, https://rm.coe.int/key-messages-and-conclusions-rev/1680947163.

159 Ibid, p.3.

Standard 4: Size of prisons

Standard 4:
Each prison is limited to a maximum prisoner population of 250.[160]

Rationale

Smaller prisons have the potential to reflect community life more closely and reduce the likelihood of violence. They can also help facilitate the development of positive staff–prisoner relationships.

Current context

There has been no change to the size of prisons across the estate in 2018–2019. Building projects have progressed;[161] for example, the redevelopment of Limerick Prison is due for completion and expected to be operational in the second half of 2021.[162] This will provide for an additional 90 spaces for male prisoners in Limerick prisons and a total of 40 spaces for female prisoners, as well as eight transition or independent living units for females.[163] This will result in an increase in the size of Limerick Prison.

Indicators for Standard 4

4.1 **The number of prisons in the Irish prison estate with a maximum prisoner population of 250 or under.**

Table: Maximum prison population of prisons[164]

Prison	Current max population	Standard met
Cloverhill	431	X
Cork	296	X
Limerick (M)	210	✓
Limerick (F)	28	✓
Midlands	870	X
Mountjoy-Dóchas (F)	105	✓
Mountjoy (M)	755	X
Portlaoise	291	X
Wheatfield	550	X
Arbour Hill	138	✓
Castlerea	340	X
Loughan House	140	✓
Shelton Abbey	155	✓

160 Following review, the standard has been changed to a maximum of 250 prisoners, to which IPRT believes all prisons should aspire.

161 IPS (2019), *Annual Report 2018*, p.53, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Annual-Report-2018.pdf.

162 Department of Justice and Equality (2019), 'Parliamentary Questions, PQ 343, 2 July 2019', http://www.justice.ie/en/JELR/Pages/PQ-02-07-2019-343.

163 Information received by IPS on the 11/09/19.

164 The current maximum population is set out in IPS (2019) *Annual Report 2018*, https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2019-prison-populations/

Analysis

Only six prisons meet the ideal maximum size of 250. However, two of these are women's prisons and two are open prisons; arguably, given the particular cohort and type of prison concerned, these should be even smaller in size. The only other prisons that currently meet the target are Arbour Hill and Limerick Prison (male section). By comparison, in Norway, the average prison size is 70 and the smallest prison size caters for 15 prisoners.[165]

Status of Standard 4: No change

Action required

Action 4.1: The Department of Justice and Equality and the IPS should consider piloting a small detention house, and match this with a reduction in capacity of the current closed prison estate

PROGRESSIVE PRACTICE

Rescaled

Rescaled is a social movement launched in April 2019 advocating for small-scale detention in Europe.[166] The aim of Rescaled is to work towards replacing prisons and support the implementation of detention houses. The project's vision identifies that replacing prisons with detention houses would greatly improve the reintegration of prisoners, with people remaining members of the community (rather than being placed in a closed prison). It provides a three-step argument for detention houses, summarised below.

1. **Small scale:** This allows for a more tailored approach, providing more opportunities for prisoners to take responsibility and engage with their community.
2. **Differentiation:** Prisoners are placed in the appropriate security level and offered the most suitable programmes.
3. **Community reintegration:** It is a two way interaction between community and the detention house. Prisoners can make use of the services provided in the community where detention has an added value for the local community.

165 Kriminalomsorgen, *About the Norwegian Correctional Service* (see 'Organization'), https://www.kriminalomsorgen.no/information-in-english.265199.no.html.

166 See Rescaled, *Movement for Small Scale Detention*, www.rescaled.net.

Standard 5: 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' principle,[167] thus reducing the risk of institutionalisation and facilitating the transition back to life outside prison.[168]

Current context

Low-security detention facilities were identified as an investment need by the IPS in its *Capital Strategy 2016–2021:*

> *For the estate as a whole however there will be a need to significantly 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 and its sub-optimal location and accessibility in the country.* [169]

No new low-security facilities have been established across the estate in 2018–2019 – this includes independent living skills units (ILSUs), with no new ILSUs set up in this period.

Indicators for Standard 5

5.1 **The number of prisoners accommodated in low-security settings.**
On 31 May 2019, 661 prisoners out of a prison population of 4,018 were accommodated in low-security settings.[170]

Table: Prisoners accommodated in low-security settings (n.)

Area/Unit	Total number of prisoners (as of 31 May 2019)[171]
The Grove and enhanced landings, Castlerea	89
The Progression Unit, Mountjoy	152
ILSUs and enhanced landings, Wheatfield	169
Enhanced landings, Midlands	38
Shelton Abbey	109
Loughan House	104
Total	661

Analysis

There are some areas across the prison estate where prisoners can be accommodated in less restrictive settings. This allows for prisoners to be held in environments that encourage and maintain life skills, thereby reducing the risk of institutionalisation. However, despite it being an objective of the IPS in its *Capital Plan 2016–2021*, 2018–2019 has seen no increase in the number of low-security centres across the prison estate.

Status of Standard 5: No Change

Action required

Action 5.1: The IPS should conduct a review of current security levels and regime levels across the prison estate, with a view to expanding access to less restrictive settings (based on a risk assessment of the prison population).

167 CoE 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://www.ochrance.cz/fileadmin/user_upload/ochrana_osob/Umluvy/vezenstvi/R_2003_23_management_of_life_sentence_and_long-term_prisoners.pdf.

168 CoE (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.

169 IPS, *Capital Strategy 2016–2021* p.26 http://www.irishprisons.ie/wp-content/uploads/documents_pdf/capital_strategy_2016.pdf.

170 IPS, *2019 Prison Populations*, https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2019-prison-populations/.

171 Source: Information provided by the Irish Prisons Service, 5 July 2019 and 20 August 2019.

Standard 6: 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 outside prison.

Current context

Open provision comprises 6.7% of bed capacity of the prison estate in Ireland, the same rate as 2018 and lower than in preceding years. One welcome development has been the opening of a new step-down facility for women leaving prison.[172] However, there continues to be no open provision for women within the prison estate. There is no open provision facility in an urban area for men, following the closure of the semi-open prison, the Training Unit (Mountjoy campus) in 2017.

There are two open prisons for males: Loughan House in Co. Cavan and Shelton Abbey in Co. Wicklow. Both prisons have strong links to the community. For example in Shelton Abbey, half of its residents leave on a daily basis to attend work, volunteer or participate in educational programmes. Shelton Abbey is currently undergoing renovation to ensure that its dormitory rooms allow for privacy. Shelton Abbey currently holds approximately 20 individuals serving life sentences, however its low operating capacity means it does not qualify for onsite medical and psychiatric services.[173]

Indicators for Standard 6

6.1 **Open provision in the prison estate.**
Open provision has represented only 6.7% of the entire prison estate since April 2017, when the Training Unit semi-open prison was closed.

Analysis

There has been no increase in open provision across the prison estate in 2018–2019. The lack of an open prison for women serving long sentences is a significant gap in supports regarding the readjustment process to life outside prison. Despite it being a recommendation made by the Penal Policy Review Group (2014), no open prison for men in an urban area has been established.[174]

The limited access to open prisons, particularly in the context of the growing number of prisoners serving longer and life sentences (as identified in Standard 2) is a significant gap in supports aimed at minimising the institutionalisation effects of a closed prison environment on an increasing number of prisoners, and helping people to gradually reintegrate into society.

Status of Standard 6: No change

Actions required

Action 6.1:	The Department of Justice and Equality and the IPS should establish an open prison for women, in particular for the small number of women who are serving long sentences.
Action 6.2:	The Department of Justice and Equality and the IPS should establish an open prison in an urban area for men; this should be matched with a reduction in closed prison spaces.

PROGRESSIVE PRACTICE

Open prisons in Iceland

Overall, Iceland has five prisons, housing fewer than 200 prisoners. Two of these five prisons are open. In Kviabryggja (open prison) there is little security around the prison walls. Emphasis is placed on prisoners and staff doing activities together; this includes communal dining. Prisoners have the opportunity to shop and cook for themselves. They have their own room with access to the internet (with some restrictions) and a mobile phone. The prison is viewed as a community with no more than 20 prisoners and three staff. The prison population is mixed, and includes female prisoners, foreign prisoners, older prisoners and prisoners with disabilities.[175]

172 The Probation Service, *Probation Service Annual Report 2018*, p.50, http://www.probation.ie/en/PB/Pages/News19000023.

173 Information received from Shelton Abbey Prison, 28th August 2019

174 Department of Justice and Equality (2014) *Strategic Review of Penal Policy, Final Report, July 2014*, http://www.justice.ie/en/JELR/Strategic%20Review%20of%20Penal%20Policy.pdf/Files/Strategic%20Review%20of%20Penal%20Policy.pdf

175 Pakes, F. (2018), 'In Icelandic prisons, the cells are open and inmates do the weekly food shop', *The Independent*, 17 November 2018, https://www.independent.co.uk/news/world/i-deliberately-sent-myself-to-prison-in-iceland-they-didn-t-even-lock-the-cell-doors-there-a8622216.htmlc.

Section B: Prison conditions

Standard 7: Humane prison conditions

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

Rationale

The deprivation of liberty is the punishment once someone is imprisoned. Therefore, prison living conditions should aim to reflect ordinary daily life and be of a standard that ensures the respect and dignity of each individual.

Current context

In order to gain insight into whether prisoners have access to decent and humane conditions, the publication of timely reports by independent and monitoring bodies is essential. It is thus difficult to report on this area, due to the absence of published inspection reports by the OiP. In addition, there have been considerable time delays in the publication of Prison Visiting Committee reports.

Access to decent prison living conditions is impacted directly by overcrowding, due to its knock-on effects on all other aspects of prison conditions. The President of the POA has highlighted that: "[o]vercrowding puts both prisoners and prison officers at unnecessary risk – and this is totally unacceptable".[176]

The Minister for Justice and Equality stated that a number of steps were being taken to address the issue, including: the re-opening of accommodation such as the Training Unit and an audit of existing accommodation, that may provide up to an additional 100 spaces.[177] IPRT is concerned that expansion of the prison estate is being put forward as a response to prison crowding in 2019.

176 POA (2019), 'Overcrowding again a major problem in our prisons', https://www.poa.ie/latest-news/overcrowding-again-a-major-problem-in-our-prisons.

177 Houses of the Oireachtas, ''Dáil Debates, Prisoner Data, 13 June 2019', https://www.oireachtas.ie/en/debates/question/2019-06-13/99/.

Indicators for Standard 7

7.1 **Number of overcrowded prisons (new)**
Throughout much of June 2019, five closed prisons were consistently overcrowded: Dóchas (women's prison), Cloverhill, Limerick (male and female), Arbour Hill and Castlerea.[178] No prisoner should have to sleep on a mattress, yet the number of prisoners recorded as doing so in May 2019 shows the extent of prison overcrowding.[179] Peak dates for this included:

- 26 people in Midlands (25 May);
- 25 people in Limerick (male) (12 May);
- 12 people in Cork (30 May);
- nine people in Cloverhill (29 May); as well as
- six women in Limerick (female) and seven men in Castlerea on several occasions across the month.

7.2 **Access to decent living conditions (new)**
There is a lack of up to date inspection reports published by the Office of the Inspector of Prison on prison conditions.[180] The Prison Visiting Committee annual reports for 2017 published in 2019 showed mixed standards of living conditions across the prison estate.[181]

The Dóchas Prison Visiting Committee raised concerns about the standard and conditions of the rooms and described that campus as in need of a major upgrade.[182]

The Limerick Prison Visiting Committee recommended that: "work on all identified infrastructural improvements continue as a matter of priority and urgency. The Isolation Unit is a particular cause of concern".[183]

Portlaoise Prison Visiting Committee reported poor conditions in E block of that campus requiring urgent attention.[184]

The Mountjoy Prison Visiting Committee reported the opening of refurbished landings with much improved yard and recreational facilities.[185]

In Wheatfield, conditions varied depending largely upon a prisoner's regime (basic, standard or enhanced):[186]

> *"If a prisoner is on basic regime his cell will more than likely be in poor condition. Windows are broken causing issues in summer and winter. The in-cell mirrors are usually broken and there is a lot of graffiti on the walls or ceiling. If a prisoner finds himself on enhanced regime, the cells are in a much better state of repair. Prisoners have access to television, books, and magazines and also have facilities for tea and coffee etc."*[187]

The Committee also reported that there has been a decrease in dumping since new windows have been installed.

In open prisons, conditions at Loughan House, were described as good.[188] There were also positive reports of Shelton Abbey, with one room fitted out with 'pods' allowing for increased privacy of prisoners.[189]

178 IPS, 2019 *Prison Populations*, see dates throughout June 2019, https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2019-prison-populations/.

179 See 'statistics' in an attached table in Houses of the Oireachtas (2019), ''Dáil Debates, Prisoner data, 13 June 2019', https://www.oireachtas.ie/en/debates/question/2019-06-13/99/

180 See Office of the Inspector of Prisons, http://www.inspectorofprisons.gov.ie/en/iop/pages/inspection_of_prisons_reports.

181 Department of Justice and Equality (2019), *Prison Visiting Committee Annual Reports 2017*, http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

182 Department of Justice and Equality (2019), *Dóchas Centre Visiting Committee Annual Report 2017*, http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

183 Department of Justice and Equality (2019), *Limerick Prison Visiting Committee Annual Report 2017*, p. 2, http://www.justice.ie/en/JELR/Limerick_Prison_Visiting_Committee%20_Annual_Report_2017.pdf/Files/Limerick_Prison_Visiting_Committee%20_Annual_Report_2017.pdf.

184 Department of Justice and Equality (2019), *Portlaoise Prison Visiting Committee Annual Report 2017*, http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

185 Department of Justice and Equality (2019), *Mountjoy Prison Visiting Committee Annual Report 2017*, http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

186 Department of Justice and Equality (2019), *Wheatfield Place of Detention Visiting Committee Annual Report 2017*, http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

187 Department of Justice and Equality (2019), *Wheatfield Place of Detention Visiting Committee Annual Report 2017*, p.2

188 Department of Justice and Equality (2019), *Loughan House Place of Detention Visiting Committee Annual Report 2017*, http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

189 Department of Justice and Equality (2019), *Shelton Abbey Place of Detention Visiting Committee Annual Report 2017*, http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

Analysis

In 2018–2019, the issue of overcrowding in the prison system has worsened, which impacts on prisoners having access to decent living conditions. No one in prison should have to sleep on a mattress on a floor. Overcrowding has many negative impacts, including elevated levels of violence. IPRT is clear in our position that increasing prison capacity is not the right response, as confirmed by the Thornton Hall Review Group and the Penal Policy Review Group.

Prisoner numbers must be reduced through the promotion and use of non-custodial alternatives. (See Standard 2.) Furthermore, a multi-agency response is required in order to divert specific cohorts away from the prison system to the appropriate service, such as those with mental illness. (See Standard 13.)

The introduction of 'pods' in the dormitory rooms in Shelton Abbey has improved the privacy for people accommodated there. Building is also underway to replace unfit prison accommodation in Limerick Prison. IPRT welcomes that this will end 'slopping out' in that prison, and that the women's facilities are being replaced. However, it is disappointing that female capacity in the prison will be doubled. This is contrary to policy consensus that the number of women in prison should be significantly reduced.

IPRT is very concerned at Wheatfield Visiting Committee reports that cell conditions vary for prisoners according to regime level. Decent living conditions must be met for *all* prisoners, regardless of the regime level they are on.

Status of Standard 7: Regress

Action required	
Action 7.1	The IPS should carry out regular internal audits of prison conditions.
Action 7.2	The Minister for Justice & Equality should progress the establishment of a Prisons Service Board, and ensure governance strutures are resourced.

Standard 8: In-cell sanitation

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

Rationale

Every person in prison should be able to avail of toilet facilities in private; this is a recognised universal minimum standard. The European Prison Rules state that all prisoners should have access to sanitary facilities that are hygienic and respect the prisoner's privacy.[190]

Current context

The practice of 'slopping out' in Irish prisons has largely declined, though it still takes place in Portlaoise and Limerick prisons.

The current development of new accommodation in Limerick Prison will replace outdated accommodation that has no in-cell sanitation.[191] These facilities are expected to be complete by February 2021.[192]

While the practice of slopping out is nearly abolished, approximately 45% of the prison population continue to toilet in the presence of others. Toileting in the presence of others has been cited as a factor in cases where the European Court of Human Rights (ECtHR) has upheld violations under Article 3 (prohibition of inhuman or degrading treatment).[193]

190 EPR 19.3. This is also provided for in the Mandela Rules (Rule 15).

191 IPS, *Strategic Plan 2016–2018*, p.53, http://www.irishprisons.ie/wp-content/uploads/documents_pdf/strategic_plan_2016.pdf.

192 Department of Justice and Equality (2019), 'Parliamentary Questions, PQ 343, 2 July 2019', http://www.justice.ie/en/JELR/Pages/PQ-02-07-2019-343.

193 See for example Peers v Greece in ECtHR, *Factsheet – Detention Conditions and Treatment of Prisoners*, July 2019, https://www.echr.coe.int/Documents/FS_Detention_conditions_ENG.pdf.

Indicators for Standard 8

8.1 **Number of prisoners currently slopping out.**
As of July 2019, 60 (1.5%) prisoners were slopping out. [194]

8.2 **Number of prisoners toileting in the presence of others**
There are currently 1,886 (47%) prisoners toileting in the presence of other as of July 2019. This compares to 1,781 (45%) in July 2018 and 1,527 (42%) in January 2017. [195]

Analysis

2019 has seen a slight increase in the actual number of prisoners slopping out, as well a significant increase in prisoners toileting in the presence of others. These increases are reflective of the overall increase in daily prison population numbers. IPRT welcomes the significant reduction in the practice of slopping out from 24.8% in 2012 to 1.5% in 2019.[196] However, this practice should be viewed as an archaic feature of the prison estate, and its continued existence reflects quite poorly on a prison system in the 21st century.

Only through working towards the continued goal of imprisonment as a last resort, thereby reducing prison population numbers, will all prisoners throughout the estate have access to private toilet facilities.

Status of Standard 8: Regress

Actions required

Action 8.1: The Department of Justice and Equality and the IPS must work towards reducing the number of people toileting in the presence of others, including through the introduction of single-cell policies (see Standard 9).

Standard 9: 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.

Current context

The importance of single-cell accommodation has been highlighted by the Mountjoy Prison Visiting Committee:

> *The value of single cell accommodation cannot be overstated, reflecting a commitment to the dignity and privacy of the person.*[197]

Based on 2019 Census figures, Mountjoy Prison has retained its commitment to single-cell occupancy and therefore can be viewed as an example of domestic good practice.[198]

Overall, approximately 50% of the prison population have their own cell. However, as a result of prison overcrowding, in May 2019 the director general of the IPS said a current audit would identify cells that were "capable of holding two prisoners that are only occupied by one".[199] This measure is expected to give up to an additional 100 spaces across the prison estate.

Additional information provided by the IPS states that a: *"Cell Audit is ongoing, the IPS have measured every cell (in closed prisons) in the country as a means of establishing where extra capacity might be created without the need for 'new builds'."*[200]

194 This is a snapshot figures taken from IPS, *Census of Cell Occupancy and In-cell Sanitation Reports, July 2019,* https://www.irishprisons.ie/information-centre/statistics-information/census-reports/.

195 These are snapshot figures taken from IPS, *Census of Cell Occupancy and In-cell Sanitation Reports,* https://www.irishprisons.ie/information-centre/statistics-information/census-reports/.

196 The 2012 figure is taken from IPS (2018), *Annual Report 2017*, p.24, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-annualreport-2017.pdf.

197 Department of Justice and Equality (2018), *Mountjoy Prison Visiting Committee Annual Report for 2017*, p.6, http://www.justice.ie/en/JELR/Mountjoy_Prison_Visiting_Committee_Annual_Report_2017.pdf/Files/Mountjoy_Prison_Visiting_Committee_Annual_Report_2017.pdf.

198 IPS Census, *April 2019 – Cell Occupancy-In Cell Sanitation,* https://www.irishprisons.ie/wp-content/uploads/documents_pdf/April-2019-In-Cell.pdf.

199 O'Keefe, C. (2019), 'Two prison units opened and 100 cells doubled up to tackle overcrowding', *The Irish Examiner,* https://www.irishexaminer.com/breakingnews/ireland/two-prison-units-opened-and-100-cells-doubled-up-to-tackle-over-crowding-921697.html.

200 Information provided by the IPS, 5 July 2019.

Indicators for Standard 9

9.1 **Number and percentage of people accommodated in a single cell.**
Census figures from April 2017, 2018 and 2019 show the number of prisoners in single-cell accommodation; this is presented in the table below.

Table: Prisoners in single, double, triple and quadruple cells, 2017–2019 [201]

Year	2017	2018	2019
No. (%) in a single cell	2,040 (54%)	2,047 (53%)	2,021 (50%)
No. in a double cell	1,396 (in 698 cells)	1,364 (in 682 cells)	1,581 (in 791 cells)
No. in a triple cell	240 (in 80 cells)	333 (in 111 cells)	342 (in 114 cells)
No. in a quadruple cell*	74 (in 16 cells)	150 (in 38 cells)	99 (in 25 cells)

Analysis

In order to ensure that single-cell accommodation becomes a reality, the number of people in prison needs to be reduced. Until 1983, it was required that prisoners be held in single-cell accommodation, when a decision taken by the Minister for Justice led to the removal of the relevant provision in the Prison Rules 1947.[202] Following an investigation into the killing of Gary Douch in Mountjoy Prison in 2006, a number of recommendations were made on the importance of single-cell accommodation, including the elimination of enforced cell sharing as a high priority.[203] Today, Mountjoy Prison has maintained its commitment to single-cell occupancy.[204] However, it is far from becoming standard practice across the estate.

IPRT acknowledges that the IPS does not see 'new builds' as the solution to overcrowding. However, neither should the doubling up of cells be used to address this issue. The CPT's minimum standard for personal living space in prison establishments is six metres squared for a single occupancy cell, plus sanitary facilities, and four metres squared of living space per prisoner in a multi-occupancy cell, as well as a fully partitioned sanitary facility.[205] At a minimum, these standards should be met.

The overall objective of reducing prisoner numbers is critical to achieving single-cell occupancy, a goal laid out in many reports.[206] As recently as 2018, the Joint Committee on Justice and Equality recommended:

> *Prisons should aim for an accommodation policy of one person, one cell, and the necessary resources should be made available to realise this aspiration.* [207]

However, achieving this goal requires an inter-agency response that addresses broader social issues for those coming into contact with the penal system.

201 IPS, *Census of Cell Occupancy and In-Cell Sanitation*, https://www.irishprisons.ie/information-centre/statistics-information/census-reports/.

202 Rogan, M (2013), *Prison Policy in Times of Austerity: Lessons from Ireland*, Dublin Institute of Technology, https://arrow.dit.ie/cgi/viewcontent.cgi?article=1029andcontext=aaschlawart.

203 McMorrow, G. Report of the Commission of Investigation into the Death of Gary Douch Volume One, *Executive Summary & Recommendations*, p.61, http://www.justice.ie/en/JELR/DouchGary%20-%20Volume%201%20-%20Executive%20Summary%20&%20Recommendations%20(PDF%20-%20507KB).pdf/Files/DouchGary%20-%20Volume%201%20-%20Executive%20Summary%20&%20Recommendations%20(PDF%20-%20507KB).pdf.

204 IPS, Census *Prison Population April 2019 – Cell Occupancy-In Cell Sanitation*, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/April-2019-In-Cell.pdf.

205 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Strasbourg, 15 December 2015 CPT/Inf (2015), *Living space per prisoner in prison establishments: CPT standards*, https://rm.coe.int/16806cc449

206 IPS, *Capital Strategy 2016-2021*, p. 21, http://www.irishprisons.ie/wp-content/uploads/documents_pdf/capital_strategy_2016.pdf

207 Houses of the Oireachtas (2018), *Joint Committee on Justice and Equality Report on Penal Reform and Sentencing*, 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.

If responsibility is not taken by other bodies, prisons will continue to detain people due to failed social policies, and the aspiration of single-cell accommodation will not be met.

Status of Standard 9: Regress

Action required ◎

Action 9.1: The IPS should ensure it meets the CPT's minimum standard for personal living space in prison establishments, and continue to work towards single-cell occupancy throughout the prison estate.

PROGRESSIVE PRACTICE

Progressive practice regarding single-cell occupancy: Bodo and Ullersmo prisons, Norway

Bodo Prison is a closed prison and has one additional open unit.[208] It has an official capacity of 56 places, while Ullersmo Prison accommodates prisoners serving long sentences, as well as remand prisoners charged with serious crimes.[209] The latter has an official capacity of 213 places.[210] Most cells in both prisons are single cell and measure between eight and 10 metres squared, which is above the CPT's minimum requirements.[211]

208 Europris, *Bodo Prison*, https://www.europris.org/establishment/bodo-prison/.

209 CoE (2019), Report to the Norwegian Government on the Visit to Norway Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 28 May to 5 June 2018, p.31, https://rm.coe.int/1680909713.

210 Ibid.

211 Ibid, p. 38.

Standard 10: Separation of remand 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) makes clear that remand prisoners should be held separately from sentenced prisoners.[212] As remand prisoners have not been found guilty of an offence they should be held separately from sentenced prisoners.

Current context

There has been an increase in the number of persons being held on remand in custody. As of 31 December 2018, there were 726 persons on remand.[213] This compares to 664 persons on remand on 31 December 2017.[214]

Monthly information notes demonstrate the increasing average number of prisoners held on remand from 2016 to 2018, as outlined in the table below.[215] There was a 24.3% increase in the monthly average numbers on remand from December 2016 to December 2018.

Table: Average monthly number on remand, 2016–2018

Month	2016	2017	2018
January	475	541	667
February	532	566	657
March	517	545	623
April	530	532	670
May	514	555	674
June	511	555	697
July	488	559	674
August	484	561	643
September	549	618	696
October	584	658	725
November	574	685	723
December	547	627	680

Following a Concluding Observation by the UN Committee against Torture (CAT, 2017),[216] the IPS published the number and lengths of time prisoners were spending on remand in 2018.[217] The table below shows the lengths of time prisoners were held on remand, in October 2018. This information is not published on a regular basis.

212 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.

213 IPS (2019), *Annual Report 2018*, p.23 https://www.irishprisons.ie/information-centre/publications/annual-reports/

214 IPS (2018), *Annual Report 2017*, p.25 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-annualreport-2017.pdf

215 IPS, *Monthly Information Note*, https://www.irishprisons.ie/information-centre/statistics-information/monthly-information-note/.

216 UNCAT (2017), *Concluding Observations on the Second Periodic Report of Ireland*, https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/INT_CAT_COC_IRL_28491_E.pdf

217 IPS, *Monthly Information Note, Remand/Trial Prisoners*, https://www.irishprisons.ie/information-centre/statistics-information/monthly-information-note/.

Indicators for Standard 10

10.1 **The number of remand prisoners held alongside people serving a prison sentence.** Based on snapshot figures, the total number of prisoners on remand in 2019 who were held alongside remand prisoners mixed with sentenced prisoners is outlined below.

Table: Remand prisoners sharing cells with sentenced prisoners [218]

Institution	Prisoners on remand on 4 July 2018*	Of whom shared a cell with a sentenced prisoner*	Prisoners on remand on 14 June 2019**	Of whom shared a cell with a sentenced prisoner**
Arbour Hill	2	2	2	0
Castlerea	58	27	67	18
Cloverhill	362	53	378	47
Cork	62	39	59	35
Limerick	83	32	91	44
Midlands	82	49	68	46
Mountjoy (F)	36	16	34	12
Mountjoy (M)	39	1	45	0
Portlaoise	18	3	4	4
Wheatfield	1	0	0	0
Total	743	222	748	206

218 *Houses of the Oireachtas, *Prisoner Data, 10 July 2018*, https://www.oireachtas.ie/en/debates/question/2018-07-10/303/.
**Department of Justice and Equality, Parliamentary Questions, 18 June 2019, http://www.inis.gov.ie/en/JELR/Pages/PQ-18-06-2019-239.

PROGRESSIVE PRACTICE

Reducing pre-trial detention

Drawing on international standards and its own research findings, Penal Reform International have provided this ten-point plan in reducing pre-trial detention.[219]

1. Review the breadth of criminal law so that pre-trial detention is not used more widely than necessary.
2. Ensure international standards underpin legislation on pre-trial justice.
3. Where possible, divert cases away from the court system.
4. Give courts a wide range of release options when defendants appear in courts.
5. Set amounts of bail money according to the circumstances of the defendant.
6. Introduce and apply time limits for remands in custody, after which defendants should be reviewed or released on bail.
7. Provide legal aid and assistance accompanied where necessary, by paralegals to provide advice to defendants.
8. Establish effective file management to ensure cases do not get lost in the system.
9. Innovate court practice to reduce delay and detention.
10. Make efforts to keep women and children out of remand detention

Analysis

Approximately 27% of the remand prison population shared a cell with sentenced prisoners in 2019, a slight decrease from 29% in 2018.

The overall increase in the number of prisoners being held on remand demonstrates that imprisonment is not being used as a last resort. More transparent data and deeper analysis is required to understand the reasons for this – for example, whether the introduction of new bail laws such as the Criminal Justice Act 2017 has impacted on these numbers.[220]

Homelessness may also be a factor affecting the increasing number of prisoners being held on remand. In a systematic review of studies that estimate the prevalence of homelessness among committals, an Irish study found that 17.4% or one in six people were homeless on committal.[221,222] Comparatively, US studies have found rates of homelessness at the time of imprisonment to be 12.4%[223] and 16%. In the UK, estimates of 15% have been made.[224] Homelessness is a particular issue for persons held in Cloverhill Prison:

There is a high degree of homelessness among the prisoners with perhaps as much as one third of prisoners being affected.[225]

In this context, it is important that other bodies, including the Department of Housing, Planning and Local Government, work together to ensure that no one is detained on remand for reasons of homelessness.

219 Penal Reform International and UK Aid from the British People (2016), *10 point Plan, Reducing Pre-trial Detention*, https://cdn.penalreform.org/wp-content/uploads/2016/04/10-point-plan-Pre-trial-detention-WEB_final.pdf.

220 Department of Justice and Equality, *Criminal Justice Act 2017,* http://www.justice.ie/en/JELR/Pages/Criminal_Justice_Act_2017.

221 Gulati, G., Keating N., O'Neill, A., Delaunois, I., Meagher D. and Dunne, C.P. (2018), 'The prevalence of major mental illness, substance misuse and homelessness in Irish prisoners: Systematic review and meta-analyses', *Irish Journal of Psychological Medicine* (2019), Vol. 36, pp. 35–45.

222 In this particular study, homelessness was defined as those living 'homeless and roofless' and in 'unsettled accommodation'. Data on homelessness at the time of incarceration were extracted.

223 Figures cited in Gulati, G., Keating N., O'Neill, A. Delaunois, I., Meagher D. and Dunne, C.P. (2018), 'The prevalence of major mental illness, substance misuse and homelessness in Irish prisoners: Systematic review and meta-analyses, *Irish Journal of Psychological Medicine* (2019), Vol. 36, 35–45.

224 Ibid.

225 Department of Justice and Equality (2019), *Annual Report 2017 from Cloverhill visiting Committee to the Minister for Justice Charles Flanagan*, p.2 http://www.justice.ie/en/JELR/Cloverhill_Prison_Visiting_Committee_Annual_Report_2017.pdf/Files/Cloverhill_Prison_Visiting_Committee_Annual_Report_2017.pdf.

Status of Standard 10: Mixed

Actions required

Action 10.1:	The Department of Justice and Equality, in conjunction with An Garda Síochána, the Courts Service, the Director of Public Prosecutions, the IPS and the Central Statistics Office, should compile comprehensive statistics relating to the use of pre-trial detention, with a view to enhancing knowledge and understanding of statistical trends.
Action 10.2:	The IPS should use the opportunity presented by the development of new Limerick Prison facilities to achieve separation of remand and sentenced female prisoners.

Standard 11: 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.[226] Every member of the family maintains a right to family life.[227] Maintaining positive family contact is also a crucial factor in the rehabilitation and desistance process.

Current context

All stakeholders such as the police, judiciary, prison staff and media should promote the rights of children and families affected by imprisonment, with particular reference to the basic principles of the CoE's (2018) recommendation on children of imprisoned parents.[228]

While no data have been published on the number of children affected by parental imprisonment, there were 239,769 visitors to the prison estate in 2018, of whom 50,592 were categorised as children.[229] Furthermore it has been reported that this information is now being collated by prison governors upon committal to prison.[230] The importance of supporting children affected by parental imprisonment was recognised in a 2019 Dáil debate on educational supports for children experiencing homelessness:

> *While it is very important to look at the needs of those who are vulnerable and in emergency accommodation, we cannot forget about the needs of those children coming into school from very unsuitable accommodation and overcrowded accommodation, from homes where the parents have problems with addiction or are in prison.*[231]

226 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.

227 This is provided for under Article 8 of the ECHR, https://www.echr.coe.int/Documents/Convention_ENG.pdf.

228 CoE (2018), *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.

229 Department of Justice and Equality (2019), 'Parliamentary Questions, PQ 27, 16 May 2019', http://www.justice.ie/en/JELR/Pages/PQ-16-05-2019-27.

230 Baker, N. More children affected by parents being in prison than by child homelessness, *The Irish Examiner*, https://www.irishexaminer.com/breakingnews/ireland/more-children-affected-by-parents-being-in-prison-than-by-child-homelessness-947888.html

231 Kildare Street (2019), 'Dáil Debates, Educational supports for children Experiencing Homelessness: Motion: [Private Members],

The experiences of children and families are rarely under the spotlight. Yet the Mountjoy Prison Visiting Committee has highlighted repeated reports of family members being demeaned by staff on entry to the prison.[232] Currently, visitors can make complaints to the IPS under 'Category E' complaints.[233] However, the number of families/significant others making complaints is not collated.[234]

According to the Seventh Report of the IOG, a policy on visiting conditions standards by the National Families and Imprisonment Group is to be provided by Quarter 2 of 2019.[235] The report identified other positive developments, including new parenting support programmes commencing in Midlands, Portlaoise and Castlerea prisons.[236]

The IPS also reports that the Family Links Programme is to be rolled out to all prisons and that family liaison officer training is to be provided to IPS staff.[237]

Indicators for Standard 11

11.1 **Availability of child-friendly visiting conditions across the prison estate.**
In 2018, the Minister for Justice and Equality stated that all prisons have child-friendly visiting conditions.[238]

11.2 **Regular family contact, specifically via phone calls, video-conferencing and contact visits.**
Between August 2018 and July 2019, 227 prisoner video calls to their families took place.[239] The IPS also plans to further roll out video conference units and to further develop the use of 'virtual' visits.[240]

11.3 **Access to evening and weekend visits across the prison estate.**
No prison in Ireland allows evening visits for children and families/significant others.[241] Certain prisons (Wheatfield, Shelton Abbey, Portlaoise, Mountjoy, Limerick, Loughan House, Dóchas, Cloverhill, Castlerea and Arbour Hill) do facilitate Saturday visits, however.[242] No Saturday visits take place in Midlands Prison. The only prisons that facilitate Sunday visits are the Dóchas Centre (female), Shelton Abbey, Loughan House, Castlerea and Cloverhill.[243] The IPS has stated that visiting times have been reviewed in order to better facilitate school-going children.[244]

11.4 **Supports for children affected by parental imprisonment.**
No specific supports or strategy for children affected by parental imprisonment have been developed or led by the Department of Children and Youth Affairs. However, Bedford Row Family Project and Limerick Prison were awarded the 'Investing in Children' services award for 2019–2020.[245]

Analysis

Thousands of children and families are affected by imprisonment on an annual basis. There are a number of practical issues that impact on maintaining family contact. These include inflexible visiting hours and the financial costs associated with travelling to prison. IPRT welcomes positive developments such as the review of visiting hours for school-going children.

The national policy on visiting conditions standards by the National Families and Imprisonment Group

Wednesday 3 April 2019', https://www.kildarestreet.com/debates/?id=2019-04-03a.402&s=maureen+o%27sullivan+prison#g426.

232 Department of Justice and Equality (2019), *Mountjoy Prison Visiting Committee Annual Report 2017*, p.5 http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

233 IPS, *Complaints* Categories, http://www.irishprisons.ie/wp-content/uploads/documents_pdf/complaints_cat_poster.pdf.

234 Collating these data would require a manual examination of a large number of individual prisoner records. Information received by the IPS, 20 August 2019.

235 See 'Timelines/milestones' under Recommendation 25 in the *Seventh Report of the Implementation Oversight Group to the Minister for Justice and Equality*, http://www.justice.ie/en/JELR/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf/Files/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf.

236 Ibid.

237 IPS (2019), *Annual Report 2018*, p. 41, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Annual-Report-2018.pdf.

238 Houses of the Oireachtas (2018), 'Dáil Debates, Prison facilities, PQ 518, 12 June 2018', https://www.oireachtas.ie/en/debates/question/2018-06-12/518/.

239 Information received by the IPS, 5 July 2019.

240 Information received by the IPS, 5 July 2019.

241 IPS, 'Request a family visit', http://www.irishprisons.ie/visiting-a-prison/request-a-family-visit/.

242 Ibid.

243 Ibid.

244 IPS (2019), *Annual Report 2018*, p.41 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Annual-Report-2018.pdf.

245 Bedford Row Family Project, *Investing in Children Award*, https://www.bedfordrow.ie/investing-in-children-award/.

is expected to be published in 2019.[246] These standards and an assessment of same would provide further insight into what is required to ensure child- and family-friendly conditions and good practice in Irish prisons.

There is currently no national strategy or supports for children affected by parental imprisonment. More needs to be done on recognising the needs of these children as a distinct group. In this respect, the Department of Children and Youth Affairs should take the lead in promoting the rights and supporting the needs of children affected by parental imprisonment.

Status of Standard 11: Mixed

Actions required

Action 11.1:	The Department of Children and Youth Affairs should lead on the development of a national strategy for supporting children affected by parental imprisonment.
Action 11.2:	The IPS should publish a national policy on visiting standards for children and families affected by imprisonment by Quarter 2 of 2020; this policy should include a performance measure on supporting family contact.

PROGRESSIVE PRACTICE

Family contact

A new UK report on strengthening relationships between female offenders and others recognises the importance of family visits.[247] It makes recommendations to support contact between women and their children including the use of technology such as in-cell phones and greater use of temporary release. However, recommendations made extend beyond the criminal justice system, with the report suggesting that investment is needed in women's centres, domestic abuse services and other community services. The author Lord Farmer made a wide number of recommendations, including: making significant improvements to the Assisted Prisons Visits scheme; developing a family-related prison performance measure; and having an on-site social worker in every prison and the roll-out of virtual visits.

246 See 'Timelines/milestones' under Recommendation 25 in the *Seventh Report of the Implementation Oversight Group to the Minister for Justice and Equality*, http://www.justice.ie/en/JELR/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf/Files/IOG_Seventh_Report_of_the_Implementation_Oversight_Group_to_the_Minister_for_Justice_and_Equality.pdf.

247 Ministry of Justice (2019), The Importance of Strengthening Female Offenders' Family and other Relationships to Prevent Re-Offending and Reduce Intergenerational Crime, by Lord Farmer, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/809467/farmer-review-women.PDF.

Standard 12: Access to healthcare services

Spotlight 1

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 right to healthcare in prison is equal to that enjoyed by the general population is laid out in the Mandela Rules, the Bangkok Rules and the European Prison Rules.[248] The healthcare needs of the prison population are in fact higher than those of the general population. These needs must be met, particularly because of the lack of autonomy prisoners face in terms of their access, choice and responsiveness to healthcare.

Current context

According to the World Health Organization (WHO, 2019), there is evidence that people who are imprisoned disproportionately experience complex, co-occurring health problems, including mental illness, cognitive disability, substance dependence, non-communicable diseases, HIV, tuberculosis, hepatitis C and other infectious diseases.[249] The poor health experienced by this population typically occurs in the context of deeply embedded socioeconomic disadvantage.[250] While many people have health problems when entering prison, the prison setting can worsen existing mental health or physical health conditions.[251]

In 2019, the Minister for Health published Sláintecare Action Plan 2019. [252] It is a ten-year plan with a vision for reformed health and social care services in Ireland. One of its overall aims is to improve population health. It is important that the healthcare needs of the prison population are considered within this context.

Currently, the IPS manages healthcare in Irish prisons, despite an increasing trend internationally whereby Ministries of Health are responsible for prison healthcare (see progressive practice section below).

A number of healthcare issues have been raised in the OiP reports on deaths in custody, with causes of death in prison including suspected suicide, overdoses, serious medical conditions and natural causes.[253] The OiP has made a number of important recommendations related to healthcare in these reports. For example, the Inspector recommended that centralised policy and standard operating procedures be developed to ensure that the nurse in change within each prison is notified immediately when a new committal has medication in his/her possession. In the same report, the Inspector recommended that no medical items should be placed in an area to which nurses do not have access to 24 hours a day, seven days a week.[254]

248 "The provision of healthcare is a state responsibility. Prisoners should enjoy the same standards of care that are available in the community, and should have access to necessary healthcare services free of charge without discrimination on the grounds of their legal status" (Art 24(1) of UN Mandela Rules). "Healthcare services should be organised in a close relationship to the general public health administration and in a way that ensures continuity of treatment and care including for HIV, tuberculosis and other infectious diseases, as well as for drug dependence" (Art. 24(2) of UN Mandela Rules). "Every prison shall have in place a health care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners paying particular attention to prisoners with special healthcare needs or with health issues that hamper rehabilitation" (Article 25(1) of UN Mandela Rules). "Medical services in prison shall be organised in close relation with the general health administration of the community or nation" (Rule 40.1 European Prison Rules). "All necessary medical, surgical and psychiatric services including those available in the community shall be provided to the prisoner for that purpose" (Rule 40.5 European Prison Rules). "Prison authorities shall safeguard the health of all prisoners in their care" (Rule 39, European Prison Rules). "Gender-specific health-care services at least equivalent to those available in the community shall be provided to women prisoners". (Rule 10, the Bangkok Rules). "Individualised, gender sensitive, trauma informed and comprehensive mental health care and rehabilitation programmes shall be made available for women prisoners with mental health care needs in prison or in non-custodial settings" (Rule 12, Bangkok Rules). "The prison medical service shall provide for the psychiatric treatment of all prisoners who are in need of such treatment and pay special attention to suicide prevention" (Rule 47.2, European Prison Rules).

249 WHO (2019), *Health in prisons: fact sheets for 38 European countries*, http://www.euro.who.int/__data/assets/pdf_file/0007/397915/Health_in_prisons_report_online.pdf?ua=1.

250 Ibid.

251 Heard, C. (2019), *Towards a Health-informed Approach to Penal Reform? Evidence from Ten Countries*, ICPR, http://www.prisonstudies.org/sites/default/files/resources/downloads/icpr_prison_health_report.pdf.

252 Department of Health (2019), 'Minister for Health publishes Sláintecare Action Plan 2019', https://health.gov.ie/blog/press-release/minister-for-health-publishes-slaintecare-action-plan-2019/.

253 See Office of the Inspector of Prisons, *Death in Custody Reports*, http://www.inspectorofprisons.gov.ie/en/iop/pages/deaths_in_custody_reports.

254 Office of the Inspector of Prisons, A report by the Office of the Inspector of Prisons into the circumstances surrounding the

The 2017 Prison Visiting Committee reports also document issues of access to healthcare. [255] For example, there was no doctor available in Arbour Hill at weekends, despite the high volume of elderly prisoners in need of constant medical attention there. In Cloverhill, prisoners raised the issue of delays in accessing the medical doctor there, as well as access to medical visits outside the prison.[256] The Cloverhill Visiting Committee recommended improvements be made to healthcare services.[257]

In 2016, there was a total of 153 prison healthcare staff in Ireland.[258] The healthcare staff–prisoner ratio was 42 per 1,000. Comparatively, the ratio in other European countries was: 46.3 per 1,000 in Belgium; 49.9 per 1,000 in France; 61 per 1,000 in Finland; and 89.1 per 1,000 in Switzerland.[259]

The WHO's database shows that there were 101 healthcare complaints made by prisoners in Ireland in 2016.[260]

A number of recommendations have been made by external bodies related to improving prison healthcare in Ireland.

Following its last visit to Ireland, the CPT (2015) described healthcare in some Irish prisons as being 'in a state of crisis'.[261] They recommended:

> *... that the Irish authorities identify an appropriate independent body to undertake a fundamental review of health-care services in Irish prisons. Further, it would appreciate the observations of the Irish authorities on the question of bringing prison health-care services under the responsibility of the Ministry of Health.*[262]

It also highlighted the deterioration of healthcare services in Midlands prison. The CPT recommended that that there be at least one full-time GP in Castlerea Prison, and that psychiatric visits take place there. It also recommended that there be two full-time GPs in Mountjoy Prison and that improvements be made in terms of increasing the time of attendance of GPs in Mountjoy, Midlands and Castlerea prisons.

In a 2016 thematic review of healthcare in prisons the OiP recommended that a health needs assessment of prisoners in all prisons should be "undertaken immediately".[263] The OiP recommended that the lead in undertaking the healthcare assessment must be a clinician.

In July 2018, an executive clinical lead was appointed to prison healthcare.[264] Since this appointment, the Minister for Justice and Equality has confirmed that the terms of reference for the review of prison healthcare were agreed between the Department of Justice and Equality, the Department of Health and the IPS in August 2018.[265] In June 2019, the Minister stated:

> *This assessment will determine the health status of prisoners, the need and demand for healthcare services, while also establishing the current level of healthcare service provision in prisons. It is proposed that this assessment will outline current and future health needs and make recommendations, based on best international practice, to the Steering Group on the future development of health and personal*

death of Mr G on 6 May 2017 in Limerick Prison, http://www.justice.ie/en/JELR/Office%20of%20Inspector%20of%20Prisons%20Report%20into%20circumstances%20surrounding%20the%20death%20of%20Prisoner%20G%20(2017).pdf/Files/Office%20of%20Inspector%20of%20Prisons%20Report%20into%20circumstances%20surrounding%20the%20death%20of%20Prisoner%20G%20(2017).pdf.

255 Department of Justice and Equality (2019), *Prison Visiting Committee Annual Reports 2017*, http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

256 Department of Justice and Equality (2019), *Cloverhill Prison Visiting Committee Annual Reports 2017*, p.4, Cloverhill Prison Visiting Committee Annual Report 2017.

257 Ibid.

258 WHO, 'Health in prisons European database (HIPED) number of staff', http://apps.who.int/gho/data/node.prisons.Number_Of_Staff?lang=en.

259 WHO (2019), *Health in prisons: fact sheets for 38 European countries*, http://www.euro.who.int/__data/assets/pdf_file/0007/397915/Health_in_prisons_report_online.pdf?ua=1.

260 WHO, 'Health in Prisons European Database (HIPED) National health care complaint system', http://apps.who.int/gho/data/node.prisons.National_Health_Complaint_System?lang=en.

261 CoE CPT/Inf (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, p.34, https://rm.coe.int/1680696c9a.

262 Ibid, p.34.

263 Office of the Inspector of Prisons (2016), *Healthcare in Irish Prisons, Report by Judge Michael Reilly*, p.23, http://www.inspectorofprisons.gov.ie/en/iop/pages/other_reports.

264 See Indicator S12.1, Standard 12, https://pips.iprt.ie/progress-in-the-penal-system-pips/part-2-measuring-progress-against-the-standards/b-prison-conditions/12-access-to-healthcare-services/#cite_321.

265 Kildare Street (2019), 'Written Answers, 13 June 2019, Department of Justice and Equality: Prison medical services', https://www.kildarestreet.com/wrans/?id=2019-06-13a.296.

social services. [266]

In a 2019 report examining a health-informed approach to penal reform, two urgent questions were highlighted for every government to consider:[267]

1. *"whether all available routes are being pursued to prevent overcrowding in prisons and thereby minimise the associated risks to public health; and*
2. *how the work of criminal justice and community health agencies can be reconfigured to prevent the imprisonment of people whose health needs could be better met in the community."*

These questions should be considered as part of the assessment in Ireland, given the current issue of overcrowding, and in order to ensure that Ireland delivers upon the principles of continuity and equivalence of care in prisons.

Outlined below are two groups with a particular set of healthcare needs: women and older people.

Women

Women have a distinct set of healthcare needs and should therefore have access to gender-specific healthcare services. Basic healthcare needs, including women's lack of access to sanitary products, were reported in 2019 as not being met.[268]

These needs are further outlined under the *United Nations Rules for the treatment of Women Prisoners and Noncustodial Measures for Women Offenders (the Bangkok Rules).*[269] In England, there are a number of gender-specific standards to improve the health and well-being for women in prison.[270]

Older people

There is a growing number of older people in our prison population. The healthcare needs of this cohort require specific attention.[271] For example, while reporting on the death of an elderly prisoner in Midlands, the OiP stated that as prisons do not have hospital wings, prisoners with significant medical problems should not remain in prison.

Furthermore, in relation to end-of-life care, the Inspector recommended that "when it is apparent that a prisoner is reaching the end of his/her life, a case conference involving a palliative care team should be convened to formulate a care plan".[272] On a separate occasion, in 2017 the acting Inspector recommended:

> *Decisions to release prisoners on grounds of severe ill-health, severe pain and/or where such prisoners are nearing death, such as in this instant case, should be made by the Director General having regard to advice from all appropriate professionals such as Doctors, Healthcare Staff and Senior Management of the prison.*
>
> *It may be necessary to amend legislation to give effect to this recommendation. If so, it should be prioritised in the interest of the human rights of terminally ill prisoners.*[273]

As highlighted by the CoE (2019):

> *"The normal prison environment is harmful and amounts to inhuman and degrading treatment for some prisoners: those with terminal illness, those with serious mental disorders, those with chronic infectious diseases".*[274]

266 Ibid.

267 Heard, C. (2019), *Towards a Health-Informed Approach to Penal Reform? Evidence From Ten Countries*, ICPR, p. 29, http://www.prisonstudies.org/sites/default/files/resources/downloads/icpr_prison_health_report.pdf.

268 Gallagher C. (2019), 'Social interaction 'almost impossible' for Portlaoise Prison inmates', 13 August 2019, *The Irish Times*, https://www.irishtimes.com/news/crime-and-law/social-interaction-almost-impossible-for-portlaoise-prison-inmates-1.3984298.

269 United Nations Office on Drugs and Crime, The Bangkok Rules United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders with their Commentary, https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf.

270 Public Health England (2018), *Gender Specific Standards to Improve Health and Wellbeing for Women in Prison in England*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/687146/Gender_specific_standards_for_women_in_prison_to_improve_health_and_wellbeing.pdf.

271 IPRT (2016), *"In Here, Time Stands Still" The Rights, Needs and Experiences of Older People in Prison*, http://www.iprt.ie/files/IPRT-Older_People_in_Prison_Report_web.pdf.

272 Office of the Inspector of Prisons (2012) *A report by the Inspector of Prisons Judge Michael Reilly into the circumstances surrounding the death of Prisoner C in the Midlands Prison on 30th January 2012*, http://inspectorofprisons.gov.ie/en/IOP/Report%20on%20the%20death%20of%20Prisoner%20C%20-%202012.pdf/Files/Report%20on%20the%20death%20of%20Prisoner%20C%20-%202012.pdf

273 Office of the Inspector of Prisons (2017), A report by the Office of the Inspector of Prisons into the circumstances surrounding the death of Prisoner H on 15 May 2017 in Midlands Prison, http://www.justice.ie/en/JELR/Office_of_the_Inspector_of_Prisons_Report_into_the_Death_of_Prisoner_H_2017.pdf/Files/Office_of_the_Inspector_of_Prisons_Report_into_the_Death_of_Prisoner_H_2017.pdf.

274 Pont J. and Harding, T.W. (2019), *Organisation and Management of Health Care in Prison, Guidelines*, Council of Europe p. 17, https://rm.coe.int/guidelines-organisation-and-management-of-health-care-in-prisons/168093ae69.

Some key ethical cornerstones to providing prison healthcare have been highlighted by the CoE [275]. These include: access to healthcare; equivalence of care; patient consent and confidentiality; preventative healthcare; humanitarian assistance; professional independence; and professional competence.

Indicators for Standard 12

12.1 **Responsibility for prisoner healthcare is held by the Health Service Executive (HSE), with independent inspections by the Health Information and Quality Authority (HIQA).**
This has not happened yet, although a healthcare assessment of the needs of the prison population is underway with agreed terms of reference between the Department of Justice and Equality, the IPS and the Department of Health.

12.2 **Publication of an annual report on prison medical services as recommended by the CPT.**
Thus far, there has been no annual report published on prison medical services in 2018–2019.

12.3 **Ratio of medical staff to prisoners, including GPs and nurses (new).**
The IPS directly employs four permanent prison doctors. Locum doctors are also employed. A panel of 30 qualified GPs are available. According to the Minister for Justice, "[t]his equates to approximately 12 whole-time equivalent (WTE) locum doctors delivering general practitioner sessions across the prison estate".[276]

A total of 127.5 WTE nurses are currently employed by the IPS.[277]

Analysis

There has been some progress in the area of prison healthcare, with agreed terms of reference and tender advertised for a health needs assessment in 2019.[278] However, this is long overdue, given past recommendations made by the CPT (2015) and by the OiP (2016); the Inspector at that time recommended that a health needs assessment be carried out 'immediately'.[279]

Poor prison conditions can exacerbate poor health – for example, the major outbreak of tuberculosis in Cloverhill prison at the start of the decade and the impact it had on health and safety in that prison.[280] Poor health conditions in prison can also lead to poor health conditions in the community, a current concern given the increasing number of prisoners serving short sentences.

In order to adhere to the principles of continuity and equivalence of healthcare in prisons, the Department of Health and the Department of Justice and Equality should consider the transfer of healthcare governance to the Department of Health. The Department of Health should also ensure that the healthcare needs of the prison population are taken into account when considering its goal of improving the overall health of the general population.

275 Ibid.

276 Kildare Street (2019), 'Written Answers, 13 June 2019, Department of Justice and Equality, Prison medical services', https://www.kildarestreet.com/wrans/?id=2019-06-13a.296

277 Ibid.

278 Ibid.

279 Office of the Inspector of Prisons (2016), *Healthcare in Irish Prisons Report by Judge Michael Reilly Inspector of Prisons*, p. 23, http://www.inspectorofprisons.gov.ie/en/IOP/Healthcare%20in%20Irish%20Prisons,%20Report%20by%20Judge%20Michael%20Reilly.pdf/Files/Healthcare%20in%20Irish%20Prisons,%20Report%20by%20Judge%20Michael%20Reilly.pdf.

280 O'Cionnaith, F. (2019), 'State hit with €5m compo bill for TB outbreak in prison', *The Irish Examiner*, 30 May 2019, https://www.irishexaminer.com/breakingnews/ireland/state-hit-with-5m-compo-bill-for-tb-outbreak-in-prison-927647.html.

Status of Standard 12: Mixed

Actions required

Action 12.1:	The Department of Justice and Equality and the Department of Health must ensure that the prison healthcare assessment is completed and published by July 2020.
Action 12.2:	The Department of Justice and Equality and the Department of Health should consider the transfer of prison health-care to the Department of Health as part of the assessment.
Action 12.3:	A national reporting framework and the development of indicators should be established in order to continually assess the quality of prison healthcare by the IPS.
Action 12.4:	The IPS should take steps to ensure that terminally-ill prisoners can be released into appropriate care and have their rights respected.
Action 12.5:	The IPS should develop gender-specific healthcare standards for women.

PROGRESSIVE PRACTICE

Transfer of prison healthcare to ministries of health

A number of European countries now have their ministry of health governing prison healthcare services. These include Finland, France, Italy, Norway and the United Kingdom.[281]

A number of lessons were identified from the Finnish experience including: the importance of detailed planning and cooperation between organisations; ensuring that roles and responsibilities of organisations are formally defined and agreed; and that staff in all agencies are listened to and have support to adjust to the change[282]. After the transfer to the Ministry of Health, the strategy focused on: assessment of health needs within 24 hours of admission to prison; a health and wellness plan during imprisonment; and ensuring continuity of care upon release from prison.[283]

A 2018 report focusing on prison healthcare governance highlights that the longer-term impact of healthcare governance transfers to ministries of health is not yet known.[284] However, evidence suggests that countries that have made this change report increased professional independence for healthcare professionals.[285] The same report highlights the importance of national reporting and the establishment of solid indicators to assess the quality of in-prison healthcare.[286]

281 WHO, 'Health in Prisons European Database (HIPED), Prison health care oversight', http://apps.who.int/gho/data/node.prisons.Prison_Health_Care_Oversight?lang=en.

282 WHO (2019), *6th Prison Health Conference Prison health Systems: The interface with wider national health systems*, pp.2-3 http://www.euro.who.int/__data/assets/pdf_file/0006/405870/Report-HIPP-6th-Conference-March-2019-Final-to-publish.pdf?ua=1.

283 Ibid.

284 Pont, J., Enggist, S., Stöver, H., Williams, B., Greifinger, R. and Wolff, H. (2018), 'Prison health care governance: Guaranteeing clinical independence', *Am J Public Health*, Vol. 108, No. 4, pp. 472–476. doi:10.2105/AJPH.2017. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5844391/

285 Ibid.

286 Ibid.

Standard 13: Mental healthcare

Spotlight 2

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

It is well established that the prison environment exacerbates mental health issues. Mental illness in the context of prison must be viewed as a health issue requiring an effective and prompt health intervention, including diversion to appropriate treatment services outside prison.

Current context

In Ireland, a 2005 research study showed that for all mental illnesses combined, rates ranged from 16% of male committals to 27% of sentenced men, while the rate for female committals was 41% and 60% for sentenced women.[287]

The prison chaplaincy service has been highly critical of the practice of accommodating people with severe mental illness in Irish prisons.[288] The Wheatfield prison chaplaincy service said mentally-ill prisoners were being 'doubly punished' and that officers were at risk of injury as a result.[289]

In April 2019, it was reported that the IPS, the HSE, the Department of Health and the Department of Justice and Equality are in discussions to establish a national personality disorder unit.[290]

The Central Mental Hospital (CMH) is currently operating at 100% of its capacity, with admissions to the CMH "systematically triaged according to the level of therapeutic security required and the urgency of clinical need".[291] The average waiting time for transfer from prison to the CMH is 120.86 days (with a range from seven to 504 days).[292] A new forensic mental health facility in Portrane is due to replace the CMH in 2020.[293] It will have a maximum capacity for 170 patients (comprising 130 secure spaces; 30 step-down spaces; and 10 CAMHS beds);[294] however this will not meet demand based on the current and persistent number of prisoners awaiting transfer.

The second report of an inter-departmental group established to examine issues relating to people with mental illness who come into contact with the criminal justice system is due to be published shortly. This report will examine matters relating to mental health services for prisoners and post-release mental health services for prisoners.[295]

IPRT welcomes a recent study on self-harm in prisons.[296] The study showed that there were 223 incidents of self-harm in Irish prisons between 1 January and 31 December 2017. An episode of self-harm was recorded for 4% of the prison population. While four-fifths (80%) of these prisoners were male (with a mean age of 32), the rate of self-harm was 4.4 times higher among female prisoners than male prisoners. The rate of self-harm was higher among prisoners on remand compared to sentenced prisoners.

In 2019, the IPS was urged to keep its nursing committal forms under review following an inquest in 2019 which returned a verdict of suicide by a man who died four hours after he had been committed to Cork Prison.[297] Evidence

287 Kennedy, H.G., Monks, S., Curtin, K., Wright, B., Linehan, S., Duffy, D., Teljeur, C. and Kelly, A. (2010), *Mental Illness in Irish Prisoners Psychiatric Morbidity in Sentenced, Remanded and Newly Committed Prisoners*, http://www.tara.tcd.ie/bitstream/handle/2262/63924/final%20prison%20morbidity%20report%20101204.pdf?sequence=1andisAllowed=y.

288 Gallagher, C. (2019), 'Prison is 'wholly inappropriate' for mentally ill people, say chaplains', *The Irish Times*, 15 July 2019, https://www.irishtimes.com/news/ireland/irish-news/prison-is-wholly-inappropriate-for-mentally-ill-people-say-chaplains-1.3956552.

289 Ibid.

290 Lynch, D. (2019), 'Prison service in talks with HSE and Department over personality disorder unit', 14 April 2019, *The Medical Independent*, http://www.medicalindependent.ie/prison-service-in-talks-with-hse-and-department-over-personality-disorder-unit.

291 This information was received by Deputy James Browne's office on 24 June 2019.

292 Ibid.

293 HSE, National Forensic Mental Health Service,

294 Ibid.

295 Referenced in Department of Justice and Equality (2018), *First Report of the Interagency Group for a Fairer and Safer Ireland*, http://www.justice.ie/en/JELR/Interagency_Group_for_a_Fairer_and_Safer_Ireland_Annual_Report_2017.pdf/Files/Interagency_Group_for_a_Fairer_and_Safer_Ireland_Annual_Report_2017.pdf.

296 IPS (2018), *Self-Harm in Irish Prisons 2017: First Report from the Self-Harm Assessment and Data Analysis (SADA) Project*, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Prison-self-harm-annual-report-2017.pdf.

297 English E. (2019), 'Review urged after prisoner took his own life within four hours of being committed to Cork Prison', *Irish Examiner*, 19 July 2019, https://www.irishexaminer.com/breakingnews/ireland/reviews-urged-after-prisoner-took-his-own-life-938013.html.

demonstrated that, contrary to standard operating procedures, 15-minute checks were not being carried out. Following the inquest, the IPS introduced a new policy whereby ordinary observations are every three hours, allowing the IPS to direct resources to those on special observations or those deemed 'at risk', with an officer dedicated to perform the checks.[298]

Indicators for Standard 13

13.1 **The number of prisoners awaiting transfer to the CMH.**
At the week ending 29 April 2019, there were 29 prisoners awaiting transfer to the CMH.[299] Of these, 26 were male and 3 were female.[300]

Between June 2018 and May 2019, the lowest number of prisoners awaiting transfer to the CMH was 18, for three weeks in September 2018, while the highest number was 34, in the week of 14 January 2019.[301]

13.2 **The length of time individual prisoners are being held in safety observation cells.**
This information has been requested but was not provided at the time of publication.[302]

13.3 **The number of high support units across prisons nationwide.**
There are currently two operational high support units in Cloverhill and Mountjoy prisons. Cork Prison also has a 'vulnerable prisoners unit' for individuals categorised as particularly vulnerable for medical or safety reasons.[303] It was previously recommended that all prisons should have a high support unit.[304]

13.4 **Ratio of one psychologist to 150 prisoners**
Outlined below is the ratio of psychologists-to-closed-prison-capacity[305]. (Note, however, that a number of prisons are operating above capacity, in which cases the ratio will actually be even lower.)

Table: Psychologist-capacity ratio by prison in 2019 [306]

Prison	Bed space	Psychologist-capacity ratio
Arbour Hill	138	1:115
Cloverhill	431	1:287
Wheatfield	550	1:166
Mountjoy	755	1:215
Dóchas (female)	105	0.5:105
Midlands	835 (excluding National Violence Reduction Unit)	1:384
Portlaoise	263	0.2:263
Limerick	238	0.8:238
Cork	296	1:227
Castlerea	340	0.5:340
National Violence Reduction Unit	10	0.3:10
Target		1:150
Total	**3,925**	**1:251**

Psychologist–prisoner ratios are poor for much of the prison population, with the lowest found in Castlerea and Cloverhill prisons. Cloverhill is the main remand facility; as already noted, there is a high prevalence of mental health issues among the remand population, with previous domestic research having shown rates of psychosis to be among the highest for the remand population, at 7.6%.[307]

298 Ibid.

299 Ibid.

300 Ibid.

301 Information received from the IPS, 5 July 2019.

302 Kildare Street (2019), 'Written Answers, Thursday 13 June 2019, Department of Justice and Equality, Prisoner data', https://www.kildarestreet.com/wrans/?id=2019-06-13a.242.

303 Information supplied to IPRT by the IPS, 5 July 2019.

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

305 Kildare Street (2019), 'Written Answers, Thursday 13 June 2019, Department of Justice and Equality, Prison medical services', https://www.kildarestreet.com/wrans/?id=2019-06-13a.296.

306 Ibid.

307 Kennedy, H.G., Monks, S., Curtin, K., Wright, B., Linehan, S., Duffy, D., Teljeur, C. and Kelly, A. (2010), *Mental Illness in Irish Prisoners Psychiatric Morbidity in Sentenced, Remanded and Newly Committed Prisoners*, http://www.tara.tcd.ie/bitstream/handle/2262/63924/final%20prison%20morbidity%20report%20101204.pdf?sequence=1andisAllowed=y.

In addition to the number of psychologists outlined above, the IPS employs 10 assistant psychologists on one-year contracts working in the area of primary mental health care and with young adults. The IPS Psychology Service also provides a consultancy service to Loughan House one day per month, as well as a psychology 'drop-in' clinic to Shelton Abbey one day per month.[308] This limited access to psychology services in open prisons is of concern, given the transitional adjustments a prisoner who has served a long sentence in a closed prison environment will make.

There are currently 614 prisoners on a waiting list for an intervention from psychology services, as outlined in the table below.[309]

Table: Waiting lists for psychology services by prison, 2019 [310]

Prison	Waiting list (awaiting triage or intervention)
Arbour Hill	36
Castlerea	41
Cloverhill Remand	22
Cork	27
Limerick	27
Midlands	185
Mountjoy (f) Dóchas	5
Mountjoy (m)	138
Portlaoise	69
Wheatfield	64
Total	**614**

Analysis

Mental healthcare was a spotlight issue in the PIPS 2018 report and is being raised again due to the lack of progress in this area. It is disappointing that there appears to have been no new measures introduced to divert people with mental illness out of the prison system and into an appropriate environment.

The dearth of information on this issue needs to be addressed. For example, it is important to know the lengths of time prisoners are on the waiting list for transfer to the CMH, as well as the type of accommodation and regime available to this cohort while they await transfer.

A comparative review of the diversion of mentally ill prisoners in Ireland and England and Wales found that both jurisdictions showed significant geographic variability in diversion services.[311] However, it also found that England and Wales had a broader diversion options, whereas in Ireland, diversion services were primarily linked to imprisonment, with little or no special psychiatric expertise available to An Garda Síochána. The Health Service Executive (Ireland) has previously recommended that there should be a senior Garda within each Garda division trained to act as a resource and liaison mental health officer.[312]

The review also highlighted a lack of intensive regional care units in Ireland compared to England and Wales, with limited scope in Ireland to divert to hospital at sentencing stage due to the absence of a 'hospital order' provision in Irish legislation. The authors of the review concluded by recommending three key areas for the development of diversion services in Ireland:

- enhance provision of advice and assistance to Gardaí at arrest, custody and initial court hearing stages;
- legislative reform to remove barriers to diverting remand prisoners and facilitating hospital disposal on sentencing; and
- develop intensive care regional units to facilitate provision of appropriate care by local mental health services (which they deemed urgent).

More generally, while the overall ratio of

308 Kildare Street (2019), 'Written Answers, Thursday 13 June 2019, Department of Justice and Equality, Prison medical services', https://www.kildarestreet.com/wrans/?id=2019-06-13a.296

309 Ibid.

310 Ibid.

311 Gulati G. and Kelly, B.D. (2018), *Diversion of Mentally Ill Offenders from the Criminal Justice System in Ireland: Comparison with England and Wales*, http://imj.ie/diversion-of-mentally-ill-offenders-from-the-criminal-justice-system-in-ireland-comparison-with-england-and-wales/.

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

psychologist-to-prisoners appears to have narrowed, this may be attributed to the increased psychologist–prisoner ratio following the opening of the National Violence Reduction Unit (see Standard 28). Overall, the psychologist–prisoner ratio is nowhere near the recommended rate of 1:150.[313]

There continues to be a substantial number of prisoners awaiting a psychological intervention, significantly in Ireland's two largest prisons, Midlands and Mountjoy. Lack of access to these services may result in delays in relation to prisoners' progress through the system; for example, prisoners serving life or long-term sentences may be unable to fulfil their Parole Board recommendations.

Status of Standard 13: No change

Actions required

Action 13.1:	A high-level Task Force on Prisons and Mental Health should be established, comprising the Department of Health, Department of Justice & Equality, Irish Prison Service, the HSE, the National Forensic Mental Health Service and An Garda Síochana, with focus on short, medium and long-term solutions.
Action 13.2:	The IPS should publish data, on an annual basis, on the number of people awaiting transfer to the CMH and lengths of time waiting. It should also publish information on the type of accommodation and regime available to this cohort while in prison.
Action 13.3:	Prison psychology services should be adequately resourced in order to meet the psychology needs of the prison population. A ratio of 1 psychologist to every 220 prisoners should be a target in 2020, towards meeting the overall goal of 1:150.

PROGRESSIVE PRACTICE

The STAIR model

Research has highlighted the importance of the STAIR (Screening, Triage, Assessment, Intervention and Re-integration) model, which highlights the essential conditions of mental health service provision in prison settings, encompassing the following.[314]

- *Screening*: This should take place as soon as possible following committal. Trained mental health staff should administer validated screening tools. Initial screening aims to identify mental health issues requiring immediate intervention, for example, acute psychosis or substance withdrawal.
- *Triage*: A second stage of evaluation should be carried out by mental health staff for all prisoners. This should provide a more detailed assessment of the individual's mental health needs. This should be followed by triage to the appropriate service, following discussion in a multi-disciplinary referral meeting.
- *Assessment*: This may include an in-depth psychiatric review and the development of an individualised treatment plan for those in need of a specialist mental health service based on their level of need.
- *Intervention*: To respond effectively to the differential levels of illness presented, a comprehensive range of mental health services is required. These services must be culturally competent.
- *Re-integration*: Planning for prisoner release should begin in advance of the identified release date. This must ensure the continued delivery of healthcare services including referral to community mental health services and support services for housing, employment and finances.

313 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.

314 Forrester, A., Till, A., Simpson, A. and Shaw, J. (2018), 'Mental illness and the provision of mental health services in prisons', *British Medical Bulletin*, Volume 127, Issue 1, pp. 101–109.

Standard 14: 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

The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA, 2018) highlights two important health intervention principles in prison: equivalence of care; and continuity of care between the community and prison on admission and post release.[315]

Current context

In 2018, it was reported that 2,750 prisoners availed of addiction counselling services.[316]

The IPS is developing a new Prison Drug Strategy.[317] Recommendations from a previous report will inform key components of the strategy.[318] The IPS has sought agreement with the Department of Health to jointly seek funding to develop a therapeutic community on a pilot basis.[319]

Figures at the end of April 2019 showed that there were 314 prisoners who had been referred to the addiction counselling service and were still awaiting treatment at that point in time.[320] Issues with accessing treatment have been highlighted by Cloverhill Prison Visiting Committee:

> *At present there is one Addiction Counsellor in the Prison to service 400 prisoners. These prisoners are most vulnerable and most in need of professional care and counselling. We have met the busy Addiction Counsellor. We would urgently request the service of an additional drug counsellor. The benefits of this would be far reaching in the treatment of addiction and also prevention with the additional benefits of this given the volume of prisoners in custody with drug and other addictions.* [321]

Indicators for Standard 14

14.1 **Provision of addiction counsellors per prison in 2019 and numbers on waiting lists.**
There are 19.8 WTE addiction counsellors posts filled across the prison estate.[322] A breakdown of the ratio of addiction counsellor to number of prisoners is provided below.

Table: Addiction counsellors, by prison [323]

Prison	Addiction counsellor posts (WTE)	Counsellor–prisoner ratio
Mountjoy	4.2	1:236
Dóchas (female)	1.2	1:88
Loughan House	1	1:140
Shelton Abbey	0.8	1:144
Wheatfield	3.2	1:172
Cloverhill	1	1:431
Castlerea	2	1:170
Portlaoise	0.5	1:582
Midlands	2	1:423
Limerick	1.9	1:125
Cork	2	1:148

315 EMCDDA, '*Prisons and the criminal justice system*, 'Implications' factsheet, http://www.emcdda.europa.eu/best-practice/briefings/prisons-and-the-criminal-justice-system_en.

316 Kildare Street (2019), 'Written Answers, Thursday 13 June 2019, Department of Justice and Equality, Prison medical service', https://www.kildarestreet.com/wrans/?id=2019-06-13a.296.

317 IPS (2019), *Annual Report 2018*, p. 36, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Annual-Report-2018.pdf.

318 The previous report informing this new strategy is: The Probation Service and the IPS (2016), *Review of Drug and Alcohol Treatment Services for Adult Offenders in Prison and in the Community*, Eustace Pattern Limited, 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.

319 Kildare Street (2019), 'Written Answers, Thursday 11 July 2019, Department of Justice and Equality, Prison services', strategies, https://www.kildarestreet.com/wrans/?id=2019-07-11a.904.

320 Department of Justice and Equality, PQ 116, Thursday 13th June 2019, https://www.kildarestreet.com/wrans/?id=2019-07-11a.904

321 Department of Justice and Equality (2019), *Cloverhill Prison Visiting Committee Annual Reports 2017*, p. 8, http://www.justice.ie/en/JELR/Cloverhill_Prison_Visiting_Committee_Annual_Report_2017.pdf/Files/Cloverhill_Prison_Visiting_Committee_Annual_Report_2017.pdf.

322 Kildare Street (2019), 'Written Answers, Thursday 13 June 2019', https://www.kildarestreet.com/wrans/?id=2019-06-13a.296.

323 Ibid.

14.2 **Number of places on drug treatment programmes available in prison and the number of those on waiting lists.**
The Drug Treatment Programme is a nine-week programme with nine places. There are up to six programmes being facilitated in Mountjoy on an annual basis.[324]

14.3 **Availability of non-opiate-based treatment services in prisons in 2019.**
Information by the IPS indicates that the needs of individuals are prioritised and form the basis of a clinical response.[325]

14.4 **Number of prisoners with access to a needle exchange programme.**
Currently, there are no needle exchange facilities across prisons in Ireland.[326] By contrast, harm reduction services in the community include needle exchange, which is available from fixed sites, mobile units and outreach work provided by regional authorities and community-based organisations.[327]

Analysis

While there has been a shift towards a public health approach to substance misuse in Irish society, as evidenced by the current National Drugs Strategy,[328] the lack of access to addiction counsellors alongside the limited number of drug treatment beds within prisons is of concern. The low addiction-counsellor to prisoner ratio appears to be an ongoing issue for Cloverhill Prison. In Denmark, prisons have introduced a treatment guarantee, whereby prisoners who request treatment should be provided within two weeks.[329] This is something to work towards in Ireland.

It is also of concern that the prison healthcare system is separate from community health; these should be interconnected, particularly given the high number of prisoners with addiction issues committed for short-term prison sentences. Alternatives to imprisonment involving access to treatment, where needed, should be considered for this cohort. IPRT welcomes the integrated community service model, which has been rolled out nationally and which allows one-third of community service order hours to be spent on accessing counselling/addiction treatment.[330]

Further analysis is needed on drug treatment options available to people upon release from prison. Overall, transfer of responsibility of prison healthcare to the Department of Health would help facilitate a more seamless transition from prison back to the community.

Status of Standard 14: Mixed

Actions required ◎

Action 14.1: The IPS should publish its new drugs strategy before the end of 2019; this should be informed by the health-led approach of the National Drugs Strategy.

324 Information received by IPRT from the IPS on 5 July 2019.

325 Information received by IPRT from the IPS on 5 July 2019.

326 McNamera C., Varley L. & P Mannix McNamera (2016) *Improving Prison Conditions by Strengthening the Monitoring of HIV, HCV, TB and Harm Reduction*, https://www.iprt.ie/site/assets/files/6373/prisonprojectreport_ireland_web_a41.pdf

327 Health Research Board (Irish National Focal Point to the EMCDDA) (2019), *Ireland: National Report for 2018 – Harms and Harm Reduction*, Dublin, HRB, p. 4, https://www.drugsandalcohol.ie/25259/1/NRHarms%20and%20harmreduction2018Final.pdf.

328 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.

329 European Monitoring Centre for Drugs and Drug Addiction, *'Denmark Country Drug Report 2019'*, http://www.emcdda.europa.eu/countries/drug-reports/2019/denmark/drug-use-and-responses-prison_en.

330 Probation Service (2019), *Annual Report 2018*, p.13, http://www.probation.ie/EN/PB/0/07726AB57B55779A-8025841C0032A094/$File/ProbationServiceAnnualReport2018.pdf.

Standard 15: 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 its most recent published annual report, the Mountjoy Prison Visiting Committee raised concerns about media reporting on prisoners.[331] This issue was raised by prisoners to the Committee in 2016. While the Committee noted a reduction in such media articles during 2017, it highlighted its continued concern at the leaking of information confidential to prisoners to the media. The leaking of information was also raised as an issue in unpublished chaplaincy reports.[332]

The Minister for Justice and Equality has highlighted the seriousness of breaches of prisoner privacy by prison staff:

> *Any member of the Irish Prison Service who discharges or divulges information to any third party or the media is not only contravening clear policy, but is also contravening the law. The divulging of information regarding prisoners' private affairs is very damaging to prisoners, to the families of those who are in prison and to the Irish Prison Service. Such breaches have very real potential to compromise the safety and security of prisoners and prison staff. Breaches of this nature are an offence under the Prison (Disciplinary Code for Officers) Rules, 1996.*

The IPS has highlighted a number of steps it has taken to ensure all staff are aware of their obligations, including undertaking monthly random audits on the offender management system to ensure the purpose of the system is respected and adhered to by staff accessing personal data.[333]

In its 2018 annual report, one of 10 complaints upheld by the Press Ombudsman's Office was in respect to the reporting of excessive details of a suicide, which was found to have breached the privacy principle in the Press Council of Ireland's code of practice:[334]

> *A complaint was upheld that the Sunday Times breached Principle 5.4 (In the reporting of suicide excessive details of the means of suicide should be avoided) in an account of a report by prison authorities into the death by suicide of a prisoner who had a history of self-harm and repeated attempts to take his life. The Press Ombudsman decided that the inclusion of detailed information about how the prisoner killed himself was excessive. The Sunday Times appealed the decision to the Press Council. The appeal was carried over to 2019.*[335]

In 2016, the Office of the Press Ombudsman produced a leaflet for prisoners, on how the Press Ombudsman can assist prisoners. The Office also made presentations to prisoners about their work in both 2018 and 2019.[336]

Media reporting of prisoners on temporary release is an issue that affects prisoners and their families. Further measures need to be introduced to raise awareness of the damaging impact media reporting can have on an individual and his/her family members during the reintegration process.

331 Department of Justice and Equality (2019), *Mountjoy Prison Visiting Committee Annual Report 2017*, http://www.justice.ie/en/JELR/Mountjoy_Prison_Visiting_Committee_Annual_Report_2017.pdf/Files/Mountjoy_Prison_Visiting_Committee_Annual_Report_2017.pdf.

332 Gallagher, C. (2019), 'Prison is 'wholly inappropriate' for mentally ill people, say chaplains', *The Irish Times*, 15 July 2019, https://www.irishtimes.com/news/ireland/irish-news/prison-is-wholly-inappropriate-for-mentally-ill-people-say-chaplains-1.3956552.

333 Houses of the Oireachtas (2019), 'Dáil Debates, Prison staff, Tuesday 18 June 2019', https://www.oireachtas.ie/en/debates/question/2019-06-18/229/#pq_229.

334 Press Council of Ireland, *Code of Practice*, http://www.presscouncil.ie/code-of-practice.

335 "Public persons are entitled to privacy. However, where people hold public office, deal with public affairs, follow a public career, or have sought or obtained publicity for their activities, publication of relevant details of their private life and circumstances may be justifiable where the information revealed relates to the validity of the their conduct, the credibility of their public statements, the value of their publicly expressed views or is otherwise in the public interest." Press Council of Ireland/Office of the Press Ombudsman (2019), *Annual Report 2018*, .see pages 12 and p.33', http://www.presscouncil.ie/_fileupload/2018%20Annual%20Report%20of%20the%20PCI%20and%20OPO%20-%20Final%20May%202019.pdf.

336 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.

Indicators for Standard 15

15.1 **The number of complaints about breaches of privacy made by prisoners and/or their families to the IPS, the Press Ombudsman and the Broadcasting Authority of Ireland.**

- Information from May 2018 to May 2019 shows that the IPS received eight complaints from prisoners and their families related to alleged breaches of privacy.[337]
- In 2018 and up until July 2019, the Press Ombudsman received a total of 19 complaints.[338] However, none of these complaints alleged a breach of privacy; all related to Principle 1 of the code of practice: 'truth and accuracy'.[339]
- The Broadcasting Authority of Ireland (BAI) does not record the number of complaints made by prisoners as a cohort. Complaints are recorded based on the complaint section or sections of a code that has been infringed.[340]

Analysis

Information sessions carried out in prisons by the Office of the Press Ombudsman may have helped to increase awareness of the Press Ombudsman's work. However, a very low number of complaints were made by prisoners and their families to the IPS in relation to alleged breaches of privacy. This is concerning and may indicate a lack of confidence in the system. Up until the end of 2018, no IPS employee has been formally disciplined as a result of breaches in prisoner privacy.[341] In one case, the disciplinary process commenced but this has not yet concluded.

Status of Standard 15: Mixed

Actions required	
Action 15.1:	All professionals working with prisoners and their families should be made aware of their legal responsibilities to ensure that the privacy of people in prison and their family members is respected. Breaches of privacy should result in formal disciplinary action.
Action 15.2:	The Press Ombudsman of Ireland and the Broadcasting Authority of Ireland should consider developing a joint guidance document for media outlets to raise awareness of the privacy rights of prisoners and their families, with particular reference to media reporting on temporary release and post release.

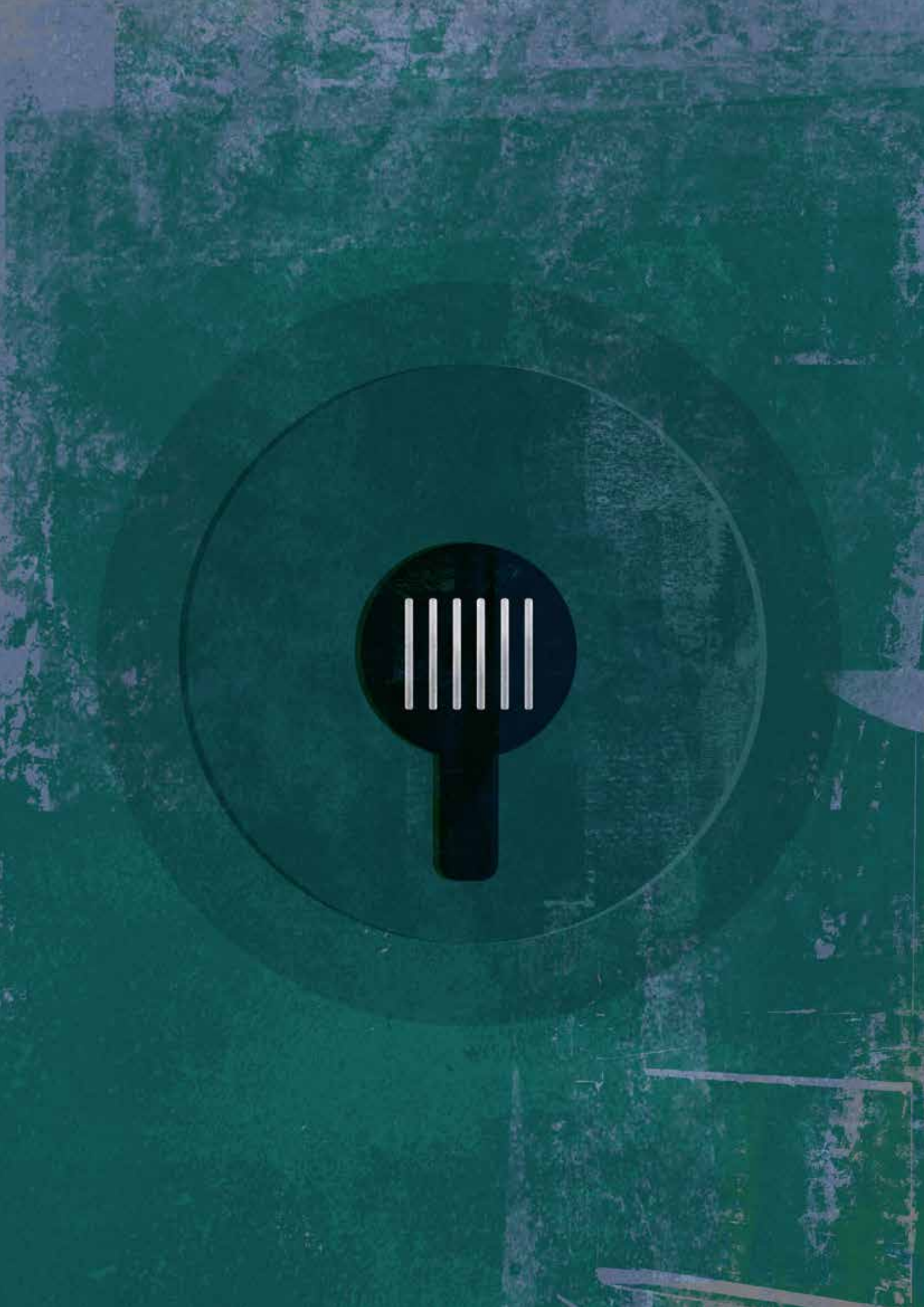
337 Department of Justice and Equality (2019), 'Parliamentary Questions, PQ 228, June 18 2019', http://www.justice.ie/en/JELR/Pages/PQ-18-06-2019-228.

338 Information received by IPRT from the Press Ombudsman, 16 July 2019.

339 Press Council of Ireland, Office of the Press Ombudsman, 'Code of practice', http://www.presscouncil.ie/code-of-practice.

340 Information received from the Broadcasting Authority of Ireland, 17 July 2019.

341 Houses of the Oireachtas (2019), ''Dáil Debates, Prison staff, Tuesday 18 June 2019', https://www.oireachtas.ie/en/debates/question/2019-06-18/229/#pq_229.



Section C Regimes

Standard 16: Out-of-cell time

Standard 16:
Every prisoner is unlocked for a minimum of 12 hours per day, including a minimum of five hours per day engaged in structured meaningful activity for five days a week.

Rationale

Out-of-cell time is crucial to support the principle of normalisation. It is also of particular importance in facilitating and encouraging prisoners to partake in meaningful activity during their sentence. HM Inspectorate of Prisons (HMIP) has developed a number of standards associated with out-of-cell time.[342] These include:

- Prisoners have regular and predictable out-of-cell time that is sufficient to promote rehabilitation and mental well-being.
- Prisoners are expected and encouraged to use out-of-cell time constructively, including at weekends.
- Prisoners, including inpatients, those on the basic regime and those in segregation, are able to spend at least one hour in the open air every day.
- Prisoners benefit from regular access to a suitable library, library materials and additional learning resources that meet their needs.
- Prisoners are encouraged to participate in physical education and fitness provision that meets their needs.
- Prisoners can access creative activities that promote learning and well-being and support rehabilitation.

Current context

In June 2019, 50 prisoners held a protest at Midlands prison.[343] This was in response to restrictions being introduced to prisoner time in the yard and access to other facilities, reportedly introduced as a result of lower staffing levels. The Minister of Justice and Equality stated that the current staff shortfall is 6% in Midlands Prison.[344]

Under the 'regime management plan', structured activities including exercise time, education classes and workshops would be set out according to

342 HM Inspectorate of Prisons, *'Time out of cell'*, https://www.justiceinspectorates.gov.uk/hmiprisons/our-expectations/prison-expectations/purposeful-activity/time-out-of-cell/.

343 Lally, C. (2019), 'Fifty prisoners protest entitlement curtailments in Midlands Prison', *The Irish Times*, 9 June 2019, https://www.irishtimes.com/news/crime-and-law/fifty-prisoners-protest-entitlement-curtailments-in-midlands-prison-1.3920161.

344 Houses of the Oireachtas (2019), 'Dáil Debates, Prison service strategies', Thursday 13 June 2019, https://www.oireachtas.ie/en/debates/question/2019-06-13/100/.

staffing levels available on the day.[345] The Minister for Justice and Equality stated that all prisons have introduced a regime management plan in recent years, prioritising constructive out-of-cell activities – such as work and training, education and engagement with therapeutic services – over activities such as access to the yard.[346]

Staffing shortfalls and the impact on out-of-cell activities were previously highlighted by the Office of the Inspector of Prisons,[347] as well as a number of Prison Visiting Committee reports.[348] For example, in Cork Prison:

> *Shortage of staff is an ongoing issue, as staff have to be re-deployed from various workshops to cover escorts to courts, hospitals etc which means that no work or training on these occasions.*[349]

The impact of limited out-of-cell time on the mental health of prisoners is highlighted by the Mountjoy Prison Visiting Committee:

> *Staff have frequently spoken of prisoners who have very limited time out of cell becoming increasingly distressed, depressed and withdrawn. In some instances, staff reported feeling helplessness, inadequate and frustrated at the lack of solution for this group of prisoners and the impact of the conditions of their care on their mental health.*[350]

The importance of having access to purposeful activity has been thus described by the House of Commons Justice Committee:

> *The nature of regimes and restricted access to rehabilitative activities has a cyclical impact on the degradation of regimes and safety, owing to the boredom and frustration of prisoners enduring impoverished regimes, which can in turn lead to violence and self-harm. Regimes need to be reported upon in a meaningful way to enable monitoring of their operation, especially since they are key to rehabilitation. Staffing levels mean many prisons are not delivering their intended regimes.*[351]

There continues to be a high number of prisoners held on a restricted regime.[352] In April 2019, there were 577 prisoners on a restricted regime.[353] This marked an increase from 430 in April 2017.[354] In July 2019, 584 prisoners were on a restricted regime.[355] The Mountjoy Prison Visiting Committee has outlined its serious concerns at the potential impacts of restricted regimes:

> *The Committee is concerned that the out-of-cell time of some prisoners on a restricted regime is so reduced that their rights are severely restricted, their mental health and psychological wellbeing is at risk and a number are becoming increasingly vulnerable.*[356]

345 Lally, C. (2019), Fifty prisoners protest entitlement curtailments in Midlands Prison, *The Irish Times*, 9 June 2019, https://www.irishtimes.com/news/crime-and-law/fifty-prisoners-protest-entitlement-curtailments-in-midlands-prison-1.3920161.

346 Houses of the Oireachtas (2019), 'Dáil Debates, Prison service strategies', Thursday 13 June 2019, https://www.oireachtas.ie/en/debates/question/2019-06-13/100/.

347 Office of the Inspector of Prisons (2019), *Annual Report for the Years 2015 and 2016*, p. 21 http://www.justice.ie/en/JELR/IOP_Annual_Report_2015-16.pdf/Files/IOP_Annual_Report_2015-16.pdf.

348 Department of Justice and Equality (2019), *Prison Visiting Committee Annual Reports 2017*, http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

349 Department of Justice and Equality (2019), *Cork Prison Visiting Committee Annual Report 2017*, http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

350 Department of Justice and Equality (2019), *Mountjoy Prison Visiting Committee Annual Report 2017*, p. 5, http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

351 House of Commons Justice Committee (2019), *Prison population 2022: planning for the future, Sixteenth Report of Session 2017–19* Report, p. 65, https://publications.parliament.uk/pa/cm201719/cmselect/cmjust/483/483.pdf.

352 See IPS, 'Prison population census reports', https://www.irishprisons.ie/information-centre/statistics-information/census-reports/.

353 IPS (2019), *Census of Restricted Regime Prisoners April 2019*, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/April-2019-Restriction.pdf.

354 IPS (2017), *Census of Restricted Regime Prisoners April 2017*, http://www.irishprisons.ie/wp-content/uploads/documents_pdf/April-2017-Restriction.pdf.

355 IPS (2019), *Census of Restricted Regime Prisoners July 2019*, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/July-2019-Restriction.pdf

356 Department of Justice and Equality (2019), *Mountjoy Prison Visiting Committee Annual Report 2017*, p. 20, http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

Indicators for Standard 16

16.1 **Hours out-of-cell for all prisoners, including prisoners on a restricted regime.**
In general, standard out-of-cell time for prisoners is typically up to eight hours a day (dependent on staffing issues). The standard out-of-cell time for prisoners on a restricted regime is a maximum of five hours or less a day.

16.2 **The number of prisoners who have daily access to a minimum of five hours structured educational, vocational and work programmes, and publication of this information.**
On 30 April 2019, 577 prisoners were on a restricted regime, among a daily population of 3,981; therefore, according to information received from the IPS, 3,404 prisoners would have had daily access (where available) to a minimum of five hours structured education, vocational and work programmes.[357]

Analysis

The lack of published data on out-of-cell time for the general prison population means it is not possible to fully ascertain trends on access to meaningful and purposeful activity. Information from 2017 highlighted the extent to which education centres were closed across the prison estate due to the unavailability of prison staff.[358] A recommendation made by the House of Commons Justice Committee for England and Wales could be usefully replicated in Ireland, whereby the IPS would be required to provide regular updates on the extent to which prisons are able to fully operate their regimes.[359] Furthermore, in the development of the Office of the Inspector of Prisons' Inspection Framework (see Standard 25), the HMIP standards relating to out of cell time are worth replicating.

The Mountjoy Prison Visiting Committee has highlighted the impact of restricted regimes on individuals, and recommended that the current IPS census include an indicator of the duration of time prisoners are spending on a restricted regime.[360] This should be considered.

PROGRESSIVE PRACTICE

Building design, England

A survey of men and staff in HMP Berwyn in Wales, cited in a new report on the importance of building design of prisons, showed that 95% of participants felt the 'ability to move around' had the most positive impact on people's wellbeing.[361] Prisoners in HMP Berwyn are allowed to lock and unlock their own cells.[362]

PROGRESSIVE PRACTICE

Halden Prison, Norway

Halden Prison (high security) in Norway has been referred to as one of the world's most humane prisons. Prisoners are unlocked at 7:30am and locked up for the night at 8:30pm, providing 13 hours of out-of-cell time during the day. During this time, they are encouraged to attend work and educational activities, with a daily payment made to those who leave their cell.[363]

357 Information received from the IPS on 20 August 2019.

358 Department of Justice and Equality (2018), 'Parliamentary Questions, PQ 579, 17 April 2018', http://www.inis.gov.ie/en/JELR/Pages/PQ-17-04-2018-579.

359 "The Government must inform the Committee of the extent to which prisons are able to operate their stated regimes through regular updates and the first such should be produced within six months from the publication of this report." Source: House of Commons Justice Committee, *Prison Population 2022: Planning for the Future – Sixteenth Report of Session 2017–19 Report*, p. 65, https://publications.parliament.uk/pa/cm201719/cmselect/cmjust/483/483.pdf.

360 Department of Justice and Equality (2019), *Mountjoy Prison Visiting Committee Annual Report 2017* http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

361 Bernheimer, L. O'Brien R. and R. Barnes (2018), *Wellbeing in prison design: A guide*, http://www.matterarchitecture.uk/wp-content/uploads/2018/05/421-op-02_Design-toolkit-report-online.pdf

362 Mercer, D, *Prisoners at HMP Berwyn can lock and unlock cells to improve privacy*, https://news.sky.com/story/prisoners-at-hmp-berwyn-can-lock-and-unlock-cells-to-improve-privacy-11677923

363 Gentleman, A. (2012) 'Inside Halden, the most humane prison in the world', *The Guardian*, 18 May 2012, https://www.theguardian.com/society/2012/may/18/halden-most-humane-prison-in-world.

Status of Standard 16: Regress

Actions required	
Action 16.1:	The IPS should publish data on the extent to which prisons are able to fully operate their general regime, including: number of prisoners who have daily access to a minimum of five hours structured educational, vocational and work programmes; and the number of prisoners who have 12 hours' out-of-cell time.
Action 16.2:	The development of the OiP inspection framework for prisons should consider standards related to out-of-cell time.

Standard 17: 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

The CoE highlights the importance of having comprehensive, individual sentence plans and the need to include the active participation of individual prisoners in this process.[364] Sentence planning is of particular importance for those serving long or life sentences and should aim at "securing progressive movement through the prison system".[365]

Current context

The Penal Policy Review Group (2014) outlined the importance of integrated sentence management (ISM):

> *The Review Group recognises that Integrated Sentence Management (ISM) is the appropriate tool for the management of sentences of more than 12 months and should be extended to all eligible prisoners.*[366]

There are currently 23 dedicated ISM coordinators across the prison estate.[367] In its most recent report, the Mountjoy Prison Visiting Committee was critical of the resourcing of ISM:

> *The Committee is satisfied that the initial ISM processing does take place. However, in light of the large number of prisoners and the relatively small number of dedicated ISM staff, it is less certain that the performance of a prisoner throughout his sentence can be monitored and reported upon in sufficient detail to enable timely interventions to help prisoners to reach their rehabilitation objectives. A number of prisoners nearing the end of their sentences spoke to the Committee of feeling unprepared for the transition to life outside prison both in terms of their living arrangements and their employability.*[368]

It is imperative that sentence management is

364 CoE (003), 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. https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805dec7a

365 Point 8, Ibid.

366 Department of Justice and Equality, 'Penal policy review' (see Recommendation 19), Seventh Report of the Implementation Oversight Group to the Minister for Justice and Equality - February 2019,

367 Information received from the IPS on 5 July 2019.

368 Department of Justice and Equality (2019), *Mountjoy Prison Visiting Committee Annual Report 2017*, p. 13, http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017

cohesive, particularly for life-sentenced prisoners following the passage of the Parole Act 2019.[369] The IPS has previously committed to improving sentence management for life-sentenced prisoners from an early point in the sentence.[370]

Indicators for Standard 17

17.1 **The number of dedicated ISM officers across the estate and their caseloads.**
There has been no change to the number of ISM officers across the estate, which is still 23.

17.2 **Number of life-sentenced prisoners with an allocated ISM officer and active sentence plan in 2019.**[371] **(new)**
The IPS has said it is not currently possible to provide an accurate figure for active ISM caseloads broken down by sentence category, but an IT system designed to support ISM is currently under construction.[372]

Analysis

Given the PPRG recommendation that all prisoners serving more than 12 months should be eligible for ISM, the number of ISM officers allocated per prison is very low. The scale of interventions cannot be fully met. In England and Wales, a key worker scheme is being rolled out across the entire closed prison male estate, with prison officers managing five to six prisoners on a one-to-one basis.[373] This could be a target ratio for ISM in prisons in Ireland.

While IPRT welcomes that information on ISM coordinator intervention is recorded on PIMS, this does not currently include the number of cases per ISM officer nor the number of life-sentenced prisoners with an active ISM management plan.

It is imperative that sentence management is cohesive, particularly for life-sentenced prisoners following the commencement of new legislation that increases to 12 years the eligibility for their first parole review. [374]

Despite emphasis on the importance of facilitating family involvement in sentence and release planning, there appears to be no structured format in which family members can participate in the process.

Status of Standard 17: No change

Actions required	
Action 17.1:	The IPS must prioritise provision of ISM for those serving long sentences, including life.
Action 17.2:	The IPS should publish in its annual report data on the number of prisoners in each prison (in particular the number of life-sentenced prisoners) that have an active ISM plan.

369 Houses of the Oireachtas (2019), *Parole Act 2019*, https://www.oireachtas.ie/en/bills/bill/2016/29/.

370 Irish Prison Service Report (2017), *Examination of the Sentence Management of people serving Life Sentences*, p.3, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Life-Sentenced-Prisoner-Report-Final-April-2017.pdf

371 Information received from the IPS on 5 July 2019.

372 Information received from the IPS on 5 July 2019.

373 Gov.UK 'How one-to-one conversations are helping make prisons safer', https://prisonjobs.blog.gov.uk/tag/keyworker/.

374 Houses of the Oireachtas (2019), *Parole Act 2019*, https://www.oireachtas.ie/en/bills/bill/2016/29/

Standard 18: Life skills

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

Rationale

Prisoners must be encouraged to develop and maintain life skills and exercise personal responsibility while in prison, particularly those serving long sentences, including life imprisonment.[375] The development of life skills is also an important opportunity for many people serving shorter sentences, who might not have had a chance to gain these skills previously.

Prisoners must be able to work and undertake regular responsibilities, such as preparation of foods, cooking, cleaning and maintenance.

Current context

Life skills programmes are available across the prison estate.[376] The content and delivery of these programmes can vary from career guidance to 'soft skills' programmes.

The IPS has established the concept of 'Independent Living Skills Units'. This is defined by the IPS as a specific area within a closed prison that offer individuals known to be at high risk of institutionalisation (i.e. life sentence prisoners, those serving long sentences) the opportunity to live more independently.[377] IPRT's view is that ILSUs are an important innovation in the prison system, and should be extended across all closed prisons.

ILSUs provide an opportunity for prisoners to gradually prepare for the outside world; for example, by preparing meals for themselves. These are also important units for developing skills for those who may be less likely to access an open prison for a number of reasons; for example, those on protection.

Indicators for Standard 18

18.1 **The number of ILSUs in the closed prison estate.**
There is one ILSU in Wheatfield Prison.[378] There is also an Independent Living Landing in Midlands Prison.[379]

18.2 **The number of prisoners across the closed prison estate with access to communal dining.**
On 6 June 2019 (according to the IPS), 426 prisoners across the prison estate had access to communal dining.

Table: Prisoners with access to communal dining, 2019 [380]

Prison	Prisoners with access to communal dining, 6 June 2019 (n.)
Loughan House	98
The Grove Castlerea	37
Shelton Abbey	109
Midlands	20
ILSU, Wheatfield Place of Detention	17
Progression Unit	13
Dóchas (female)	132
Total	426

In addition to the numbers outlined above, within each closed prison between 10 and 20 prisoners work in prison kitchens, with access to communal dining.[381]

375 CoE (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 (see the 'responsibility principle'), https://www.ochrance.cz/fileadmin/user_upload/ochrana_osob/Umluvy/vezenstvi/R_2003_23_management_of_life_sentence_and_long-term_prisoners.pdf.

376 Information received from the IPS on 5 July 2019.

377 Information received from the IPS on 5 July 2019.

378 Information received from the IPS on 20 August 2019.

379 See Department of Justice and Equality (2019), *Midlands Prison Visiting Committee Annual Report 2017*, http://www.justice.ie/en/JELR/Midlands_Prison_Visiting_Committee_Annual_Report_2017.pdf/Files/Midlands_Prison_Visiting_Committee_Annual_Report_2017.pdf

380 Information received from the IPS on 5 July 2019 and 20 August 2019.

381 Information received from the IPS on 5 July 2019.

18.3 **The number of prisoners that have access to life skills courses and the number of those availing of those courses.**[382] **(new)**
According to data received from the IPS, 12 prisons have some type of life skills courses available. However, the number of prisoners availing of these courses has not been provided.

18.4 **Number of prisoners who have access to job skills courses. (new)**
This information was not provided. However, the IPS highlights that job skills courses are available throughout the estate.

Analysis

There appears to have been little change in the numbers of prisoners with access to more independent living arrangements. No new ILSU was opened over 2018–2019, and there has been a decrease in the number of prisoners accessing communal dining.[383] An information-mapping exercise is required to identify the number of prisoners accessing job and life skills courses, and the impact of such courses. In order for prisoners to progress from a closed to open prison environment, a graduated approach is required whereby prisoners can avail of supports in maintaining or developing skills in the closed prison environments.

Status of Standard 18: No change

Actions required	
Action 18.1:	The IPS and the Department of Justice and Equality should evaluate the impact of ILSUs, with a view to providing one ILSU in every closed prison.
Action 18.2:	The IPS should conduct a mapping exercise of the life skills opportunities available to prisoners across the entire prison estate.
Action 18.3:	The IPS should ensure that ILSUs operate as a stepping-stone towards transfer to an open prison, and not as an end destination before release.

Standard 19: Education

Standard 19:
Every prison provides each prisoner with access to a wide range of educational activities that meet the individual's needs and interests and take into account their aspirations.

Rationale

Education is a vital aspect of human development and is a basic human right. Prison, through its unique environment, can have potentially damaging effects on prisoners. This demographic has a unique and complex set of needs; therefore, efforts should be made to maximise the positive role education can play in this context. The prison population is often characterised as one with a low level of educational attainment. For many, past experiences of the education system have been negative. For this reason, education in prisons should be innovative. It should involve the promotion of forms of non-traditional learning with alternative methods of assessment and accreditation. There is a need for the education system to be comprehensive and to reflect the diverse needs and interests of the prison population.

Current context

In 2019, a report on education inequality and disadvantage, as well as barriers to education, was published by the Joint Committee on Education and Skills.[384] The Committee recommended that "education programmes for prisoners ...[be] developed and expanded."[385]

Data are not regularly published on the prison education system in Ireland.

The publication of this information is vital in order to hold the prison education system to account. Staff redeployment issues and their impact on access to education have been previously documented by the Office of the Inspector of Prisons, who in 2017 stated:

> *We are concerned that the practice of regularly redeploying staff from educational and support related activities will negatively impact on the*

382 Life skills courses includes ones on budgeting and managing money, preparing for job skills, cooking and other activities relevant to skills needed upon release.

383 Information received from the IPS on 20 August 2019.

384 Houses of the Oireachtas (2019), *Joint Committee on Education and Skills Report on Education Inequality and Disadvantage and Barriers to Education May 2019*, https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_education_and_skills/reports/2019/2019-06-05_report-on-education-inequality-disadvantage-and-barriers-to-education_en.pdf.

385 Ibid, p. 24.

rehabilitative opportunities for prisoners.[386]

The importance of education in the prison system cannot be underestimated. A 2019 report of England and Wales surveyed more than 1,250 prisoners, ex-prisoners and their families. In answer to the question, 'What do you need to make best use of your time in prison?', it was found that:

> *Prisoners want the breadth of the education, employment and training offer to be increased, and to make better use of technology so that prisoners can access educational materials, maintain family contact, and find information about outside agencies on which they will rely in future.*[387]

The report recommends that:

> *Prison education should be developmental and go beyond basic skills. Any prisoner should have the opportunity to go beyond their existing level of achievement or learning. For example, long sentence prisoners should be able to access Open University and other degree courses before the current seven years from release, and prisoners with pre-existing workplace skills should have the chance to keep them up to date.*[388]

A 2018 study of prison education draws the following, related conclusions.

> *Education must be seen as a right to which everyone in prison is entitled to. A broad range of educational opportunities and activities must be available.*[389]

It is important that these principles apply equally to prisoners on protection and/or restricted regimes. Access to education for protection prisoners and the severely limited access to education for prisoners on restricted regimes were identified as issues of concern by the Mountjoy Prison Visiting Committee.[390]

Indicators for Standard 19

19.1 **Participation rates of prisoners in education.** This information was requested but had not been received at the time of publication.

19.2 **Access to education for prisoners on restricted regimes and regular publication of information of same.** This information was requested but had not been received at the time of publication.

Analysis

All forms of education in prison should be facilitated as a right. Accessing education in prison and continuing education upon leaving prison are central to both an individual's personal development, and in terms of supporting the transition back into the community.

In its 2017 annual report, the IPS published work, training and education participation rates among prisoners.[391] However, these rates were not published in the 2018 annual report.[392] Publication of this information on a consistent basis is essential to identifying trends towards enhancement of prison education, particularly in light of the reported closure of education centres as a result of staffing issues.[393]

Status of Standard 19: Insufficient Data

Actions required

Action 19.1:	The IPS and ETBI should publish data, as identified in the *Joint IPS/ETBI Education Strategy 2016–2018*, to assist oversight of the performance of the prison education system.
Action 19.2:	A review of the education system in Irish prisons should be undertaken by the Department of Education and Skills Inspectorate.

386 Office of the Inspector of Prisons (2017), *Annual Report for the years 2015 and 2016*, p.21 http://www.inspectorofprisons.gov.ie/en/IOP/Annual%20Report%20for%20the%20years%202015%20&%202016.pdf/Files/Annual%20Report%20for%20the%20years%202015%20&%202016.pdf.

387 Wainwright, L., Harriott, P. and Soruche, S. (2019), *What Do You Need to Make the Best Use of your Time in Prison?* The Prisoner Policy Network, p. v, http://www.prisonreformtrust.org.uk/Portals/0/Documents/PPN/What_do_you_need_to_make_best_use_of_your_time_in_prisonlo.pdf.

388 Ibid.

389 Warner K. (2018), 'Every possible learning opportunity: The capacity of education in prison to challenge dehumanisation and liberate 'the whole person'', *Advancing Corrections Journal*, Vol. 6-2018.

390 Department of Justice and Equality (2019), *Mountjoy Prison Visiting Committee Annual Report 2017*, p. 12, http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

391 IPS (2018), *Annual Report 2017*, p. 24, https://www.irishprisons.ie/information-centre/publications/annual-reports/.

392 IPS (2019), *Annual Report 2018*, https://www.irishprisons.ie/information-centre/publications/annual-reports/.

393 Department of Justice and Equality (2018), 'Parliamentary Questions, PQ 579, 18 April 2018, http://www.inis.gov.ie/en/JELR/Pages/PQ-17-04-2018-579.

Standard 20: Community engagement and 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 citizenship and reintegration. Strengthening engagement and exchange between civil society and prisons is a vital component in the rehabilitation process.[394] Prisoners should be encouraged to be continually involved in communities on the outside and should not be excluded from society as a result of imprisonment. Communities should also play a role in supporting the rehabilitation and reintegration process. This should be viewed as a two-way process, whereby members of civil society regular visit prisons and engage with prisoners, while prisoners are given opportunities to be released to engage with families and communities, including having access to external education and employment opportunities.

Current context

Community involvement in prisons helps promote citizenship and mitigates against the demonisation of people in prison. There are a number of good examples of community involvement and exchange across the prison system. Loughan House is open to the public who can avail of trade in the garden centre, the car wash, bicycle repairs and the coffee shop. Prisoners do charity work for Sligo Hospice as well as support local tidy town committees.[395] This open prison also runs an 'edutainment' programme, which involves artists, musicians and drama groups, as well as work experience and training programmes.

In 2019, the Irish Red Cross prison programme was commended, with representatives from other Red Cross societies from as far as Australia travelling to Ireland with a view to replicating and implementing similar programmes in prisons in other jurisdictions.[396] The Programme was also commended by the UK's Justice Secretary and is now being implemented by the British Red Cross in Parc Prison. [397]

Further examples of community involvement within prisons are outlined in the progressive practice section below. There is little information available on prisoners' engagement in communities outside prison.

PROGRESSIVE PRACTICE

Progression Parkrun

Progression Parkrun is a new initiative in Mountjoy's Progression Unit. The programme was launched on 1 September 2018. In total, 75 out of 165 prisoners (just under 50%) in the Progression Unit are registered for the park run. It takes place within the internal perimeter of Mountjoy Prison. Members of the public can apply to partake in the event, which is run in conjunction with prisoners. The idea behind the initiative is that, once a participant is released from prison, he can join any 'parkrun' in the community.[398] The Lord Mayor of Dublin, the prison governor and prison staff have all participated in this prison-based parkrun, alongside prisoners.

394 "The treatment of prisoners should emphasise not their exclusion from the community but their continuing part in it. Community agencies should therefore be enlisted where possible to assist prison staff in the task of social rehabilitation of prisoners": Rule 88(1) of UN Mandela Rules. As highlighted under the basic principles of the European Prison Rules, No. 7, "Co-operation with outside social services and as far as possible, the involvement of civil society in prison life shall be encouraged" (p. 7); see https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae.

395 Eolas Magazine, *Loughan House: "Bringing down barriers"*, https://www.eolasmagazine.ie/loughan-house-bringing-down-barriers/.

396 Cullen, P. (2019), 'Pioneering prison health scheme credited with reduction in knife attacks', *The Irish Times*, 29 April 2019, https://www.irishtimes.com/news/ireland/irish-news/pioneering-prison-health-scheme-credited-with-reduction-in-knife-attacks-1.3875445.

397 Irish Red Cross, 'UK justice minister says Irish Red Cross prison programme could cut crime rate', https://www.redcross.ie/national-news/uk-justice-minister-says-irish-red-cross-prison-programme-could-cut-crime-rate/.

398 Commins B. (2019), 'Progression parkrun-a route to rehab', Irish Runner Magazine, Issue April/May 2019, pp. 26–30.

Indicators for Standard 20

20.1 **The number of external community projects in each prison in 2019 including projects that allow for day release.**
There are a number of external community projects in prisons in Ireland, including the Red Cross programme and the Alternatives to Violence project.[399] However the number of these projects throughout the prison estate needs further mapping; for example, it is not known how many projects allow for day release.

Analysis

2019 saw many positive examples of community engagement within Irish prisons (see '*Progressive Practice*' below). Prisoners are being granted day release, which includes numbers for the purposes of education and training. The vast majority are being released from the two open prisons, Shelton Abbey and Loughan House, and the Progression Unit of Mountjoy Prison.

PROGRESSIVE PRACTICE

Progressive practice: Bohemian Foundation

Bohemian Foundation is an independent, not-for profit organisation that works to improve the health and wellbeing of the North Dublin community, linked with Bohemian Football Club. The Bohemian Foundation works with Mountjoy Prison. The club has conducted regular training sessions for prisoners since 2012.[400] It also provides opportunities for recently released prisoners to become involved in the local football club. Players from Bohemian Foundation help coach the sessions.

The Bohemian Foundation was awarded for their work at the 2018 Lord Mayor Awards.[401] In June 2019, the Bohemian Foundation expanded its Mountjoy Prison programme to include a six-week training programme for women in the Dóchas Centre. The overall idea behind this initiative is to bring the outside community into prison, thus breaking down barriers and any prejudices both sides may have about each other.[402]

Status of Standard 20: Progress

Action required

Action 20.1: Temporary release enables participation in activities outside of the prison establishment, and directly contributes to resettlement. Statutory exclusions from accessing temporary release, particularly as they apply to certain drugs and firearms offences, should be removed.

399 See the *Alternative to Violence Project*, http://avpireland.ie/

400 The European Football for Development Network, *Reintegration through Sport*, https://www.efdn.org/blog/project/reintegration-through-sport/.

401 O'Riordan, L. (2018), 'Bohemian Foundation honoured at lord mayor's awards', *Dublin Times*, https://bohemianfc.com/?p=12642.

402 Clarke, R. (2019), 'Bohemian Foundation brings soccer programme to Dochás', *Northside People West*, 19 June 2019.

Standard 21: 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. Therefore, it is important that due consideration is given to how prisoners can connect and engage with the civic and political process.[403]

Current context

The right of prisoners as citizens should not be neglected or infringed upon. The rights of prisoners as citizens should be further promoted in penal policy.

Civic and political education is offered in some parts of the prison estate, including: Cloverhill, Limerick, Midlands, Mountjoy, Portlaoise and Wheatfield.[404] Only civic education is offered in the Dóchas Centre.[405]

In 2018 and 2019 (thus far) a number of elections and referendums have been held in Ireland. Prisoner participation rates have been low compared to other countries, and indeed with previous rates in Ireland. Ireland's most recent prisoner participation rate is approximately 3% (see indicator 21.2).

Indicators for Standard 21

21.1 **The number of prisoner representative groups in each prison.**
The majority of prisons in the estate have: a 'Lifers' group, a Red Cross group and a 'Listeners' group. There is a 'Women's Voice' group in Limerick Prison for women, while the Dóchas Centre has established a prisoner's council.[406]

21.2 **The number of prisoners voting (%) in elections.**
On 24 May 2019, approximately 3.5% of the prison population voted in the local and European elections and divorce referendum. Approximately 3.8% of the prison population voted in the 2018 presidential elections on 26 October 2018.

Analysis

Approximately 3-4% of the prison population voted in the last two ballots in Ireland. This is slightly higher than participation rates for the referendum held on the Eighth Amendment in May 2018, which was reported at 1.45%.[407] However, the prisoner participation voting rate has been declining throughout the years since being granted the right to vote in 2006.[408] In 2007, 12% of the prison population voted in the general election. In 2011, the rate dropped to 6.87% for the general election and dropped again for the general election in 2016, coming in at 4.2%.[409] The participation rate has always been low but recent years have seen even a further (albeit gradual) decrease.

By contrast, the voter turnout rate in Polish prisons is much higher: 31.1% in local elections in 2018, which was lower than in 2015, when prison voter turnout for local elections was 46.5%.[410]

Further work must be done to increase the number of prisoners engaging with their civic and political rights in each prison.

403 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.

404 Information received from the IPS on 5 July 2019.

405 Information received from the IPS on 5 July 2019.

406 Information received from the IPS on 5 July 2019.

407 Department of Justice and Equality (2019), 'Parliamentary Questions, PQ 513, 12 June 2019', http://www.justice.ie/en/JELR/Pages/PQ-12-06-2018-513.

408 See Irish Statute Book, *Electoral (Amendment) Act 2006*, http://www.irishstatutebook.ie/eli/2006/act/33/enacted/en/html.

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

410 Prison Insider (2019), *Right to Vote, April 2019*, https://www.prison-insider.com/en/ressources/etudes-comparees/voter-en-prison (Information retrieved on 30/06/19)

PROGRESSIVE PRACTICE

Voting in Poland

In Poland, prisoners vote in a ballot station and are informed by in-house radio of the order in which they will vote and at what time.[411] (Prisoners in Ireland can only use a postal vote.)[412] Prison officers bring prisoners down to the polling station. Special provisions are made for prisoners with disabilities.

PROGRESSIVE PRACTICE

Prisoners Committees, the Netherlands

In 2016, the CPT reported that all prisons in the Netherlands had a Prisoners Committee. The Prisoners Committee is composed of prisoners elected by their peers. The Committee meets weekly and raises the concerns of prisoners, including suggestions to improve the prison's management. The Committee has regular meetings with the prison governor. Agendas are prepared in advance and minutes published. The CPT concluded:

The CPT considers it to be a good practice which could be replicated in other countries. [413]

Status of Standard 21: Mixed

Actions required

Action 21.1:	The Department of Housing, Planning, Community and Local Government should conduct a feasibility study on introducing polling stations in prisons in order to encourage prisoners to vote during elections.
Action 21.2:	All political parties should commit to visiting prisons ahead of elections and referendums in order to meet with citizens, learn about issues and encourage voting in prison.

411 Ibid.

412 See Citizens Information Centre, 'Prisoners' rlights' (right to vote section), https://www.citizensinformation.ie/en/justice/prison_system/prisoners_rights.html and Irish Statute Book, *Electoral (Amendment) Act 2006*, http://www.irishstatutebook.ie/eli/2006/act/33/enacted/en/html.

413 CoE (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 (CPT) from 2 to 13 May 2016, p. 35, https://rm.coe.int/16806ebb7c.

Section D
Complaints, accountability and inspection mechanisms

Standard 22: Complaints system

Spotlight 3

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 robust and effective complaints mechanism is of particular importance for individuals detained in closed institutions in order to protect against potential human rights violations. 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.[414]

Current context

According to the IPS, a new internal complaints system is expected to be introduced in Quarter 3 of 2019.[415] The Minister for Justice and Equality has reported that a number of changes are required for the new system, including: the need for additional personnel; changes to the prison rules; drafting of new policy documents; and a new ICT system.

Indicators for Standard 22

21.1 **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.**[416]
The table below shows that only 5% of Category A complaints made were upheld in 2018. In 2019, this rate slightly increased to 8% (at least up until June 2019). The average length of time it takes to investigate Category A complaint is 2.9 months.[417]

414 Penal Reform International and 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.

415 Department of Justice and Equality (2019), 'Parliamentary Questions, PQ 148, 30 January 2019', http://www.justice.ie/en/JELR/Pages/PQ-30-01-2019-148.

416 'Category A' complaints are the most serious of complaints which are investigated by a person from outside the Prison Service. These complaints relate to allegations of assault or use of excessive force.

417 Houses of the Oireachtas (2019), 'Dáil Debates, Prisoner complaints procedures, Tuesday 18 June 2019', https://www.oireachtas.ie/en/debates/question/2019-06-18/233/.

Table: Category A complaints by outcome, 2018 and 2019 [418]

Category A complaints	2018	2019 (to 12 June)
Complaints received (n.)	80	25
Upheld	4	2
Not upheld	46	4
Not proven	4	0
Terminated	3	0
Incomplete	12	13
Withdrawn	9	0
Part upheld	0	2
Not investigated	2	4

In 2018, 30.7% of all other categories of complaints made by prisoners were upheld. Up until June 2019, a similar rate of 28.9% of complaints were upheld. The average length of time it takes to investigate all other complaints by senior management of the IPS is 1.5 months. [419]

Table: All other complaints by outcome, 2018 and 2019 [420]

	2018	2019 (to 12 June)
Complaints received (n.)	977	359
Upheld	300	104
Not upheld	309	101
Not proven	162	39
Terminated	98	26
Incomplete	108	89

418 Ibid.

419 Houses of the Oireachtas, *Prisoner Complaints Procedures, Tuesday 18 June 2019*, https://www.oireachtas.ie/en/debates/question/2019-06-18/233/.

420 Ibid.i

PROGRESSIVE PRACTICE

Complaints system, the Netherlands

Under Dutch legislation, a Supervisory Committee must be appointed to each prison. Each supervisory committee is an independent and external body, consisting of members of the general public comprising a minimum of six members. It must include a judge, lawyer and social worker. The committee must take note of prisoner complaints and arrange for complaints to be dealt with.

A prisoner may file a complaint with their Complaints Committee, which is comprised of three members of their Supervisory Committee. The complaint must concern a decision taken on or behalf of the governor. Decisions taken by medical staff are not viewed as decision taken on or behalf of the Governor. The Complaints Committee will try to avoid a formal hearing through mediation.[421]

If the case is dealt with by the entire Complaints Committee, the prisoner and governor are invited to a non-public hearing. The prisoner is entitled to free legal aid and an interpreter, if required. After the oral hearing, the Complaints Committee must deliver on a decision within four weeks (or eight weeks, in exceptional circumstances). The details of the decision must be given. The decision must contain a report of the hearing. In it, it must mention that both parties can appeal the decision within seven days.

The Complaints Committee must find the complaint as (a.) fully or partly inadmissible (b.) unfounded or (c.) founded. The Complaints Committee can suggest compensation or other measures such as extra calls or visits.[422]

Similar procedures apply to the Appeals Committee to that of the Complaints Committee.

A prisoner in the Netherlands can also lodge a complaint with the National Ombudsman.[423] This remit includes complaints about the Complaints Committee. The CPT have positively commented on the various approaches and ways that prisoners can make complaints in the Netherlands.[424]

Analysis

A low proportion of Category A complaints made by prisoners were upheld in 2018 and to mid-2019. There is little detailed information available on reasons why complaints are held/not upheld, or the outcomes as a result of complaints being upheld.

Further publication and analysis of aggregate complaints data is required in order to ensure that the system is fully transparent and fair. As highlighted by the CoE (2018) on complaints mechanisms:

> *...a national system for compiling statistics on complaints, relevant proceedings and outcomes should be established. If the data are correctly gathered and analysed, it becomes possible to identify trends and develop future policies aimed at improving the functioning of the complaints mechanisms and the accountability of the authorities entrusted with the supervision and care of persons deprived of their liberty.*[425]

Research examining prison accountability in England, Wales, Scotland and the Republic of Ireland has highlighted that not only should primary bodies involved in prison accountability be independent and robust, but that in order for prisoners to experience these bodies as legitimate, transformational changes in penal culture and internal prison power dynamics must be addressed.[426] This study identified similarities in the different complaints models, with problems experienced in securing prisoner confidence; this then negatively impacts on prisoner engagement with bodies designed to protect them. The authors argue that in order for any accountability framework to be fully effective, complaining needs to be viewed as a positive expression of purposeful activity.

421 Jacobs, P. and Lindeman, J. (2018), Analysis of National Law – National norms as regard to access of detained persons to the law and to court, Report on the Netherlands, http://www.prisonlitigation.org/wp-content/uploads/2019/07/WP2-National-report-NL.pdf.

422 Ibid.

423 Ibid.

424 Council of Europe CPT/Inf (2017) 1 *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 (CPT)* from 2 to 13 May 2016, https://rm.coe.int/16806ebb7c

425 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2018), 'Complaints mechanisms', https://rm.coe.int/16807bc668.

426 Behan, C. and Kirkham, R. (2016), 'Monitoring, inspection and complaints adjudication in prison: The limits of prison accountability frameworks', *The Howard Journal of Crime and Justice*, Vol. 55, No 4, pp. 432–454.

In sum, the internal complaints system cannot be effective without conditions in place that support this process. Promoting a positive culture that allows prisoners' voices to be heard is important. The Minister for Justice will put in place a process to appoint a new Prisons Board and as part of this a new culture committee will be put in place.[427] Examination and focus on this issue could be part of its remit.

Status of Standard 22: No change

Actions required	
Action 22.1:	The IPS must meet its timeline of Quarter 3 2019 for the introduction of the new internal complaints system.
Action 22.2:	The IPS should include a detailed breakdown of complaints received and outcomes in its annual report.
Action 22.3:	The new 'culture committee' could examine how prison culture can be strengthened to improve confidence in the internal prisoner complaints system.

PROGRESSIVE PRACTICE

Five basic principles for an effective complaints system, CPT (2018) [428]

1. **Availability:** Persons deprived of their liberty should be legally entitled to lodge formal complaints with relevant designated bodies.
2. **Accessibility**: Persons deprived of their liberty should receive information (in writing and orally) about all avenues of how to make a complaint including appeals procedures.
3. **Confidentiality and safety:** Confidential access to complaints bodies should be secured. People should be able to make complaints with confidence, free of intimidation.
4. **Effectiveness:** Effective complaints systems should process complaints promptly, thoroughly and efficiently.
5. **Traceability:** Each institution should maintain a record of all complaints in a register with due care towards confidentiality.

427 Department of Justice and Equality (2018), 'Statement by Minister for Justice and Equality, Mr. Charlie Flanagan T.D. accompanying the publication of the report by Inspector of Prisons pursuant to section 31(2) of the Prisons Act 2007 into allegations of wrongdoing in the Irish Prison Service', http://www.justice.ie/en/JELR/Pages/PR19000206.

428 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2018), ' Complaints mechanisms', https://rm.coe.int/16807bc668.

Standard 23: Independent complaints and 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

In 2016, the OiP made a recommendation that prisoners "must be entitled" to bring a complaint before a judicial or other authority.[429] The Inspector recommended that this be the Ombudsman.[430] This recommendation was accepted by the Department of Justice and Equality and the IPS.[431] Similarly in 2017, the UN CAT reiterated to the State:

> *The State party should: (a) Consider establishing a completely independent mechanism for the consideration of prisoner complaints...; (b) Provide for an independent appeal procedure outside of the prison system; (c) Introduce greater involvement and oversight by an independent body.*[432]

It has been agreed that the remit of the Office of the Ombudsman will be extended to consider complaints, after the introduction of IPS's new internal complaints procedure.[433] In its annual report for 2018, the Ombudsman stated:

> *I anticipate that, subject to approval by the Department of Public Expenditure and Reform, my remit will be extended to allow me to consider complaints about the prison service. In view of this, my Office has continued its engagement with the Irish Prison Service (IPS) and the Department of Justice and Equality in relation to the reform of the complaint handling system within the IPS.*[434]

However, it appears unlikely that prisoners will have access to an independent complaints system before the end of 2019.

Indicators for Standard 23

23.1 **Prisoners' access to an independent external complaints mechanism.**
Prisoners still have no access to an independent, external complaints mechanism.

Analysis

Despite numerous recommendations for prisoners to have access to an external independent complaints mechanism, dating as far back as the Report of the Committee of Enquiry into the Penal System in 1985 (Whitaker Report) and including numerous recommendations made by both domestic and international human rights bodies, there remains no recourse for prisoners to make or appeal a complaint to an external body. This standard is unmet for another year.

Status of Standard 23: No change

Action required

Action 23.1: The Department of Public Expenditure and Reform should ensure sufficient resources are allotted to the Office of the Ombudsman to receive complaints from prisoners in 2020

429 Office of the Inspector of Prisons, 'Other reports' (see *Review, Evaluation and Analysis of the Operation of the IPS Prisoner Complaints Procedure, 2016*, p. 50), http://www.inspectorofprisons.gov.ie/en/iop/pages/other_reports.

430 Ibid.

431 Department of Justice and Equality (2019), 'Parliamentary Questions, PQ 148, 30 January 2019', http://www.justice.ie/en/JELR/Pages/PQ-30-01-2019-148.

432 CAT, *Advance Unedited Version: Concluding Observations on the Second Periodic Report of Ireland*, p.8 https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/INT_CAT_COC_IRL_28491_E.pdf.

433 Department of Justice and Equality (2019), 'Parliamentary Questions, PQ 148, 30 January 2019', http://www.justice.ie/en/JELR/Pages/PQ-30-01-2019-148.

434 Office of the Ombudsman (2019), *Annual Report 2018* (see 'Delivering outcomes', p.16), https://www.ombudsman.ie/publications/annual-reports/Ombudsman-AR-2018-ENG-Final-for-Web.pdf.

Standard 24: 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 is central to the protection of human rights of prisoners. Independent monitoring bodies are an important feature in the prevention of torture and ill-treatment.

Current context

Ratification of the Optional Protocol to the UN Convention against Torture (OPCAT)

As of July 2019, 90 State Parties have ratified OPCAT, of which 71 have designated their national preventive mechanism (NPM).[435] Ireland is one of the last three remaining European countries yet to ratify OPCAT,[436] despite having signed the treaty in October 2007.[437]

The Department of Justice and Equality has been preparing legislation [the Inspection of Places of Detention Bill], which will ratify OPCAT and introduce an NPM.[438] The general scheme of the Bill was expected to be brought before Government before the end of 2018.[439] However, this did not happen.

In April 2019, the Minister stated that this scheme would be circulated for comments to stakeholders 'as soon as possible', and the scheme is intended to be finalised for formal drafting this year.[440] IPRT is clear that the minimum legislative requirements for any legislation to ratify OPCAT should set out the independence, functions and members/staff of the NPM.[441] The Irish Human Rights and Equality Commission (IHREC) has put itself forward as the NPM co-ordinator, which IPRT welcomes.[442]

Office of the Inspector of Prisons (OiP)

In relation to domestic inspections centrally focusing on the prison system, while a new Inspector was appointed in May 2018, there has been no prison inspection report published since then.

Concerns have been raised around the resourcing of the OiP.[443] In June 2019, the Minister for Justice and Equality stated that he had approved the awarding of a contract in relation to an inspection framework and strategic plan for the Office of the Inspector of Prisons.[444] The development of an Inspection Framework is welcome, aimed at allowing for more robust prison inspections.

Prison Visiting Committees

The Prison (lay) Visiting Committee system continues to operate; however, with a large number of vacancies across 10 of the 12 Committees.

There continues to be a significant time delay on the publication of Visiting Committee reports;[445] the most recently published reports in March 2019 relate to prison conditions during 2017.

Indicators for Standard 24

24.1 **The State's ratification of OPCAT and establishment of an NPM.**
Ireland has not ratified OPCAT. There have been further delays in progressing the relevant legislation [Inspection of Places of Detention Bill], which is required to establish a NPM.

24.2 **Frequency of publication of OiP reports.**
There have been no published prison

435 APT (2019), Global Status of ratifications, Signatures and NPM Designations Optional Protocol to the UN Convention against Torture, https://www.apt.ch/en/global-status/.

436 APT, *Global Status, Europe and Central Asia*, https://apt.ch/en/global-status/.

437 OPCAT is an international human rights treaty which assists States in preventing torture and other forms of ill-treatment in places of detention (including, but not limited to, psychiatric units, juvenile detention centres, immigration detention centres, pre-trial detention facilities and Garda stations).

438 Each State establishes, designates or maintains one or more bodies who will visit the detention centres to ensure the prevention of torture and other cruel, inhuman or degrading treatment or punishment. These are referred to as NPMs.

439 Houses of the Oireachtas (2018), 'Dáil Debates, UN Conventions, Thursday 5 July 2018', https://www.oireachtas.ie/en/debates/question/2018-07-05/1/.

440 Kildare Street (2019), 'Seanad Debates, Tuesday 9 April 2019', https://www.kildarestreet.com/sendebates/?id=2019-04-09a.15.

441 IPRT (2018), 'Statement of principles on legislation to ratify the Optional Protocol to the Convention against Torture (OPCAT)', http://www.iprt.ie/contents/3371.

442 IHREC (2018), *Submission to the UN Committee against Torture on Ireland's One Year Follow-up to its Second Periodic Report under CAT*, https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/INT_CAT_NGS_IRL_33100_E.pdf.

443 Kildare Street (2019), 'Written Answers, Tuesday 11 June 2019, Department of Justice and Equality, Inspector of Prisons', https://www.kildarestreet.com/wrans/?id=2019-06-11a.922.

444 Houses of the Oireachtas (2019), 'Dáil Debates, Inspector of Prisons, 26 June 2019', https://www.oireachtas.ie/en/debates/question/2019-06-26/42/.

445 Department of Justice and Equality (2019), 'Prison Visiting Committee annual reports 2017', http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

inspections reports since May 2017;[446] prior to that, the last published inspection report of a closed prison was September 2014.[447]

Based on the combined information available on the OiP and Department of Justice and Equality's website, the table below presents the number of prison inspection reports published since 2008.

Table: Prison inspection reports published since 2008

Year	Report
2008	Inspection of Loughan House
2009	Inspection of Castlerea Prison Inspection of Mountjoy Prison
2010	No inspection reports
2011	Inspection of Mountjoy Prison
2012	Inspection of Limerick Prison First follow-up inspection of Limerick Prison Second follow-up inspection of Limerick Prison Inspection of Arbour Hill Prison Inspection of St. Patrick's Institution
2013	Interim report on the Dóchas Centre
2014	Inspection of Loughan House Open Centre
2014	An overview of Mountjoy Prison Campus with particular emphasis on the Separation Unit [448]
2015	No inspection reports
2016	No inspection reports
2017	Report on an Inspection of the Training Unit
2018	No inspection reports
2019	No inspection reports

It appears that from 2008 to 2019, six prisons (Cork, Wheatfield, Cloverhill, Midlands, Portlaoise and Shelton Abbey) were not subject to a published prison inspection report.

24.3 **Reform of Prison Visiting Committees.** There has been no reform of Prison Visiting Committees. In 2019, the Minister outlined that the role of these committees will be considered in the context of the drafting of the General Scheme of the Inspection of Places of Detention Bill. [449]

PROGRESSIVE PRACTICE

Norwegian Parliamentary Ombudsman

In its annual report for 2018, the Norwegian Parliamentary Ombudsman details prison conditions in Norwegian prisons, including lengthy lock-up hours.[450] The institutions visited are given a deadline for informing the Ombudsman about their follow-up on recommendations.[451] The follow up is published on the Ombudsman's website.

PROGRESSIVE PRACTICE

Independent Monitoring Boards

Independent monitoring boards (IMB) in England and Wales provide a more detailed description and a standardised approach in the monitoring of prisons. There is a clear statement of purpose and monitoring framework set out for IMBs, which promotes a consistency of approach.[452]

The key areas for monitoring include: safety of the establishment; fairness of prisoner treatment; accommodation; management of the daily regime; communication and consultation; healthcare; entitlements; education and training; and preparation for release. The framework also outlines the importance of monitoring skills such as observation, listening, interpretation and recording. IMBs form part of the NPM in England and Wales.

446 See Office of the Inspector of Prisons, *Inspection of Prisons Reports*, http://www.inspectorofprisons.gov.ie/en/iop/pages/inspection_of_prisons_reports.

447 Department of Justice and Equality (2014), Prisons and Probation, Overview of Mountjoy Prison Campus with Particular Emphasis on the Separation Unit by the Inspector of Prisons Judge Michael Reilly, http://www.justice.ie/en/JELR/Pages/PR14000240.

448 Ibid.

449 Department of Justice and Equality (2019), 'Parliamentary Questions, PQ 117, 13 June 2019', http://www.justice.ie/en/JELR/Pages/PQ-13-06-2019-117.

450 Norwegian Parliamentary Ombudsman (2019), *Annual Report 2018*, https://www.sivilombudsmannen.no/wp-content/uploads/2019/04/Annual-report-2018.pdf.

451 Ibid., p. 15

452 IMB (2016), *The National Monitoring Framework Independent Monitoring Boards*,

Analysis

Monitoring and inspection is essential to the protection and promotion of human rights anywhere that people can be deprived of their liberty.

Ireland's progress on the development of an NPM and ratification of OPCAT lags behind the rest of Europe. However, IPRT welcomes that the IHREC has expressed an interest in the co-ordinating role of the NPM.

The lack of published inspection reports by the Office of the Inspector of Prisons throughout the years may impact on its perceived effectiveness. The Office needs greater resourcing in order to meet its remit, including publishing inspection reports, deaths in custody reports and undertaking regular thematic reviews. The Minister for Justice and Equality has committed to enhancing the resources and capacity of the office.[453]

Reform of the Prison Visiting Committees is required,[454] including principles, composition, and recruitment, selection and training processes. Prison Visiting Committees could replicate a 'citizens' convention model', and be comprised of randomly selected citizens.[455] The quality and standardisation of reports should also be enhanced; for example, in England and Wales, 'independent monitoring boards' (IMB) have developed their own monitoring framework,[456] and reports are more timely.[457] The IMB annual report examines key thematic issues affecting the entire prison estate.

Status of Standard 24: No change

Actions required

Action 24.1:	The inspection framework and strategic plan for the Office of the Inspector of Prisons should be published by the first quarter of 2020.
Action 24.2:	The Office of the Inspector of Prisons should be adequately resourced to undertake an annual programme of prison inspections, with reports published within 18 weeks of inspections being carried out.
Action 24.3:	The Department of Justice and Equality should progress reform of Prison Visiting Committees as part of the work on developing an NPM. Appointment of members, training and the standard of reporting should be reviewed, followed by a recruitment campaign by the Public Appointments Service. A monitoring framework should also be established in order to achieve consistency of approach by all Prison Visiting Committees.

http://www.imb.org.uk/app/uploads/2016/01/National-Monitoring-Framework.pdf.

453 Houses of the Oireachtas (2019), 'Dáil Debates, Inspector of Prisons, 26 June 2019', https://www.oireachtas.ie/en/debates/question/2019-06-26/42/.

454 Department of Justice and Equality (2019), 'Parliamentary Questions, PQ 117, 13 June 2019', http://www.justice.ie/en/JELR/Pages/PQ-13-06-2019-117.

455 The Citizen's Assembly, *Convention on the Constitution*, https://www.citizensassembly.ie/en/Resource-Area/Convention-on-the-Constitution/.

456 IMB (2016), *The National Monitoring Framework Independent Monitoring Boards*, http://www.imb.org.uk/app/uploads/2016/01/National-Monitoring-Framework.pdf.

457 Independent Monitoring Boards (2018), *IMB National Annual Report 2017/18*, https://www.imb.org.uk/reports/2019-annual-reports/ .

Standard 25: 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.[458] As highlighted by Penal Reform International (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.[459]

Current context

To date in 2019, there have been three deaths in custody reports published on the Office of the Inspector of Prisons and Department of Justice and Equality websites.[460] Of these, two reports relate to deaths that occurred in 2017 and one death in 2018.

Indicators for Standard 25

25.1 **Implementation of recommendations of investigations made by the OiP.**
In 2019, the OiP criticised the fact it had been forced to repeat the same recommendations in its published reports, due to the failure of IPS to implement them:

> *It is of serious concern that this Office is repeating recommendations over and over again and the opportunity to prevent recurrence of similar deaths does not appear to be sufficiently addressed.*[461]

The Inspector particularly noted the lack of compliance with checks for prisoners under 'special observations' and the failure of the IPS to retain CCTV footage. The Inspector welcomed the response made by the director general of the IPS, who accepted the recommendations and set out the steps that IPS would be taking to ensuring their full implementation. Further updates were provided to the Inspector by the director general on various dates.[462] This includes a range of measures introduced in relation to special observations.

Analysis

Up to July 2019, fewer death in custody reports had been published than previous years. There appear to be significant delays in the publication of death in custody reports, with often over a year between the date a prisoner dies and the date the report is published by the Minister for Justice and Equality. These delays may mean Ireland is not in compliance with our obligations under the ECHR. It may also mean delays in working towards the implementation of a recommendation that could prevent a re-occurrence of circumstances associated with the death of a prisoner.

Recurrent issues, such as non-compliance with standard operating procedures and failures to retain or record CCTV footage, have been identified by the Office of the Inspector of Prisons. Action has been taken by the IPS in 2019 on recommendations of the OiP as they relate to special observations (a key action included in PIPS 2018). Follow-up actions taken by the IPS in response to issues identified by the Inspector should be published. This would hold the State to account in ensuring recommendations are acted upon following the death of an individual while under the care of the State.

Status of Standard 25: Mixed

Actions required

Action 25.1: Reports on progress towards implementation of recommendations made by the OiP following deaths in custody should be published regularly.

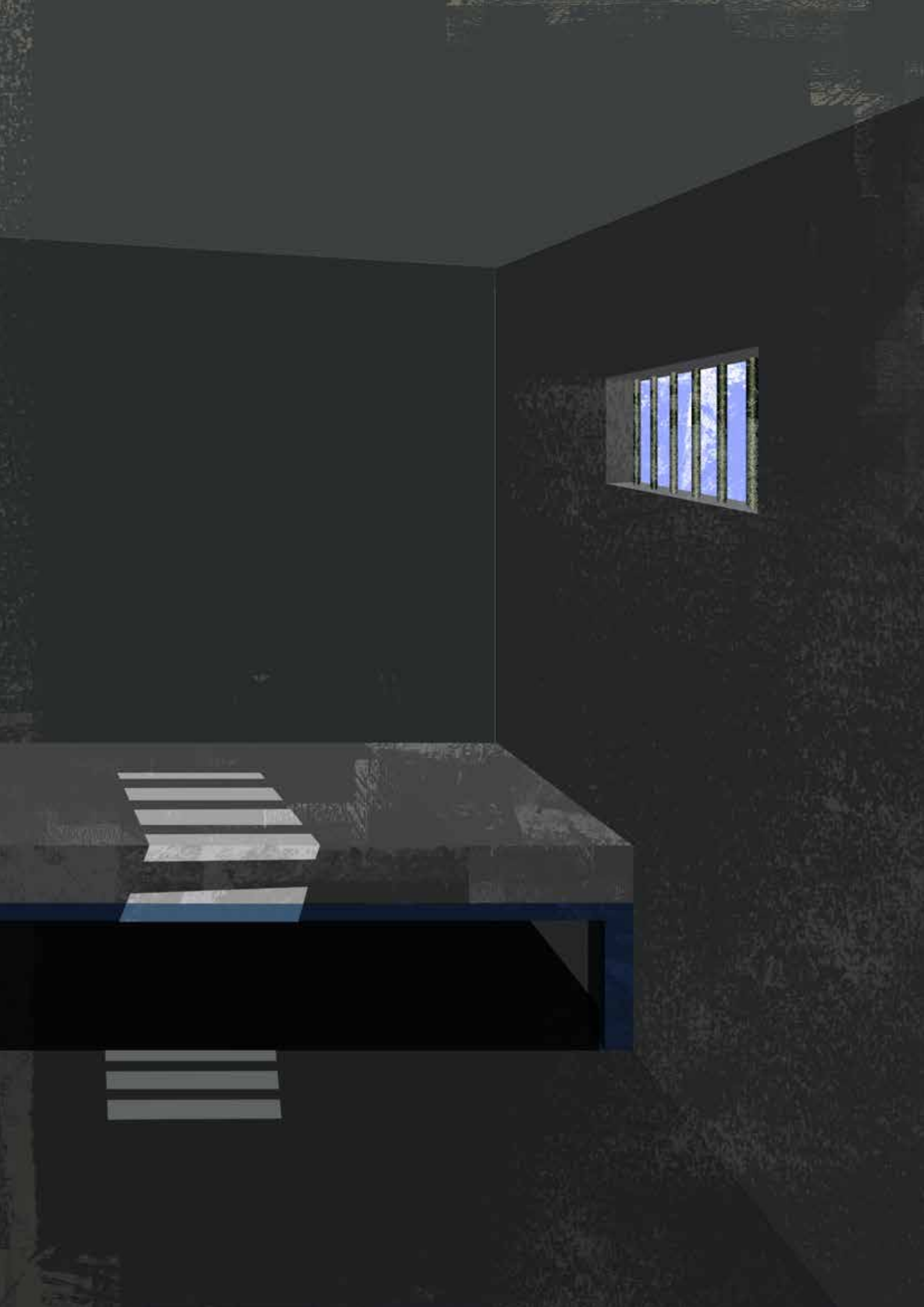
458 CoE, *European Convention on Human Rights*, Article 2, p.6, https://www.echr.coe.int/Documents/Convention_ENG.pdf.

459 Penal Reform International (2018), *Incident Management and Independent Investigations*, p. 2, https://www.penalreform.org/resource/detention-monitoring-tool-incident-management-and-independent-investigations/ .

460 Office of the Inspector of Prisons, 'Latest reports and publications', http://www.inspectorofprisons.gov.ie/en/iop/pages/home. and Department of Justice and Equality, 'Publications', 'More Publications' 2019 http://www.justice.ie/en/JELR/Pages/Publications'

461 Office of the Inspector of Prisons (2019), A report by the Office of the Inspector of Prisons into the circumstances surrounding the death of Mr G on 6 May 2017 in Limerick Prison, see Foreword, p.ii http://www.justice.ie/en/JELR/Office%20of%20Inspector%20of%20Prisons%20Report%20into%20circumstances%20surrounding%20the%20death%20of%20Prisoner%20G%20(2017).pdf/Files/Office%20of%20Inspector%20of%20Prisons%20Report%20into%20circumstances%20surrounding%20the%20death%20of%20Prisoner%20G%20(2017).pdf.

462 Ibid.



Section E
Safety and protection in Irish prisons

Standard 26: 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' with a range of symptoms including anxiety, depression, anger, self-harm and suicide.[463] As highlighted in IPRT's 2018 report 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.*[464]

Current context

The practice of solitary confinement in Irish prisons has not been eliminated. In 2017, a number of progressive steps were taken towards the elimination of the practice including the introduction of an amendment to the Prison Rules,[465] as well as the introduction of a policy to eliminate solitary confinement in the prison estate.[466] Despite these developments, however, there appears to have been an increase in the number of prisoners being placed in solitary confinement, with 51 prisoners on 22-hour lock up, according to the April 2019 IPS Census of Restricted Regimes report.[467]

463 Penal Reform International and 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.

464 Martynowicz, A. and Moore, L. (2018), *"Behind the Door": Solitary Confinement in the Irish Penal System* (see foreword, p. 3), http://www.iprt.ie/files/Solitary_Confinement_web.pdf.

465 Irish Statute Book, *Prison (Amendment)* Rules 2017, http://www.irishstatutebook.ie/eli/2017/si/276/made/en/print.

466 IPS (2017), *Elimination of Solitary Confinement Policy*, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Elimination-of-solitary-confinement-Policy.pdf.

467 IPS, 'Census of Restricted Regime reports', https://www.irishprisons.ie/information-centre/statistics-information/census-reports/.

Indicators for Standard 26

26.1 **The number of prisoners on 22–24 hour lock up.**
The April 2019 IPS Census of Restricted Regimes report [468] states that the practice of solitary confinement occurred in Mountjoy (male), Cloverhill, Limerick (male), Wheatfield and Dóchas (female). Among the 51 people affected, two were aged 18–20 years, 12 were aged 21–24 years and 37 were aged 25 years or over.

26.2 **Number of prisoners on 22 hours + lockup for 15 days or over.**
This information has not been made available at the time of writing.[469]

Analysis

While there was significant momentum towards reducing the number of prisoners being held in solitary confinement in previous years, this momentum appears to have deteriorated. Figures from 2019 show a rise in the use of solitary confinement. Urgent action is required. Necessary steps include the consistent monitoring and publication of data, in particular on the number of people held in prolonged solitary confinement (more than 15 days), given its severely psychological effects on an individual. Comparatively, the practice of seclusion in psychiatric units in Ireland is highly regulated, whereby approved centres must inform the Inspector of Mental Health Services whenever the practice is extended beyond 72 hours. These data are published by the Mental Health Commission.[470] Similar levels of oversight must be applied in prisons.

Status of Standard 26: Regress

Actions required	
Action 26.1:	The IPS should publish data on the length of time prisoners are spending in solitary confinement, as part of its quarterly census. At a minimum, this should identify the number of prisoners in prolonged solitary confinement (i.e. more than 15 days).
Action 26.2:	The IPS in conjunction with the Prison Psychology Service should develop programmes to help prisoners transition from solitary confinement back into the general prison population.
Action 26.3:	Where the period of solitary confinement extends beyond 72 hours, the Inspector of Prisons should be notified.

468 Ibid.

469 Kildare Street (2019), 'Written Answers, Thursday 13 June 2019, Department of Justice and Equality, Prisoner Data', https://www.kildarestreet.com/wrans/?id=2019-06-13a.242.

470 Mental Health Commission *Annual Report 2018* including Report of the Inspector of Mental Health Services, pp.66-67 https://www.mhcirl.ie/File/2018_AR_Incl_OIMS.pdf

PROGRESSIVE PRACTICE

Step-down programmes and transitional units, USA

In the United States of America, step-down programmes and transitional units form part of a strategy to end long-term 'restrictive housing' or solitary confinement (i.e. where a person is held in a cell for 22–24 hours) in prisons there.[471]

The Vera Institute of Justice outlines two main goals of these programmes:

- to provide a route out of restrictive housing to ensure people do not spend prolonged periods of time in these type of conditions; and
- to support people in restrictive housing to transition in less-restrictive settings including, the general prison population and with the overall objective of supporting the individual's transition back into the community.

There are two models adapted in the US:

- Transitional unit (TU): This is a housing unit that acts as a step between restrictive housing before being brought back to the mainstream prison population. It has fewer constraints than restrictive housing. TU's are more structured and secure than general prisons. Compared to restrictive housing regimes, people in TUs may be allowed greater out-of-cell time, and provided with more opportunities for group activity.
- Step-down programme (SDP): This is a programme with multiple phases that provide a progressive transition from restrictive housing to the general population. Generally, as people progress through phases they experience lesser restrictions with increases in out-of-cell time, greater privileges and group activites, where the size of groups in activities may also increase.

The Vera Institute of Justice identifies five essential aspects of the effective functioning of these programmes, as follows.[472]

1. **Individualised decisions are made about who is placed on the programme:** Not everyone will need to access a SDP or TU. These are more appropriate for people who have spent a prolonged period of time in restrictive environments. The decision should be made by a multi-disciplinary team with input from the person themselves.
2. **Conditions in step-down programmes/ transitional unit should differ from restrictive housing:** Conditions should be less restrictive in STP/TUs; for example, there should be increased out-of-cell time allowing for participation in structured group activities.
3. **There should be meaningful out-of-cell group programmes and activities:** There should be more opportunity to associate with other people via meaningful programmes and activities. While there may be some restrictions to ensure the safety of prisoners and staff during programmes, these should be only be used to the extent required.
4. **A clear process for progressing through the programme:** There should be a well-defined route back to the general prison population. This should be communicated to both the prisoner and staff at the beginning. This process should involve:

- frequent reviews by a multidisciplinary team to ascertain when the person progresses through the programme and when they are moved to the general population;
- individual plans developed for each person in the programme, achieved through the staff and the person working together to progress the programme plan;
- transparent reviews with objective criteria, whereby people understand what is expected of them to progress to a less restrictive prison environment (the criteria should be available to the individual both in writing and verbally);
- a goal to move people back in a safe way and in the shortest time possible to the general prison population

5. **Planned transitions to general population**. The transition back to the general prison population should be planned. Each person should be transferred to a placement in the general prison population because it fits the needs of the individual and will keep them safe, maintaining the progress achieved.

471 Vanka, E. (2019), *Step-down Programs and Transitional Units: A Strategy to End Long-term Restrictive Housing*, Vera Institute of Justice, https://storage.googleapis.com/vera-web-assets/downloads/Publications/step-down-programs-and-transitional-units-strategy-to-end-long-term-restrictive-housing/legacy_downloads/step-down-programs-and-transitional-units-strategy-to-end-long-term-restrictive-housing-policy-brief.pdf.

472 Ibid.

Standard 27: Violence in Irish prisons

Standard 27:
Prisoners and everyone in the prison system feels safe and protected from violence in the prison environment.

Rationale

All prisoners and everyone in the penal system should feel safe and protected from harm, abuse and violence.[473] A number of factors help prevent violence occurring in prisons. These include: providing safe custody limits; access to single-cell accommodation; creation of positive and humane prison conditions whereby prisoners have access to regular forms of communication with their families; and a high level of out-of-cell time with access to a wide and varied regime and effective prison management.

Current context

In 2018, 110 assaults on staff by prisoners were recorded, while 418 assaults on prisoners by prisoners were recorded.[474] Based on information revealed under the Freedom of Information Act, it was also reported that staff allegedly assaulted prisoners 37 times in 2018.[475]

In November 2018, the National Violence Reduction Unit opened in Midlands Prison. The National Violence Reduction Unit is targeted at a small number of prisoners who are engaged in repeated serious violence. The approach of the unit is to meet each prisoner's complex needs through improving their psychological health. Its focus is on progression.[476,477]

Research is currently being conducted on the management of this small cohort of prisoners under the 'violent and disruptive prisoner' (VDP) policy, which has been in place since 2014.[478] This study examines the previous approach of the management of violent prisoners under the VDP policy, whereby practice was operationally driven, against the new approach, which is more psychologically informed, and aimed at positively intervening to reduce violent behaviour. Previous practice under the VDP policy was defined by the following three characteristics.

1. The small cohort of prisoners were managed with increased security including the use of barrier handling. This involved a control and restraint team and personal protection equipment. In contrast, the new approach is co-led by an operational governor and senior psychologist who jointly make decisions. Prison staff are trained in an approach grounded in psychological knowledge and skill. Barrier handling has been eliminated as a standard practice.
2. Prisoners previously only had access to basic features of the prison regime such as phone calls and visits. By comparison, the new unit provides an intensive psychological assessment and a more purposeful regime provided through increased use of facilities and services.
3. Prisoners were not permitted to associate with other prisoners and engagement with staff was minimal. By contrast, the new approach facilitates prisoners to interact with each other as they progress through the unit. Positive staff–prisoner engagement is a core feature, whether through structured interventions by a psychologist or informal social interactions.

473 "The safety and security of prisoners, staff and security providers and visitor shall be ensured for at all times" (Rule 1 of UN Mandela Rules). Procedures shall be in place to ensure the safety of prisoners, prison staff and all visitors and to reduce to a minimum risk of violence and other events that might threaten safety" (Rule 52.2 European Prison Rules).

474 IPS, 'Assault figures, (see Assault tables)', https://www.irishprisons.ie/information-centre/statistics-information/assault-figures/.

475 Red FM 104-106, 'Prison staff allegedly assaulted prisoners 37 times last year', http://www.redfm.ie/news/cork/prison-staff-allegedly-assaulted-prisoners-37-times-last-year/.

476 IPS (2019), *Annual Report 2018*, p.3, https://www.irishprisons.ie/information-centre/publications/annual-reports/.

477 It can accommodate six prisoners with an additional four for the purpose of an intensive assessment; see http://www.justice.ie/en/JELR/Pages/PR18000350.

478 Gallagher O. (2019) *'Addressing serious violence in the Irish Prison Service: exploring the experiences of prisoners and prison officers'*, The IAFCP Newsletter, International Association for Correctional and Forensic Psychology.

Indicators for Standard 27

27.1 **The number of violent incidents across the prison estate.**[479]
There has been a 5.8% increase in recorded prisoner-on-staff assaults from 2017 to 2018 figures.

Table: Prisoner-on-staff assaults

Prison	Prison capacity	Assaults, 2017	Assaults, 2018
Arbour Hill	138	0	0
Castlerea	340	13	12
Cloverhill	431	8	11
Cork	296	9	15
Dóchas	105	14	8
Limerick	238	8	8
Loughan House	140	0	0
Midlands	845	15	13
Mountjoy Prison (Male)	755	18	24
Portlaoise	291	3	4
Shelton Abbey	115	0	0
Wheatfield	550	10	5
Prison Service Escort Corps (PSEC)	N/A	6	9
Operational Support Group (OSG)	N/A	0	1
Total		104	110

Table: Prisoner-on-prisoner assaults by prison, 2017 and 2018

Prison	Prison capacity	2017	2018
Arbour Hill	138	0	1
Castlerea	340	79	76
Cloverhill	431	42	54
Cork	296	44	42
Dóchas	105	33	28
Limerick	238	18	28
Loughan House	140	0	0
Midlands	845	45	44
Mountjoy Prison (Male)	755	113	110
Portlaoise	291	14	0
Shelton Abbey	115	0	3
Wheatfield	550	24	20
PSEC	N/A	3	12
Total		417	418

27.2 **The number of sexual violence incidents across the prison estate.**
This information has not been made available.[480]

27.3 **The number of prisoners held in Close Supervision Cells and duration of time spent in these cells.**
This information has not been made available.[481]

27.4 **The establishment of a therapy-focused unit for prisoners who are violent and disruptive.**
The National Violence Reduction Unit has been open since November 2018.

479 IPS, 'Assault figures' (see Assault tables), https://www.irishprisons.ie/information-centre/statistics-information/assault-figures/.

480 Kildare Street (2019), 'Written Answers, Thursday 13th June 2019, Department of Justice and Equality, Prison discipline', https://www.kildarestreet.com/wrans/?id=2019-06-13a.246.

481 Ibid.

Analysis

IPRT welcomes that the IPS is collating data on prisoner-on-staff assaults and prisoner-on-prisoner assaults. It is also interesting to see the number of alleged staff on prisoner assaults reported under an FOI request. Only through yearly publication of data, alongside the diligent recording of incidents, can a true assessment be made of patterns of violence in the prison system.

The figures provided in the tables above do not provide detail on the number of individuals involved in assaults, which may reflect a small number of prisoners. Collating these data and examining circumstances around incidents may help further identify key factors towards reducing violence; for example, the State Claims Agency review found that assaults were carried out by a small number of prisoners who mostly presented with challenging behaviours and/or mental health problems.[482]

PROGRESSIVE PRACTICE

Addressing violence through a public health approach, Scotland

Scotland adopts a 'public health' approach to understanding the causes and consequences of violence. In 2004–2005, there were 137 homicides in Scotland, a figure that was halved to 62 by 2016–2017.[483] In response to the high number of homicides, Scotland's Violence Reduction Unit (part of Police Scotland) introduced a community initiative to reduce violence. In 2011, police stated that this led to a 50% reduction in offending for those participating in the programme.[484]

Research shows that while there has been little evaluation of a number of initiatives implemented to reduce violence, the largest declines in homicide and violence are in line with policies and intervention strategies put in place during mid-2000s.[485]

Other important multi-agency initiatives in Scotland include the Navigator Programme.[486] The violence reduction programme is based in emergency departments and is due to be expanded in 2018–2019. 'Navigators' connect with patients in emergency departments and work with people following their discharge to help them gain access to specialist services. Education Scotland also deliver a 'mentors in violence' programme developed by the Violence Reduction Unit, which promotes positive health and wellbeing among young people. [487]

482 National Treasury Management Agency (2016), *Review of Assaults on Operational Prison Staff by Prisoners*, https://stateclaims.ie/uploads/publications/Review-of-Assaults-on-Operational-Prison-Staff-by-Prisoners-November-2016.pdf.

483 O'Hare, P. (2019) 'How Scotland stemmed the tide of knife crime', *BBC News*, 4 March 2019, https://www.bbc.com/news/uk-scotland-45572691.

484 BBC News, 'Glasgow gang project cuts violent crime', https://www.bbc.com/news/uk-scotland-glasgow-west-14012001

485 Skott, S. and McVie, S. (2019), *Reduction in Homicide and Violence in Scotland is Largely Explained by Fewer Gangs and Less Knife Crime*, University of Edinburgh, https://blogs.sps.ed.ac.uk/aqmen/files/2019/01/S-Skott-Types-of-Homicide-28.1.19.pdf

486 Scottish Government, 'Violence including knife crime', https://www.gov.scot/policies/crime-prevention-and-reduction/violence-knife-crime/.

487 Ibid.

PROGRESSIVE PRACTICE

'What Works' in addressing violence in prisons

Below is a summary of evidence on 'what works' and what does not work to reduce violence, as identified by an independent academic peer reviewed study for the Ministry of Justice.[488]

What works

Examples

Improving the prison environment

- Creating cleaner prison environments so that people feel more cared for.

Expanding prisoner activities and programmes

- Training in cognitive skills
- Increasing meaningful activities; for example, workshops and education.

Staff training programmes

- Train staff in skills to de-escalate conflict
- Provide conflict resolution training to both staff and prisoners;

Strengthening procedural justice

- Improve procedural justice so that everyone in the prison feels that they are treated more fairly;
- Staff and prisoners working together to agree on approaches to reduce violence in prison.

What does not work

Examples

Increased punishment

- Punishment does not lead to a reduction in violence and can result in further grievance with a heightened sense of 'them and us'

Staff body cameras etc.

- Can make violent incidents easier to manage, but can have negative effects if not used appropriately.

Status of Standard 27: Progress

Action required

Action 27.1: The Government should adopt a 'public health' approach towards reducing violence in society, drawing on learning from Scotland.

488 Gov. UK, 'Guidance, Violence reduction in prison', https://www.gov.uk/guidance/violence-reduction-in-prison.

Standard 28: Prisoner escorts

Standard 28:
The health and welfare of prisoners is prioritised while they are under escort.

Rationale

Prisoners' rights must be protected from inhuman or degrading treatment while in prison transportation. In response to the issues observed by the European Committee for the Prevention of Torture (CPT) in many European jurisdictions, including overreliance on restraint, substandard basic safety requirements and unnecessarily long periods of confinement during transport,[489] the CPT published a factsheet to ensure that transportation of detainees is undertaken in a humane, safe and secure manner.[490]

Current context

In its most recent report, the Cloverhill Prison Visiting Committee highlighted some issues related to prisoner escorts, including that many remand prisoners are collected very early in the morning and may not return until late in the evening; some may need vital medication.

On 29 November 2018, the Minister for Justice welcomed the findings of a review into prisoner escort services and announced plans to establish an oversight group to assess recommendations made and implementation of the programme.[491] IPRT welcomes a recommendation in the review, that proposes a detailed framework governing the performance of prisoner escorting services.[492] This would allow for greater accountability of prison escort services in Ireland, including monitoring of the health and welfare of prisoners.

A number of other recommendations included a review of the Criminal Procedures Bill to maximise the use of video-link to reduce the number of transfers for court hearings.[493] In its submission to the review process, IPRT highlighted that any expansion in the use of video-link conferencing must ensure participation is with the agreement of the prisoner, and that prisoners do not come under pressure from prison staff or management to waive the right to attend court.[494]

Indicators for Standard 28

28.1 **Independent inspections of prisoner escort services.**
This has not happened.

28.2 **Publication of data on escort services, including numbers, distance, frequency and reason for escort, lengths of time prisoners are held in cellular vehicles, provision of rest breaks and conditions of vehicles.**
There has been no publication of these data. However, the review conducted by the Department of Justice and Equality identified the potential of performance indicators.[495] Some of the indicators proposed in the review included: elapsed durations prisoners are detained within vehicles in transit without stops/breaks; and elapsed durations prisoners are detained within stationary vehicles without periods of exercise/fresh air (for example, when held at court venues which do not have any or sufficient custody facilities); as well as the overall time spent in stationary vehicles compared to the time spent in transit.

Information has also been published on the number of complaints made by prisoners about PSEC in 2018 and 2019.

489 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.

490 Ibid.

491 Department of Justice and Equality (2018), *Minister Flanagan welcomes Prisoner escort review*, http://www.inis.gov.ie/en/JELR/Pages/PR18000373.

492 Department of Justice and Equality, *Prisoner Escorts in the Criminal Justice System Value for Money and Policy Review*, p. xi, http://www.justice.ie/en/JELR/VFMPR%20Prisoner%20Escorts%202018.pdf/Files/VFMPR%20Prisoner%20Escorts%202018.pdf.

493 Ibid.

494 IPRT Submission to the Department of Justice and Equality Value for Money and Policy Review of Prisoner Escort Services in the Criminal Justice Sector, March 2017, http://www.iprt.ie/files/IPRT_Submission_to_DJE_VFMR_of_Prisoner_Escorts_March_2017.pdf.

495 Department of Justice and Equality (2018), *Prisoner Escorts in the Criminal Justice System Value for Money and Policy Review*, pp. 64–65, http://www.justice.ie/en/JELR/VFMPR%20Prisoner%20Escorts%202018.pdf/Files/VFMPR%20Prisoner%20Escorts%202018.pdf.

Table: Complaints made by prisoners on PSEC, 2018 and up to early June 2019 (up to June) [496]

Complaints (n.)	Issue
2	Alleged assaults on a prisoner
1	Type of food received
1	Unfair treatment
1	Duration of time a prisoner was left in the cellular van

28.3 **Introduction of a handcuffing-by-exception policy.**
The introduction of a handcuffing-by-exception policy is not included in the published review by the Department of Justice and Equality. However the 'frequency of use of handcuffing while under escort' is outlined as a potential performance indicator.[497] According to the IPS, female prisoners, prisoners in open centres and older or ill prisoners deemed at very low risk are not handcuffed. All other prisoners are handcuffed based on risk assessment conducted at local level and in accordance with the national standard operating procedures relating to escorts.[498]

Analysis

Currently, there is no inspection of prisoner escort services in Ireland. This means little is known about the standards of health and welfare of prisoners while under escort.

Inspection of prisoner escort services is currently being considered within the context of the Inspection of Places of Detention Bill and the establishment of a NPM.

IPRT welcomes a recommendation by the Department of Justice and Equality that a detailed framework governing the performance of prisoner-escorting services should be established.[499] However, the low number of complaints related to prison escorts is of concern, considering there are upwards of 30,000 escourts every year.

With adequate resourcing, the inspection of prisoner escort services should be a function carried out by the Office of the Inspector of Prisons (OiP). The OiP should report on compliance with the prison rules,[500] which state that prisoner transport should 'preserve his or her human dignity'.[501]

Status of Standard 28: Progress

Actions required

Action 28.1: The Office of the Inspector of Prisons should be adequately resourced to undertake inspections of prisoner escort services.

496 Houses of the Oireachtas, *Prisoner transport, Thursday 13 June 2019*, https://www.oireachtas.ie/en/debates/question/2019-06-13/118/#pq_118.

497 Department of Justice and Equality, *Prisoner Escorts in the Criminal Justice System Value for Money and Policy Review*, p. 45, http://www.justice.ie/en/JELR/VFMPR%20Prisoner%20Escorts%202018.pdf/Files/VFMPR%20Prisoner%20Escorts%202018.pdf.

498 Information received from the IPS on 5 July 2019.

499 Department of Justice and Equality (2018), *Prisoner Escorts in the Criminal Justice System Value for Money and Policy Review*, p. xi, http://www.justice.ie/en/JELR/VFMPR%20Prisoner%20Escorts%202018.pdf/Files/VFMPR%20Prisoner%20Escorts%202018.pdf.

500 Irish Statute Book, *Prisons Act 2007* (see section 32 (2) (d)), http://www.irishstatutebook.ie/eli/2007/act/10/section/32/enacted/en/html#sec32.

501 See Rule 50 (2) Irish Statute Book, *Prison Rules, 2007*, http://www.irishstatutebook.ie/eli/2007/si/252/made/en/print#article50.

Standard 29: Staff training

Standard 29:
All staff receive relevant ongoing training and supports in order to effectively carry out their duties to a high standard.

Rationale

The importance of careful selection and recruitment of prison staff cannot be over-stated.[502] The CoE Code of Ethics for Prison Staff identifies the importance of values for prison staff that place emphasis on: accountability, integrity, respect for protection of human rights, care, fairness, impartiality and non-discrimination.[503] Staff training in which such ethics are embedded helps contribute to a safer and healthier prison environment where good relationships are fundamental. Staff should also feel supported by management in fulfilling their duties.

Current context

At the end of 2018, there were 3,270.15 whole-time equivalent staff in the IPS.[504] A total of 181 new recruit prison officers entered the IPS in 2018.[505] As part of the new recruit prison officer training, IPRT made presentations on its work throughout 2018 and 2019. Other community-based organisations, such as the Travellers in Prison Initiative (TPI), have also provided awareness-raising training to new recruit prison officers. A further 1,391 staff received training as part of continuous professional development (CPD) in 2018.[506]

New developments for staff include: development of a draft staff recognition scheme,[507] and a code of ethical behaviour that is due to be introduced in 2019.[508]

The CoE (2019) has recently issued guidelines regarding recruitment, selection, education, training and professional development of prison and probation staff.[509] A number of key principles are outlined in this document, including the importance of having sufficient staffing levels. The document provides best practice guidelines on recruitment processes for prison officers and probation staff, as well as professional development and ethics. It outlines that all states should have an ethical code for their staff. This should form an integral part of staff induction and in-service training, and adherence to the code should be part of the appraisal procedures.

Indicators for Standard 29

29.1 **Training in human rights and equality including on the United Nations Convention against Torture (UNCAT) for existing and new staff.**
The syllabus of prison officer CPD training rotates over a three-year cycle. A module included on the 2019 syllabus entitled 'Human Rights in the Custodial Environment' was designed and developed by the IPS Training College in conjunction with the IHREC. The training covers the UN Treaty Framework, the ECHR and the impact of rights on a custodial environment. In 2019, 355 prison officers have received this training, with an estimated 200+ officers to receive the training by Quarter 4 of 2019.[510]

Recruit prison officers also undertake an 'oversight in prisons project', which examines the role of inspections and how the body has impacted on the role of recruit prison officers.[511]

There has been no staff training focused on gender-based violence.[512]

502 The prison administration shall provide for the careful selection of every grade of the personnel, since it is on integrity, humanity, professional capacity and personal suitability for the work that the proper administration of prison depends (Art 74(1) of Mandela Rules). Principle 8 of the European Prison Rules states, "prison staff carry out an important public service and their recruitment, training and conditions of work shall enable them to maintain high level standards in the care of prisoners".

503 Recommendation CM/Rec(2012)5 of the Committee of Ministers to Member States on the European Code of Ethics for Prison Staff, http://www.prisonstudies.org/resources/council-europe-code-ethics-prison-staff.

504 This number includes civilian grades and headquarter staff. IPS (2019), *Annual Report 2018*, p.10 https://www.irishprisons.ie/information-centre/publications/annual-reports/

505 Ibid.

506 Ibid, p. 2.

507 Ibid, p. 35.

508 Ibid p. 34,

509 CoE, *Guidelines Regarding Recruitment, Selection, Education, Training and Professional Development of Prison and Probation Staff*, https://rm.coe.int/guidelines-training-staff/1680943aad.

510 Information received from IPS, 5th July 2019.

511 Ibid.

512 Information received from IPS on 5th July 2019.

29.2 **Adoption of CoE code of ethics for prison staff, with annual assessments.**
The IPS will introduce a code of ethical behaviour for prison staff in 2019.[513]

29.3 **Supports for staff.**
The Employee Assistance Programme is available to staff. This is a support network that provides information to staff confidentially. There is also an independent counselling service for staff. [514]

On 1 July 2018, the IPS introduced a protected disclosures policy. The aim of this policy is to allow employees to come forward about wrongdoing. Staff are made aware of the Transparency International Ireland Speak Up Helpline for independent guidance on reporting a protected disclosure.[515] There have been eight protected disclosures made to the IPS in 2018 and a further 11 about the IPS to the Department of Justice and Equality. [516]

Analysis

Some positive initiatives have been introduced for staff over the last year, including a central focus on human rights as part of recruit prison officer training.

Status of Standard 29: Progress

Actions required ◎

Action 29.1: The IPS should introduce a code of ethical behaviour, which should form part of staff induction, training and appraisal procedures.

Action 29.2: The IPS should introduce training on gender-based violence for all prison staff.

513 Department of Justice and Equality, 'Statement by Minister for Justice and Equality, Mr. Charlie Flanagan T.D. accompanying the publication of the report by Inspector of Prisons pursuant to section 31(2) of the Prisons Act 2007 into allegations of wrongdoing in the Irish Prison Service', http://www.justice.ie/en/JELR/Pages/PR19000206.

514 See information provided in 'Assault tables' in IPS, https://www.irishprisons.ie/information-centre/statistics-information/assault-figures/.

515 Houses of the Oireachtas (2019), 'Dáil Debates, Protected disclosures data, 30 January 2019', https://www.oireachtas.ie/en/debates/question/2019-01-30/60/.

516 IPS (2018), *Annual Report on Protected Disclosures*, https://www.irishprisons.ie/irish-prison-service-2018-annual-report-protected-disclosures/.

Standard 30: Professional relationships

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

Creating good working relationships helps ensure a positive prison environment. Prisons are institutions where the most important aspect is relationships between people:

> *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.*[517]

Current context

In 2019, the Minister for Justice and Equality announced new prison governance structures, including a culture committee.[518] This committee may play a role in identifying, supporting and enhancing relationships between prisoners, staff and management.

Indicators for Standard 30

30.1 **Measuring the quality of prison life (MQPL) survey or equivalent is conducted on an annual basis, with per-prison results published.**
While the IPS has previously conducted MQPL surveys internally, these survey findings have not been published.

Analysis

Currently, it is hard to gauge the quality of relationships between prisoners, staff and management, particularly in the absence of published inspection and monitoring reports. Conducting and publishing MPQL surveys would be one way to gauge such relationships and to work towards creating healthier prison environments.

For example, research carried out in England and Wales that analysed the relationship between prison social climate and re-offending showed that a higher moral quality of life supports better outcomes for prisoners on release.[519]

When established, the culture committee set up as part of a range of measures to strengthen governance of the IPS could consider the use of MQPL surveys.[520]

Status of Standard 30: Insufficient Data

Action required

Action 30.1: Independent MQPL surveys across the prison estate should be published every four years in order to assess relationships between prisoners, staff and management.

517 Guckin, J., Halai, A. and Yagunov, D. (2017), *Prison Management Booklet*, p. 8, https://rm.coe.int/prison-management-booklet-eng/16807185bd.

518 Department of Justice and Equality, 'Statement by Minister for Justice and Equality, Mr. Charlie Flanagan T.D. accompanying the publication of the report by Inspector of Prisons pursuant to section 31(2) of the Prisons Act 2007 into allegations of wrongdoing in the Irish Prison Service', http://www.justice.ie/en/JELR/Pages/PR19000206.

519 Liebling, A. and Auty, K.M. (2019), 'Exploring the relationship between prison social climate and reoffending', *Justice Quarterly*.

520 Department of Justice and Equality, 'Statement by Minister for Justice and Equality, Mr. Charlie Flanagan T.D. accompanying the publication of the report by Inspector of Prisons pursuant to section 31(2) of the Prisons Act 2007 into allegations of wrongdoing in the Irish Prison Service', http://www.justice.ie/en/JELR/Pages/PR19000206.

Standard 31: 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 groups, such as children and women in prison, who have often experienced trauma in childhood. Use of force risks re-traumatisation.

Current context

The IPS has commenced publishing data on the number of restraint incidents across the estate, which IPRT welcomes.[521]

Current prison officer training includes: de-escalation techniques; control and restraint (level 1); advanced control and restraint; and critical incident negotiation. In 2018, 188 recruit prison officers were trained in de-escalation techniques and control and restraint training. A total of 539 prison officers undertook de-escalation techniques as part of continuous professional development (CPD). To date in 2019, 94 recruit officers and 355 prison officers have undertaken training in de-escalation techniques and control and restraint as part of CPD training.[522]

Indicators for Standard 31

31.1 **The number of incidents per prison per year de-escalated through conflict resolution approaches.**
This information is not collated.[523]

31.1 **The number of incidents per prison per year in the Irish prison estate involving control and restraints/restraint interventions.**
The table below outlines the number of recorded restraint interventions. These are instances where prison staff use restraint interventions against a non-compliant prisoner.

Table: Number of recorded restraint interventions by prison, 2017 and 2018 [524]

Prison	2017	2018
Arbour Hill	0	0
Castlerea	4	11
Cloverhill	15	17
Cork	11	12
Dóchas (female)	0	11
Limerick	10	17
Loughan House	0	0
Midlands	7	12
Mountjoy (male)	15	21
Portlaoise	2	2
Shelton Abbey	0	0
Wheatfield	12	23
Prison Service Escort Corps	15	11
Operational Support Group	0	0
Total	91	137

521 IPS, 'Assault figures' (see Assault tables), https://www.irishprisons.ie/information-centre/statistics-information/assault-figures/

522 Information provided by the IPS on 5 July 2019.

523 Information provided by the IPS on 5 July 2019.

524 IPS, 'Assault figures' (see Assault tables), https://www.irishprisons.ie/information-centre/statistics-information/assault-figures/

PROGRESSIVE PRACTICE

Restorative justice

In 2019, a restorative justice strategy for Ireland was published as part of a cross-European project by Maynooth University, European Forum for Restorative Justice and restorativejustice.nl.[525] A statement of principles included in the strategy suggests the need for all persons working in the criminal justice system to be aware of restorative principles and practices so that they are confident in applying these skills on a daily basis. One action outlined in the strategy is that criminal justice agencies should work with training providers to create CPD courses on restorative practice.

Analysis

IPRT welcomes that the number of restraint interventions are being recorded by the IPS. 2018 saw an increase in the number of restraint interventions compared to 2017. This increase could be for a number of reasons; for example, it may relate to improvements in recording systems. It is important that all prisons are clearly defining and recording the number of restraint interventions accurately to reflect the true extent of the use of restraint across the prison estate, and to identify trends. IPRT welcomes progress in the publication of these data.

Status of Standard 31: Progress

Actions required

Action 31.1: Specific training in restorative practice and how it applies on a day to day basis should be made available to all prison staff.

Standard 32: 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. The IPS should proactively take steps against any form of discrimination experienced by prisoners or prison staff. The Public Sector Equality and Human Rights Duty places a legal obligation on public bodies to eliminate discrimination, promote equality and protect the human rights of both service users and staff.[526]

Current context

In 2018, the IPS, in conjunction with the IHREC, piloted a project to address specific human rights and equality issues for women in prison.[527] Working groups were established in Limerick (female) Prison and the Dóchas Centre. These consisted of representation from women in prison and prison staff. The purpose of these groups was to develop an action plan on the implementation of the Public Sector Equality and Human Rights Duty.

There have been many progressive developments in supporting Travellers in the prison system, including the IPS's continued work on the roll out of an ethnic identifier.

Indicators for Standard 32

32.1 **Progress towards implementation of the Public Sector Duty under Section 42 of the Human Rights and Equality Act across the prison system.**
The IPS has continued its work on the implementation of the Public Sector Duty. This includes the development of a 'women in prison' project, which will feed into the IPS and IHREC strategies for 2019–2021.[528]

32.2 **Progress on implementation of strategies for cohorts of prisoners at risk of discrimination.**
Older people: There is no published strategy on older people in prison. However, it is

525 Restorative Justice NL, Maynooth University and European Forum for *Restorative Practice (2019), Restorative Justice: Strategies for Change A Collective Strategy for Ireland, 2019–2023,* http://www.justice.ie/EN/PB/0/5D1EAFC15E4717EF80258418002CF512/$File/Ireland_RJ_Strategy_for_Change%20Final.pdf.

526 See Part 3, Section 42 (1) of *Number 25 of Irish Human Rights and Equality Commission Act 2014,* https://www.ihrec.ie/download/pdf/ihrec_act_2014.pdf.

527 IPS (2019), *Annual Report 2018,* p.13, https://www.irishprisons.ie/information-centre/publications/annual-reports/.

528 Ibid, p. 14

reported that an older persons unit is in development. [529]

Young adults: There is no published strategy for young adults. However, priority ISM referral pathways to the Probation and Psychology Services are in place for 18–24 year olds.[530]

People with disabilities or other protected characteristic: There is no published strategy for people with disabilities in detention. IPRT will publish a research report on this issue in late 2019.

LGBT people: In November 2018, the Department of Justice and Equality held a public consultation on the National LGBTI+ Inclusion Strategy.[531] The IPS is involved in the development of this strategy. Potential actions may include: staff training, prisoner peer support, LGBT specific healthcare provision and accommodation and placement policies.[532]

Travellers: The IPS introduced an ethnic identifier on the Prisoner Information Management System. Pavee Point and other NGOs worked in partnership with the IPS to develop and deliver training in ethnic identification. A nationwide census event was carried out in December 2018. The resulting data will be used to inform better service planning.[533]

In 2018, funding for the Travellers in Prison Initiative (TPI)[534] was continued. The TPI works with Traveller groups to develop an effective approach to working with families of prisoners. In 2018, research was undertaken by independent researchers on a feasibility study into the support and advocacy programme for Traveller women in prison and post-release.

In 2019, the IPS has agreed to fund a qualification in mediation for prisoners in Castlerea Prison. This pilot project represents IPS working in partnership with the Education and Training Board, the Traveller Mediation Service and the Mediation Institute of Ireland, Maynooth University.[535]

Foreign nationals in prison: This group has significant challenges including language and cultural barriers in accessing treatment. However there appears to be no discrete strategy for this cohort.

Analysis

There has been much positive progress relating to the implementation of the Public Sector Duty, particularly with the women in prisons project. Processes and learnings from this project could be replicated and applied to other groups at risk of discrimination. There has also been significant work carried out throughout the year to support Travellers in the prison system. Further work needs to be done on supporting the need of other cohorts such as foreign prisoners and persons with disabilities.

Status of Standard 32: Mixed

Actions required

Action 32.1: All groups at risk of discrimination in prison, as outlined above, should have discrete strategies as part of a broader equality, diversity and inclusion strategy in order to fully realise their rights.

529 Ibid, p. 38

530 Ibid, p. 39

531 Department of Justice and Equality, 'Public consultation on the National LGBTI Inclusion Strategy', http://www.justice.ie/en/JELR/Pages/Public_Consultation_on_the_National_LGBTI_Inclusion_Strategy

532 Information received from the IPS, 5 July 2019.

533 Information received from the IPS, 5 July 2019.

534 Travellers in Prisons Initiative (2016), *Towards Developing a Strategy for Travellers in Prison 2016*, https://www.ssgt.ie/wp-content/uploads/2017/11/Developing-a-Strategy-2016.pdf.

535 Information received from the IPS, 5 July 2019.

Standard 32.1: 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

Women have a unique set of needs that require a distinct set of responses.[536] As highlighted in 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".[537] This was reiterated by the former Inspector of Prisons, who stated: "Treating women the same as men is not tantamount to achieving equality of gender".[538]

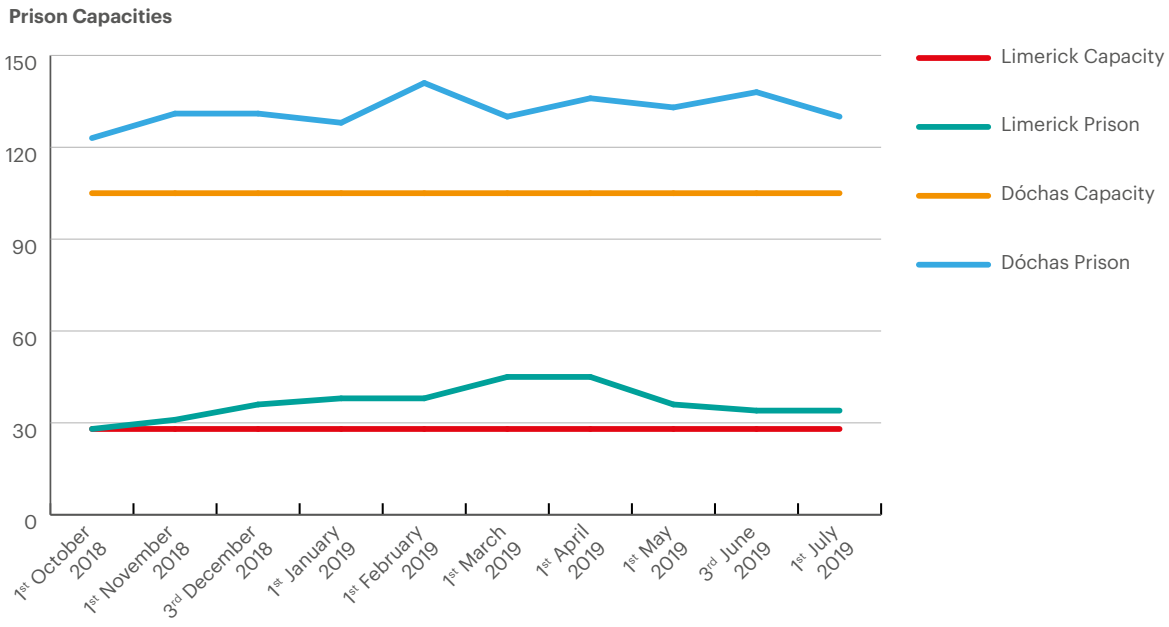
Current context

In 2019, the Chairperson of the IOG of the Penal Policy Review raised specific concerns about the implementation of recommendations made for women:

> *I might note, in particular, Recommendation 21, which advocates that: "gender appropriate strategies are adopted to the management of female offending and female offenders". [..] it remains the case that the number of women entering prison raises serious questions about whether the Penal Policy Review Group's envisaged approach concerning women in the criminal justice system is being fulfilled.*[539]

Approximately 38% of women were serving sentences of less than 12 months in December 2018.[540] Two-fifths (39%) of female committals under sentence in 2018 were for theft and related offences.[541]

Overcrowding continues to be a consistent feature of the two women's prisons, as illustrated below.[542]



536 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/.

537 Ibid, p. 12.

538 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 .

539 Department of Justice and Equality, *Letter from Chairperson of the Implementation Oversight Group to the Minister for Justice and Equality-February 2019*, http://www.justice.ie/en/JELR/Pages/Penal_Policy_Review.

540 IPS, 'Monthly information note (see December 2018), https://www.irishprisons.ie/information-centre/statistics-information/monthly-information-note/.

541 IPS (2019), *Annual Report 2018*, p. 30, https://www.irishprisons.ie/information-centre/publications/annual-reports/.

542 The capacity figures outlined in this table are taken from the IPS, 'Daily prisoner population', https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/.

An analysis of a four-month period (February to May 2019) shows that Limerick (female) Prison has the third highest incidence of mattress use, at six per day.[543]

One welcome development has been the opening of a new supported facility, the Outlook Women's Programme, in 2019, which provides accommodation and support services for women leaving prison.[544] The programme is run in partnership with the Probation Service, the IPS and homeless charity Focus Ireland.[545] The aim of the programme is to gradually reintegrate women into independent living in the community.[546]

Indicators for Standard 32.1

32.1.1 **Imprisonment as a last resort (female prison committal rates and daily imprisonment rates). (new)**

Table: Female committal rates and female daily prison population rates, 2016–2018 [547]

Year	Female committal rates	Female daily prison population rates
2016	2,937	140
2017	1,344	144
2018	1,005	165

Female committal rates have significantly decreased by 65% since 2016. However, the daily female prison population has increased by 17.8% since 2016.

32.1.2 **Access to and availability of gender-specific community sanctions.**

Table: Women under a community service order, 2016–2018 (n.)

Year	2016	2017	2018
Community service Orders [548]	215	218	291

Further mapping is needed to determine the availability of gender-specific community sanctions across the country.

32.1.3 **Publication of data and research on women in the criminal justice system.**
There has been no publication of research on women in the criminal justice system.

32.1.4 **Establishment of a step-down facility/ supported accommodation for women upon release.**
A new facility, called the Outlook Women's Programme, has been opened in Dublin.[549]

543 O'Keeffe C. (2019), '45 inmates sleep on mattresses every night', *The Irish Examiner*, 16 July 2019, https://www.irishexaminer.com/breakingnews/ireland/45-inmates-sleep-on-mattresses-every-night-937179.html.

544 The Probation Service (2019), *Probation Service Annual Report 2018*, p. 50, http://www.probation.ie/en/PB/Pages/News19000023.

545 See Focus Ireland, https://www.focusireland.ie/

546 Information provided by Focus Ireland on 19 July 2019.

547 Information has been extracted from *IPS Annual Reports*, https://www.irishprisons.ie/information-centre/publications/annual-reports/

548 The Probation Service, *Annual Report 2018*, p.59 http://www.probation.ie/EN/PB//WebPages/News19000023

549 The Probation Service (2019), *Annual Report 2018*, p. 50, http://www.probation.ie/EN/PB//WebPages/News19000023.

Analysis

Overall female committal rates have decreased substantially. This can be attributed to the commencement of the Fines (Payment and Recovery) Act 2014.[550] This shows that further change for women who offend is achievable.

However, the persistently high daily prison population figures suggest prison is not being used as a sanction of last resort: more than one-third of women are serving a sentence of less than 12 months.[551]

Community service orders increased for women in 2019. Further mapping needs to be done to identify the availability of gender-specific community sanctions throughout the country.

While IPRT welcomes the establishment of step-down facility for women leaving custody, there has been no progress on the establishment of an open prison for women serving long sentences, and women's prison remain overcrowded on a continual basis.

Overall, more concerted action is urgently needed towards full implementation of the Joint Probation Service-Irish Prison Service Strategy 2014-2016 An Effective Response to Women Who Offend[552]. Publication of data and research on women in the criminal justice system is also vital in terms of identifying and addressing current gaps in provision.

Status of Standard 32: Mixed

Action required ◎

Action32.1.1: The Probation Service and IPS should work towards the full implementation of the Joint Probation Service-Irish Prison Service Strategy 2014-2016 An Effective Response to Women Who Offend.

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

551 See IPS, *Monthly Information Note-December 2018*, https://www.irishprisons.ie/information-centre/statistics-information/monthly-information-note/

552 Joint Probation Service-Irish Prison Service Strategy, *An Effective Response to Women Who Offend*, http://www.irishprisons.ie/images/pdf/women_strat_2014.pdf

Section F Reintegration

Standard 33: Parole system

Standard 33:
The parole system is fair, transparent and fully independent of ministerial control.

Rationale

The establishment of a statutory parole system independent of political control should provide fairness and transparency in the system. This would support a proper balance between the protection of the public and the rights of a sentenced person to a fair and balance system of release.[553]

Current context

On 23 July 2019, the Parole Act 2019 was signed into law by the President.[554] This Act will place the Parole Board on a statutory footing with the power to make final decisions on the release of eligible prisoners. The Act also introduces a number of other provisions, and increases the number of years before a life-sentenced prisoner can become eligible for his/her first parole review to 12 years. The Act also introduces access to legal representation for parole candidates and for victims. The Parole Board will be required to provide information to prisoners, victims and the general public about its functions.

Indicators for Standard 33

33.1 **The placement of the Parole Board on a statutory footing.**
On 23 July 2019, the Parole Act 2019 was signed into law by the President. However the Act has not yet become operationalised.

33.2 **Parole Board hearings occur in a timely manner, and outcomes are communicated promptly to parole candidates.**
This information is not available.

553 The ECtHR has outlined a number of important provisions relate to parole including around independence of the decision-making process, speediness of parole hearings and reviews, legal representation and revocation.

554 Houses of the Oireachtas (2019), *Parole Act 2019*, https://www.oireachtas.ie/en/bills/bill/2016/29/.

Analysis

IPRT welcomes that the Parole Board will be placed on a statutory footing with parole decisions removed from ministerial control. However, IPRT is concerned at the increase in the number of years (from seven to 12) before a life-sentenced prisoner can become eligible for their first parole review. Therefore, it is vital that the sentence management of life-sentenced prisoners is prioritised and begins at the earliest point (from one year onwards) in their sentence. This will require the ring-fencing of ISM officers.

Status of Standard 33: Progress

Actions required ◎

Action 33.1: The Parole Board should be fully resourced in order to meet its important remit, and ensure that all eligible prisoners are reviewed in a timely manner.

Standards 34 and 35: 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

Leaving prison is a particularly vulnerable period for prisoners. Lack of supports upon release can result in poor outcomes. Reintegration means more than rehabilitation. Successful reintegration means that an individual is reintegrated into all aspects of society, including employment, education and community involvement.

Current context

All prisoners should be prepared for release, and have structured release plans in place. The issue of prisoners having no stable address to which to return was identified by the Joint Strategy Steering Committee (consisting of senior officials from the IPS and the Probation Service) as a factor in the declining number of prisoners being released early under the Community Return Programme.[555,556]

Cloverhill Prison Visiting Committee has estimated as many as one-third of prisoners are affected by homelessness.[557]

In July 2018, the *First Report by the Interagency Group for a Fairer and Safer Ireland* was published.[558] The purpose of the group is to review existing pathways that involve interagency co-ordination to improve the integration of offenders. The group has identified a number of challenges for prisoners on release, including the deficit of suitable accommodation and the need for easier access to income support and employment activation. The Inter-Agency Group for a Fairer and Safer Ireland reported its concerns about the impact of the current housing crisis on people coming out of prison and highlighted that the ongoing shortage of accommodation makes it

555 Department of Justice and Equality (2019), 'Parliamentary Questions, PQ 252, 18 June 2019', http://www.justice.ie/en/JELR/Pages/PQ-18-06-2019-252.

556 Ibid.

557 Department of Justice and Equality, *Cloverhill Prison Visiting Committee Annual Reports 2017*, p. 2, http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017.

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

difficult to ensure that no one is homeless upon release from prison.[559] A second annual report by the Group is due for publication.

One example of inter-agency co-operation is a pilot programme agreed between the IPS and the HSE to ensure provision of a temporary medical card before release for those deemed eligible. This pilot programme commenced in 2016 and has since been extended to all prisons including, Mountjoy and Midlands prisons in June 2019.[560]

Having a criminal record can act as a barrier to reintegration. In 2018, the Joint Committee on Justice and Equality recommended a review of spent convictions legislation, highlighting its failure to support people moving on with their lives.[561] On 10 July 2019, the Joint Committee discussed reform of current legislation.[562] IPRT welcomes the introduction of a Private Members Bill, the Criminal Justice (Rehabilitative Periods) Bill 2018.[563] There was a general consensus among members of the Joint Committee that the proposed Bill could be further strengthened.

Indicators for Standard 34/35

34.1 **Comprehensive legislation for release of prisoners.**
While the Parole Act 2019 has been signed into law, there has been no new legislation introduced governing the release of prisoners serving sentences of less than eight years.

35.1 **The review and expansion of spent convictions legislation.**
In July 2019, the Joint Committee on Justice and Equality examined the need for more expansive spent convictions legislation, with overall support for reforms in this area.

Analysis

The last 12 months have seen some positive developments in relation to the employment of people with a convictions history: the introduction of a new Bill to strengthen the current spent convictions legislation and an examination by the Joint Oireachtas Committee on Justice and Equality of the current legislation. The latter was a key action (see Action 34.2) identified in the PIPS 2018 report.[564]

IPRT believes the 2018 Bill does not go far enough to benefit people who may have had a period or cluster of offending in the past.[565] However, we welcome this Bill and recommend that the Joint Committee look towards more progressive regimes in Europe.

Further work needs to be done to assess whether all agencies are working together to improve the outcomes for prisoners on release, particularly in relation to access to accommodation and social supports.

The Department of Housing, Planning and the Environment must play a role in supporting people coming out of prison to access accommodation, in order to prevent a rotating cycle of imprisonment and homelessness.

559 Department of Justice and Equality (2018), *First Report of the Interagency Group for a Fairer and Safer Ireland*, http://www.justice.ie/en/JELR/Interagency_Group_for_a_Fairer_and_Safer_Ireland_Annual_Report_2017.pdf/Files/Interagency_Group_for_a_Fairer_and_Safer_Ireland_Annual_Report_2017.pdf.

560 Information received from the IPS on 5 July 2019.

561 Houses of the Oireachtas Joint Committee on Justice and Equality (2018), *Report on Penal Reform and Sentencing*, pp. 58–59, 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.

562 Houses of the Oireachtas (2019), 'Committee videos: Spent convictions, 10 July 2019', https://www.oireachtas.ie/en/oireachtas-tv/video-archive/committees/.

563 Houses of the Oireachtas (2018), *Criminal Justice (Rehabilitative Periods) Bill 2018*, https://www.oireachtas.ie/en/bills/bill/2018/141/.

564 IPRT (2018), '34 and 35: Effective reintegration of prisoners', https://pips.iprt.ie/progress-in-the-penal-system-pips/part-2-measuring-progress-against-the-standards/f-reintegration/34-and-35-effective-reintegration-of-prisoners/.

565 See IPRT (2019), *Briefing on Criminal Justice (Rehabilitative Periods) Bill 2018 [PMB]*, http://www.iprt.ie/contents/3403.

Status of Standards 34 and 35: Progress

Action required

Action 34.1: The Joint Committee on Justice and Equality should consider commissioning a review of progressive spent convictions legislation across other European jurisdictions to inform its work.

Action required

Action 35.1: The Inter-Agency Group should examine ways in which inter-agency co-ordination can be improved in order to address homelessness upon release.

PROGRESSIVE PRACTICE

Social Enterprise in the Criminal Justice System

Kickstart is a new scheme set up to create jobs and support social enterprise in the criminal justice sector.[566] Some examples of social enterprises in the criminal justice system are: 'We Make Good', a social enterprise that strives to not only provide training in carpentry and upskilling to ex-offenders, but to also create jobs in this area.[567] 'Mug Shot' is another social enterprise, which provides training and employment for ex-offenders in the barista industry.[568]

566 The Probation Service, *Kick Start 2018 - New scheme aims to create jobs and support social enterprise in the criminal justice sector*. http://www.probation.ie/EN/PB/WebPages/WP18000018

567 See: http://qualitymatters.ie/wemakegood/.

568 LEODublinCity, 'PACE Mugshot – Winner – Dublin City Social Enterprise Awards 2018', *YouTube*. Online video clip https://www.youtube.com/watch?v=qFR-68uyLVU. (Accessed 30 July 2019.)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