

Progress in the Penal System (PIPS)

*A framework for penal reform
(2022)*

Guiding Principles of Penal Reform

1. Imprisonment is viewed as a sanction of last resort.
2. The harms and costs associated with imprisonment are recognised.
3. The 'deprivation of liberty' principle is adhered to, whereby the loss of freedom is viewed as the punishment.
4. The security and protection of prisoners is balanced with provision of a safe and purposeful regime.
5. Human rights, equality, and social justice are protected and promoted.
6. There is a 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.



Responsibility for the content of this report lies solely with the 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.

Irish Penal Reform Trust
MACRO Building,
1 Green Street,
Dublin 7, Ireland.

T: +353 (0)1 874 1400

E: info@iprt.ie

W: www.iprt.ie

Copyright © Irish Penal Reform Trust, 2023

ISBN: 978-1-8384399-3-4

Design: Hexhibit

Acknowledgements

The Irish Penal Reform Trust (IPRT) would like to express sincere gratitude to our donor-advised family fund and Community Foundation Ireland for their continued financial support, which makes the Progress in the Penal System (PIPS) project possible. Without their support, this multi-annual agenda-setting piece of work would not exist.

IPRT would also like to thank the PIPS Advisory Group – Dr Cormac Behan (Chair), Ashling Golden, Professor Kathleen Lynch, John Ward BL, and Christy Wood – for their insights and support at all stages of the project. Further thanks to IPRT's Board and particularly our Chairperson, Dr Séamus Taylor, and former PIPS Advisory Group Chair, Professor Aislinn O'Donnell who have supported the vision of PIPS since its inception.

The level of information presented in PIPS each year would not be possible without the goodwill and buy-in from relevant state bodies. Our sincere thanks to everyone who played a role in assisting with IPRT's data requests – particularly Una Doyle and Thomas Redmond from the Probation Service, Caroline Finn, Alan O'Callaghan and Margaret Cafferkey from the Irish Prison Service, and Patrick Bergin from the National Forensic Mental Health Service.

IPRT is grateful to the civil society organisations that attended a closed consultation meeting in mid-2022, designed to explore key issues in the penal system and potential spotlight issues. The inputs from those working in service delivery and policy – both within and around the justice system – provided vital context and direction for the project.

As part of the PIPS project, we consulted directly with individuals with lived experience of the penal system. We would like to sincerely thank these people for sharing their experiences directly with us to inform this report and to particularly thank those working within the SAOL Project's BRIO programme for facilitating our engagement. The insights provided added depth to the report and ensured focus was placed where it was needed most.

On a personal level, I would like to thank my predecessors – Michelle Martyn and Sarahjane McCreery – whose previous work on PIPS laid strong foundations for systemic reform. I hope that this edition of the report effectively builds on that work.

I would also like to extend my thanks to the passionate volunteers who shared their time and skills with IPRT over the past year, for their commitment to both IPRT and the vision of the PIPS project.

Finally, I would like to thank all of my IPRT colleagues, past and present, for their camaraderie and ever-inspiring dedication to the cause of penal reform.

Pamela Drumgoole

*Policy and Research Coordinator,
Irish Penal Reform Trust*



Contents

Acknowledgements	1	C. Regimes	
Executive Summary	4	Standard 16: Out-of-cell time	58
Foreword	7	Standard 19: Education	59
Introduction	8	D. Complaints, accountability and inspection mechanisms	
Overview of the PIPS project	8	Standard 22: Complaints system	63
Current edition	8	Standard 23: Independent complaints and appeal mechanism	65
How to read <i>PIPS 2022</i>	9	Standard 24: Inspections and monitoring	66
Assessment of progress	9	Standard 25: Investigations into deaths in custody	68
<i>PIPS 2022</i> : A context note	9	E. Safety and protection in Irish prisons	
The voices of people with experience of the penal system	10	Standard 26: Solitary confinement	71
Looking forward: A developing penal system and planning for the future	10	Standard 29: Staff training and support	73
Assessment of Progress (2022)	12	Standard 30: Developing positive relationships and work culture	75
Assessing the Short-term Actions Set in <i>PIPS 2021</i>	14	Standard 32: Cohorts of people at risk of discrimination	76
Spotlight Standard		F. Reintegration	
Standard 32.1: Women in the penal system	17	Standard 33: Parole system	79
A. An effective and humane penal system		Standard 34 and 35: Effective reintegration of prisoners	81
Standard 1: Towards progressive penal policy	31		
Standard 2: Imprisonment as a last resort	33		
Standard 3: Safe custody limits	35		
Standard 4: Size of prisons	37		
Standard 5: Minimum prison security settings	38		
Standard 6: Open prison provision	39		
B. Prison conditions			
Standard 7: Humane prison conditions	41		
Standard 8: In-cell sanitation	43		
Standard 9: Single-cell accommodation	45		
Standard 10: Pre-trial detention as an exceptional measure	46		
Standard 11: Family contact	48		
Standard 12: Access to healthcare services	49		
Standard 13: Mental healthcare	51		
Standard 14: Drug and alcohol treatment	53		
Standard 15: Privacy	55		

Executive Summary

Progress in the Penal System 2022 (PIPS 2022) is the sixth edition of the Progress in the Penal System project. First conceived in 2016, PIPS 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 becoming a leading model of international best penal practice.

PIPS 2022 examines progress in Ireland’s penal system during 2022, providing a comprehensive picture of the current context and state of Ireland’s penal system. Findings show that, while there have been some pockets of progress during 2022, progress made in previous years is at risk of reversal as a result of continued overreliance on imprisonment and subsequent prison overcrowding.

Due to IPRT’s previous efforts to place a more in-depth focus on a smaller number of standards during the pandemic years, many of the standards assessed in *PIPS 2022* have not been assessed in PIPS since 2019, with some not assessed since 2020. However, due to limits on available information and demands on internal capacity, *PIPS 2022* only reviews 28 of the 35 standards that have become synonymous with PIPS.

In 2022, ‘progress’ was identified in four of the standards assessed. Standard 1, *Towards progressive penal policy*, sets the scene for all of the other standards explored. The Government’s *Review of Policy Options for Prison and Penal Reform 2022-2024*, published in September 2022, presents a progressive approach to penal policy. However, its ultimate success will depend on its implementation. Other progress was observed in the areas of *Family contact* (Standard 11) and *Mental healthcare* (Standard 13). On the latter, while there have been successes in addressing the mental health crisis in our prisons, there remains a vast unmet need in prison, ranging from people who urgently require psychiatric treatment in a therapeutic environment outside of prison, to those with learning difficulties, anxiety, and depression who need tailored psychological support.

While *Inspections and monitoring* (Standard 24) has received a ‘progress’ rating for 2022, this is largely in recognition of the increased output of the Office of the Inspector of Prisons (OIP) and progress towards ratification of the Optional Protocol to the Convention against Torture (OPCAT), 15 years after Ireland became a signatory. The non-publication of investigation reports relating to the Dóchas Centre remains a stain on other areas of progress under this standard.

A total of eight standards were rated as ‘mixed’. These include the two standards relating to prison staffing and culture, *In-cell sanitation* (Standard 8), *Parole system* (Standard 33) and *Cohorts of people at risk of discrimination* (Standard 32). *Humane prison conditions* (Standard 7) was also assessed as ‘mixed’, with many welcome reviews

designed to improve prison conditions ongoing but overcrowding continuing to undermine efforts to improve prison life. Notably, *Imprisonment as a last resort* (Standard 2) was classified as ‘mixed’, with strong policy commitments to consider the incorporation of the principle of prison as a sanction of last resort in statute paired with the continued over-reliance on the use of imprisonment as a response to less serious offending.

‘Insufficient data’ was identified for two standards – *Privacy* (Standard 15) and *Out-of-cell time* (Standard 16) – as the available information did not allow for a proper assessment. While this is the third time (in the four years it has been assessed in PIPS) that *Privacy* has received this rating, it is the first time that an assessment of *Out-of-cell time* hasn’t been possible due to a lack of available data. This is cause for concern.

In total, nine standards were assessed as ‘no change’ during 2022. This includes the ‘Spotlight’ Standard 32.1 on *Women in the penal system*. While there has been increasing recognition of the distinct needs of women in the criminal justice system, this has not been borne out in the experiences of women in contact with the penal system, nor in the female imprisonment trends we see in the data. There has been no significant change in *Access to healthcare services* (Standard 12) or *Drug and alcohol treatment* (Standard 14). For yet another year, action has stalled on the rollout of a prison complaints system and access to an external appeal mechanism. Where prisoners have limited access to redress, this fundamentally weakens access to rights, undermines trust, and fuels tensions.

Regrettably, five of the standards were assessed as ‘regress’. This is due to the opening of more closed prison spaces (Standard 6), moves away from single-cell provision (Standard 9), challenges with overcrowding (Standard 3) and increases in the number of people being held on remand (Standard 10). Additionally, based on snapshot figures, the number of people held in solitary confinement increased in 2022 (Standard 26).

The assessment of progress against the 28 standards examined in *PIPS 2022* is set out below:

Assessment	2022
Progress	4
Regress	5
Mixed	8
No change	9
Insufficient data	2

While there has been some welcome improvement during 2022, progress in meeting the vision to which this project aspires has been minimal.

Above all, it has been disappointing to see an increase in the prison population during 2022, with this rising further into 2023. Imprisonment as a last resort is a fundamental principle of penal reform and the PIPS project. PIPS highlights clearly how increasing prison numbers touch on nearly all aspects of the prison system, including for example, a decrease in the proportion of prisoners with access to single-cell accommodation and longer waiting lists for essential rehabilitative services. This is all the more worrying given the successes during the pandemic in keeping people who posed a low risk to society out of prison. While the State has yet to learn from many of its failures in penal policy and practice, it seems it has yet to learn from its successes either.

The pandemic response demonstrated that it is possible to fast-track change and showed that the reasons often given for delays in the implementation of ambitious and progressive policy are unconvincing. Ireland’s penal system, discrete areas of progress aside, continues to fall short of what PIPS strives for it to be.

We hope the ‘Key actions’ identified in *PIPS 2022* will be considered by the relevant stakeholders for progression during 2023 and into 2024. Despite the slow pace of change, IPRT still believes that having a world-class penal system is not beyond the realm of possibility. Given the progressive proposals that have been made, now is not the time to lose momentum and IPRT will continue to push strongly for implementation of these commitments.

Foreword

The challenges facing the Irish penal system outlined in the 2022 report on Progress in the Penal System (PIPS) will be familiar to those who have read these reports over the last five years, and especially to people serving time in our prisons, their families and the staff working in them. These include the high rate of imprisonment of people with mental health issues; limited access to drug and alcohol treatment; the absence of an open prison for women; the increase in the number of people, and the time spent, on remand; the lack of an independent complaints mechanism; and the re-emergence of overcrowding.

The prison system does not exist in isolation. It is a product of wider penal and political systems. There is a disconnect between commitments to penal reform and proposals to expand the prison estate. The *Review of Policy Options for Prison and Penal Reform 2022–2024* from the Department of Justice echoes one of the core principles of IPRT – imprisonment should be used as a last resort – when it states that there ‘should be a sparing approach to the use of imprisonment’.ⁱ However, during the final stages of the preparation of this report, it was announced that over 400 new prison spaces will be constructed over the next five years, providing accommodation for a minimum of 620 additional prisoners.ⁱⁱ

An increase in the number of people in prison is not inevitable. According to the World Prison Brief, the number of prisoners in the Republic of Ireland decreased from 4,318 in 2012 (94 per 100,000) to 3,717 (74 per 100,000) in 2020. At the end of April 2023, there were 4,568 (89 per 100,000) people in prison.ⁱⁱⁱ We know from research that prisons are generally very negative environments and can contribute to re-offending. The solution to overcrowding lies not in more prison spaces, but in examining who, why, and how we sanction, and the impact of imprisonment on the lives of people sent there. Essentially, we need to consider if we are using criminal justice institutions to solve social justice issues.

Dating back to the *Whitaker Report* in 1985, there have been several innovative, even far-sighted studies which located imprisonment in wider social, economic and political contexts. These proposed a number of measures, including a cap on the prison population, alternative sanctions, increased access to services in prisons, more open prison spaces and an independent complaints system. Rather than imprisoning more people, it is now time to consider these studies afresh, and implement their proposals if we are to achieve progress in the penal system.

Cormac Behan

Chairperson of the PIPS Advisory Group

ⁱ Department of Justice, *Review of Policy Options for Prison and Penal Reform 2022–2024* (DoJ 2022), 6 www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf accessed 1 May 2023.

ⁱⁱ Department of Justice, ‘Minister for Justice announces plans to look at prison capacity’ (27 April 2023) www.gov.ie/en/press-release/9b84e-minister-for-justice-announces-plans-to-look-at-prison-capacity/ accessed 1 May 2023.

ⁱⁱⁱ Institute for Crime and Justice Policy Research (ICJR), ‘World Prison Brief: Ireland, Republic of’ (2023) www.prisonstudies.org/country/ireland-republic accessed 1 May 2023.

Introduction

In *PIPS 2019*, IPRT set out its ambitious goal for the near future of the penal system in Ireland by stating:

‘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.’¹

Now that 2022 has come and gone, *PIPS 2022* details developments in the operation of inspection and monitoring functions during the year, as well as other pockets of progress. While the vision we laid out in 2019 has not yet materialised, IPRT’s ambition for Ireland to lead as a model of international best practice is edging closer.

Overview of the PIPS project

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 way 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 the guiding principles and values of penal reform, including:

- Prison itself is damaging, 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. PIPS has created and maintained a system where the national situation in the penal system is tracked and independently analysed on an annual basis.

Practical research, expertise and advocacy have been leveraged over the lifetime of the PIPS project to deliver systematic and impactful change aimed at improving the lives of people in contact with the penal system. PIPS remains a seminal source of information for all stakeholders, including politicians and the media. PIPS has driven a strong domestic incentive towards improvement and reform of the prison system.

Current edition

While PIPS encompasses 35 standards, *PIPS 2022* explores 28 standards in total. There are several reasons why these 28 standards were chosen, principally among them demands on internal capacity and a lack of data which presented insurmountable challenges to drafting the standards that are not included (see pages 12 and 13 for an overview). Further to this, while there was sufficient information available to enable reporting on the 28 standards, there are instances in these standards where data were not forthcoming, so certain analyses are either excluded or might be slightly outdated.

Challenges with access to quality up-to-date data remain the biggest barriers to the production of PIPS annually. If the development of evidence-informed and data-driven penal policy and practice is to be a key priority, as it has been said to be,² the Government needs to ensure that sufficient resources are assigned for this purpose. Not only does this require the collection and analysis of data, it also requires integrated systems of data collection that can reliably be used to inform policy development and shape innovative responses.

PIPS 2022 places a ‘Spotlight’ on *Standard 32.1: Women in the penal system*, providing a more in-depth look at the range of challenges and opportunities in this area. This edition also reviews progress towards the short-term actions IPRT set in *PIPS 2021*. These were actions that, with the right attention and investment, IPRT believed could be achieved within a one-year period (see page 14).

How to read *PIPS 2022*

The overall purpose of PIPS is to assess progress across a broad range of issues in Ireland’s penal system.

The report first explores the ‘Spotlight’ on *Women in the penal system* (see pages 17–29). Then, as in previous years, PIPS has grouped the remaining 27 standards into overarching themes of interest:

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

PIPS does not purport to capture everything that has happened in a given year under each standard. However, it gives an insight into the individual areas and combines them into one report, so the interconnected issues of penal policy and prison life can be considered, questioned, and challenged, where needed.

Until now, PIPS has relied on ‘indicators’ under each standard to assess the standard by the same metric each year. However, these indicators were set six years ago. Due to the passage of time and developments in the penal landscape, some of the indicators are no longer timely or reflect best practice. In other cases, persistent challenges with accessing the required data meant that information under some standards was consistently sparse. In this edition, PIPS uses all of the relevant available information to assess whether there has been progress, rather than assessing specific metrics under each standard.

On that basis, we have made a top-line assessment of developments during 2022 as ‘progress’, ‘regress’, ‘mixed’, ‘no change’, or ‘insufficient data’. These are explained below.

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 were not available to make a reliable assessment of progress towards the standard.

Assessment of progress

IPRT uses a wide variety of sources 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; and parliamentary questions and debates.

Our summary assessment of progress during 2022 is outlined on pages 12 and 13.

PIPS 2022: A context note

PIPS 2022 is intended to be an annual report exploring the 2022 calendar year and, for the most part, the report makes its assessments using data for the 2022 calendar year. Where these data aren’t available, it draws on the most appropriate snapshot data relating to late 2022. That said, it would have been remiss to ignore significant events that occurred in early 2023 during the time of writing. For this reason, some references to events in early 2023 (up to and including March 2023) are mentioned in the standards, where relevant. Updates of significance from slightly later in 2023 (up to and including May 2023) are included in the introductory sections of the report.

Where we use ‘Minister for Justice’, this could be in relation to the permanent Minister, Helen McEntee TD, or the Interim Ministers, Heather Humphreys TD and/or Simon Harris TD. No differentiation is made by the Oireachtas or the Department in this respect, so IPRT has adopted a similar approach.

While previous editions of PIPS have drawn invaluable insights from the reports of Chaplains

¹ Irish Penal Reform Trust, *Progress in the Penal System: A framework for penal reform (2017)* (IPRT 2017) www.iprt.ie/site/assets/files/6431/progress_in_the_penal_system_compressed_.pdf accessed 27 April 2023.

² Department of Justice, *Review of Policy Options for Prison and Penal Reform 2022–2024* (DoJ 2022), www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf accessed 28 April 2023.

and Prison Visiting Committees (PVCs), these are largely not referenced in this edition of PIPS. This is because, at the time of writing this report in early 2023, the most recent available reports related to 2020 and many of the issues contained therein were likely irrelevant given the passage of time. In May 2023, after the content of this report was finalised, the 2021 annual reports of the Prison Chaplaincy Service were published.

It is regrettable that these reports detailing what is happening ‘on the ground’ in Irish prisons couldn’t be harnessed to inform the analysis in PIPS. This reinforces the point often made by IPRT that delays in publishing annual reports from both the Chaplaincy Service and PVCs limit timely responses to, and public scrutiny of, both good practice and the issues identified.

The voices of people with experience of the penal system

One of the long-term goals of the PIPS project is to engage people with experience of the penal system as co-creators in monitoring progress into the future. It remains, however, a challenge to meaningfully encourage and support the involvement of people with experience of the penal system in the project, given IPRT’s small team, limited budget, and role as a non-service provision organisation.

That said, IPRT remains committed to achieving this goal and – for the purposes of this edition – IPRT carried out informal peer discourse sessions with two groups of women with experience of imprisonment. These sessions guided the focus of the spotlight standard, *Women in the penal system*. While not intended to be a comprehensive or robust research activity, this added perspectives to our research that were otherwise impossible to replicate. As well as gathering insights about women’s experiences of the penal system, these sessions provided practical lessons to IPRT on how our work can be guided by people with lived experience in the future.

Looking forward: A developing penal system and planning for the future

PIPS 2022 was drafted in the shadow of the ongoing review of the *Prison Rules 2007* (‘the Rules’). While the report does not go into specific detail on what amendments IPRT believes are needed under each standard, there are many areas

where the protections the *Rules* provide to people in prison could be strengthened.³ A comprehensive update to bring the *Rules* at least in line with international minimum standards would have impacts on the majority of the areas detailed in this report. IPRT will closely follow the progress of the review.

The importance of prison culture cannot be overstated. Access to education, healthcare, psychology, and other services are core elements of supporting rehabilitation and reintegration. However, meeting the basic needs of prisoners, providing decent living conditions, and ensuring constructive relationships between prison staff and prisoners are arguably even more fundamental to the success of any rehabilitative programmes. Recent research has found that prisoners’ low expectations of prison life create a disconnect between international and national human rights standards and how prisoners perceive the prison environment. As a result, people in prison may not see what happens in prison as a breach of those standards.⁴ These elements of day-to-day life and treatment in prison can create a pervasive culture whereby people in prison tolerate poor conditions rather than challenging them in order to realise their rights.

Culture is also of importance when it comes to accountability within the penal system. This report was written against the backdrop of increased activity and output by the Office of the Inspector of Prisons (OIP) (see *Standards 24 and 25*) including two general inspections of prisons completed in 2023, as of the time of writing. This is welcome but creating an effective system of accountability requires not only robust independent oversight, but also the shaping of a prison culture that respects complaints, acts swiftly to address any wrongdoings, and harnesses data and information to drive progress. Accountability is not a singular entity, one office, or one practice. While the increased output of the OIP will hopefully encourage reforms and greater accountability, this ultimately needs to be championed and driven internally by Irish Prison Service (IPS) management, governors, officers, and everyone who works within the prison system. Steps to place the IPS on a statutory footing⁵ – if properly resourced – further provide an opportunity to improve governance structures within the IPS.

The *Review of Policy Options for Prisons and Penal Reform 2022–2024* (‘the Review’), published in September 2022, sets out the Government’s plans for the future of the penal system. Many of the

objectives of the *Review* have existed, in some shape or another, for decades, and it builds on previous cross-party and cross-departmental recognition that putting more people in prison will not make societies safer. While the proposals are not therefore visionary, they could be transformative. The key, however, will be in the implementation of the *Review* and this is what IPRT will be monitoring closely over the coming months and years. In particular, the addition of a detailed action plan will enhance accountability in policy implementation and could be the base on which a world-class penal system, in which imprisonment is only used as a sanction of last resort, is made a reality.

This shift to a system that truly uses prison as a last resort requires effective and meaningful alternatives to prison. Years of data show us that simply introducing community service as a possible alternative sanction to short terms of imprisonment has not been as successful as hoped. What is clear is that the judiciary, and their confidence in any alternatives to imprisonment, is a critical factor in the success of any such alternatives and more broadly achieving the long-term objectives of the *Review*. In this regard, IPRT endorses recommendations made by the Final Report of the High Level Task Force (HLTF) to the effect that the Department of Justice, working with relevant stakeholders, should conduct research to assess the impact of the alternative sanctions available under law, any barriers to their utilisation, and any opportunities to improve their uptake and effectiveness, as well as deliver a programme of judicial education to ensure that the judiciary is fully supported in the application of such alternatives to imprisonment.⁶

IPRT is concerned that expansion of the prison estate continues to be referenced as a response to prison crowding,⁷ despite policy commitments to exploring evidence-based alternatives. While we understand the need to modernise the prison estate, and to ensure that people are housed safely, it is with deep regret that prison building has happened instead of the implementation of policy commitments. Had the proposals first made decades ago,⁸ or even years ago,⁹ been implemented, there would be no need for

regressive expansion of the prison estate. We don’t need more of what hasn’t worked. We need to rethink, reimagine, and reshape.

Perceptions of the justice system are important for shaping penal policy insofar as public opinion often plays a role in the decisions of policymakers. We know, however, that public understanding of the justice system varies, with recent figures indicating that 65% of people surveyed believed they understood how the Gardaí operate, compared to much lower levels of claimed understanding for the IPS (24%) and the Probation Service (19%).¹⁰ Those from disadvantaged areas particularly had less confidence in the IPS’s ability to provide safe and secure custody (39% compared to the total population at 49%). Confidence and trust in the system have implications for policy because they ultimately impact on support for initiatives.¹¹ Ambitious policy should accordingly be coupled with public awareness and education initiatives, so that the merits of the policy approach are understood, appreciated, and ultimately championed by all.

IPRT knows from experience that issues in the penal system can’t be solved by one department or agency alone. *PIPS 2022* continues to highlight the need for a cross-agency partnership approach that includes the judiciary, legislators, the departments of Justice, Health and Housing, the IPS, the Probation Service, the HSE, An Garda Síochána and others. Working together, we can create a more just and humane penal system, leading to a safer society that values compassion and fairness for everyone.

3 Irish Penal Reform Trust, *IPRT Submission to the Irish Prison Service Public Consultation on the Review of Prison Rules* (IPRT 2021) www.iprt.ie/site/assets/files/7024/iprt_submission_on_review_of_irish_prison_rules_5_11_2021_final.pdf accessed 25 April 2023.

4 Sophie van der Valk and Mary Rogan, ‘Complaining in Prison: “I suppose it’s a good idea but is there any point in it?”’ (2023) 264 *Prison Service Journal* www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/PSJ%20264%20January%202023_0.pdf accessed 28 April 2023.

5 Houses of the Oireachtas, ‘Prison Service’ (21 March 2023) www.oireachtas.ie/en/debates/question/2023-03-21/1069/ accessed 28 April 2023.

6 Department of Justice and Department of Health, *High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector: Final Report* (DoJ and DoH 2022),²⁵ www.gov.ie/pdf/?file=https://assets.gov.ie/236035/0de04b4d-817a-41cf-9779-771ab57703ac.pdf accessed 25 April 2023.

7 Department of Justice, ‘Minister for Justice announces plans to look at prison capacity’ (27 April 2023) www.gov.ie/en/press-release/9b84e-minister-for-justice-announces-plans-to-look-at-prison-capacity/ accessed 5 May 2023.

8 Thomas Kenneth Whitaker, *Report of the Committee of Inquiry into the Penal System* (Stationery Office 1985).

9 Department of Justice, *Strategic Review of Penal Policy: Final Report* (DoJ 2014) www.gov.ie/pdf/?file=https://assets.gov.ie/137203/a2f65a3d-9402-490e-98d7-3d154661acae.pdf accessed 15 February 2023.

10 Behaviour and Attitudes, *Criminal Justice Public Attitudes Survey: 2021 Results* (DoJ 2022) www.gov.ie/pdf/?file=https://assets.gov.ie/236616/9e7ededd-5e2b-4e73-962a-0dc283e656b5.pdf accessed 26 April 2023.

11 Mike Hough et al., *Attitudes to Sentencing and Trust in Justice Exploring Trends from the Crime Survey for England and Wales* (Ministry of Justice 2013) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/230186/Attitudes_to_Sentencing_and_Trust_in_Justice_web_.pdf 1 March 2023.

Assessment of Progress (2022)

No.	Standard	Assessment	Rationale
S1	Towards a progressive penal policy	Progress	Developments include publication of the <i>Review of Policy Options for Prison and Penal Reform 2022–2024</i> , continued focus on research, and ambitious commitments to more progressive responses to offending.
S2	Imprisonment as a last resort	Mixed	Despite policy commitments, the over-reliance on imprisonment in response to less serious offending continued.
S3	Safe custody limits	Regress	Overcrowding has remained a feature of the closed prison estate, particularly in the women’s prisons.
S4	Size of prisons	No change	There have been no notable moves to reduce the size of prisons.
S5	Minimum prison security settings	No change	There continues to be limited use of minimum-security settings in the prison estate.
S6	Open prison provision	Regress	With the opening of more closed prison spaces, the proportion of open prison provision has decreased.
S7	Humane prison conditions	Mixed	Persistent levels of overcrowding and overly generalised prison rules are undermining efforts to improve life in prison.
S8	In-cell sanitation	Mixed	There has been a decrease in slopping out, but an increase in the number of people toileting in the presence of another.
S9	Single-cell accommodation	Regress	The proportion of people accommodated in single cells decreased in 2022.
S10	Pre-trial detention as an exceptional measure	Regress	The average number of people on remand has increased by 23% between 2021 and 2022.
S11	Family contact	Progress	Developments include in-cell telephones, investment in video call infrastructure, and extended access to Sunday visits.
S12	Access to healthcare services	No change	Progress on improving access to healthcare more generally has been slowed by the investment in the pandemic response.
S13	Mental healthcare	Progress	Issues persist with access to services, but there has been sustained government focus on mental health including through the work of the High Level Task Force.
S14	Drug and alcohol treatments	No change	Significant waiting lists for accessing addiction services persisted and there has been no update of the Irish Prison Service drugs strategy.
S15	Privacy	Insufficient data	Insufficient data were available to assess this standard.
S16	Out-of-cell time	Insufficient data	The number of people on restricted regimes has decreased from pandemic highs, but more data are required to enable thorough analysis.
S17	Sentence management	Not assessed	
S18	Life skills	Not assessed	

S19	Education	Mixed	There were welcome efforts to expand the delivery of education through technology but staffing shortfalls continued to have detrimental impacts.
S20	Community engagement and involvement	Not assessed	
S21	Political and civic participation	Not assessed	
S22	Complaints system	No change	The long-promised new complaints system has not been rolled out.
S23	Independent complaints and appeal mechanism	No change	There remains no recourse for prisoners to directly make or appeal a complaint to an external body.
S24	Inspection and monitoring	Progress	The commencement of general inspections, public consultation on the reform of Prison Visiting Committees and progress towards ratification of the Optional Protocol to the Convention against Torture are welcome.
S25	Investigations into deaths in custody	No change	Delay in the publication of these reports remains a concern.
S26	Solitary confinement	Regress	Solitary confinement in Irish prisons increased in 2022. Information on the lengths of time people are held in such conditions is still not available.
S27	Violence in Irish prisons	Not assessed	
S28	Prisoner escorts	Not assessed	
S29	Staff training	Mixed	Efforts to provide a wide range of training have improved but concern remains around staffing levels.
S30	Developing positive relationships and work culture	Mixed	Promotion of the Protected Disclosures Policy and introduction of a Code of Ethics are welcome. Dearth of research and information remains a challenge.
S31	Use of force	Not assessed	
S32	Cohorts of people at risk of discrimination	Mixed	Implementation of the Public Sector Duty across the relevant agencies has improved but a more strategic approach to anti-discrimination measures is required.
S32.1	Women in the penal system	No change	Female committal rates have decreased, but the persistently high daily population of women is cause for significant concern. The non-publication of reports on the Dóchas Centre remains a serious issue.
S33	Parole system	Mixed	The new independent parole system continues to be rolled out but there was no progress in extending eligibility for parole to long-sentenced prisoners.
S34 & S35	Effective reintegration of prisoners	No change	Inter-agency work needs to be further strengthened and there has been no expansion of the spent convictions regime.

Assessing the Short-term Actions Set in PIPS 2021

In PIPS 2021, IPRT identified 16 short-term actions that would support stakeholders in making significant progress towards realisation of the standards assessed in PIPS 2021. These were actions that – in IPRT’s view – with the right attention and investment could be achieved within a one-year period.

Below, we assess the status of these 16 short-term actions one year on.

No.	Standard	Action	Status of action
1.1	Standard 2: Imprisonment as a last resort	The Department of Justice should complete the planned review of the <i>Criminal Justice (Community Service) (Amendment) Act 2011</i> without further delay.	Not achieved
1.2	Standard 13: Mental healthcare	The High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice system (HLTF) should publish the High-Level Implementation Plan promised by the end of first quarter 2022.	Achieved
1.3	Standard 14: Drug and alcohol treatment	The Probation Service should publish a review of the Integrated Community Service Programme, which was due to be formally evaluated in 2019.	Not achieved
1.4	Standard 14: Drug and alcohol treatment	The Irish Prison Service should update and publish its drugs policy. This drugs policy should adopt a health-led approach to responding to drug use in prison and be based around harm reduction principles in line with the National Drugs Strategy.	Not achieved
1.5	Standard 32.1: Women in prison	On review of the <i>Criminal Justice (Community Service) (Amendment) Act 2011</i> , the Department of Justice should take specific measures to address why short sentences continue to be handed down to women in place of community-based alternatives.	Not achieved
2.1	Standard 6: Open prison provision	The Irish Prison Service, before the end of 2022, should develop and publish a plan for reducing the number of closed prison spaces across the Irish prison estate and replacing them with open prison spaces.	Not achieved
2.2	Standard 9: Single-cell accommodation	The Irish Prison Service, before the end of 2022, should carry out a review of the use of single-cell accommodation across the Irish prison estate. This review should consider international standards and best practice in accommodating people in prison, examine the quantity and quality of usable single cells across the estate, and examine the reasons behind continued cell-sharing in Irish prisons and measures to address this.	Unknown
2.3	Standard 16: Out-of-cell time	In 2016, the Irish Prison Service Strategic Plan committed to publishing a dedicated strategy for reducing the use of restricted regimes across the prison estate. The Irish Prison Service should publish this strategy without delay.	Not achieved

No.	Standard	Action	Status of action
2.4	Standard 26: Solitary confinement	The Irish Prison Service should, by the end of 2022, reduce the number of people being held in solitary confinement across the prison estate to the lower numbers seen in 2017.	Not achieved
2.5	Standard 26: Solitary confinement	The Irish Prison Service should, by the end of 2022, eliminate prolonged solitary confinement (i.e., conditions of solitary confinement being used for a period of 15 continuous days or more in respect of an individual prisoner).	Unknown
3.1	Standard 11: Family contact	The Irish Prison Service should complete the installation of in-cell telephones in all cells and rooms across the prison estate by the end of 2022.	Partially achieved
3.2	Standard 18: Life skills	Following the review of the existing Independent Living Skills Units across the Irish prison estate (as was set out in data expectations under Standard 18 in PIPS 2021), the Irish Prison Service should publish plans for the further development of progression paths across the estate.	Not achieved
3.3	Standard 19: Education	The Irish Prison Service and Education and Training Boards should follow through on their earlier commitment to the digitalisation of education and ensure that all prisoners, particularly those on restricted regimes, have access to in-cell e-learning by the end of 2022. This action should be accompanied by a commitment to supporting prisoners with their technological literacy.	Partially achieved
3.4	Standard 20: Community engagement and involvement	The Irish Prison Service should ensure that by the end of 2022, at the very minimum, all community engagement initiatives in operation across the prison estate return to pre-pandemic practices, which include allowing for day release of people in prison.	Unknown
4.1	Standards 34 and 35: Reintegration	The Department of Justice, by the end of 2022, should develop a strategy that identifies the key departments and agencies responsible for ensuring the successful reintegration of people post release and the potential for legislative action in this regard. This strategy should set goals and actions for these departments and agencies to co-operate in ensuring access to housing, social welfare, healthcare (including mental health and addiction support), employment, education, and family support for people on release from prison.	Not achieved
4.2	Standards 34 and 35: Reintegration	The Government should progress the <i>Criminal Justice (Rehabilitative Periods) Bill 2018</i> through the Dáil without further delay, and without removing the progressive amendments made at Committee Stage.	Not achieved

Spotlight standard

Standard 32.1: Women in the penal system

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.

A note on IPRT's work with women with experience of the penal system:

This 'Spotlight' is guided by the experiences of women who have been in contact with the criminal justice system.

Following a range of peer discourse sessions, where the women spoke amongst themselves to explore what they perceived to be the key issues for women in contact with the criminal justice system, IPRT narrowed down the central issues to be explored in this standard. While the content of the standard is IPRT's alone, it is shaped by the experiences of women with direct experience. Rather than using quotes or details from the discussions, the priority issues raised by the women are instead woven throughout this standard. We are grateful to the women for inviting us into their conversations and allowing us to see the key issues from their perspectives.

A recurrent theme throughout the conversations was the relative powerlessness and vulnerability of women in prison, significantly shaped by their life experiences prior to imprisonment. While this theme is not explored, it is an important factor to bear in mind when considering this 'Spotlight'.

While keeping women out of prison was a widely shared priority, the women we spoke with felt that **access to gender-sensitive healthcare in prison (including mental healthcare), the trustworthiness of the complaints system, and family contact were among the biggest issues.** Therefore, these issues receive the most focus and are reflected in the key actions under this standard.

The Department's renewed policy approaches to imprisonment¹² present an opportunity to challenge the sending of women to prison for non-violent offences and address the core underlying social issues that can influence offending by women, such as poverty, homelessness, addiction, and abuse. It is for these reasons – and because of the persistent overreliance on the use of prison as a response to women charged with and convicted of less serious offences – that PIPS 2022 places a 'Spotlight' on Standard 32.1: Women in the penal system.

¹² Department of Justice, *Review of Policy Options for Prison and Penal Reform 2022–2024* (DoJ 2022) www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf accessed 28 January 2023.

1. Introduction

Women have a unique set of needs that require a distinct set of responses. As highlighted by the UN Bangkok Rules, which closely guide this standard, ‘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’.¹³

It is widely documented and understood that much of the offending behaviour by women is a result of unmet social needs and an absence of appropriate services in the community,¹⁴ with women in prison in Ireland among the most marginalised women in the state. Available information shows, for example, that an estimated 85% of women in the Dóchas Centre have addiction issues¹⁵ and 60% of sentenced women (compared to 27% of sentenced men) have a mental illness.¹⁶ Women are more likely than men to experience sexual, physical, or emotional abuse, with studies indicating that between 50-60% of women in custodial settings have experienced physical or sexual abuse.¹⁷

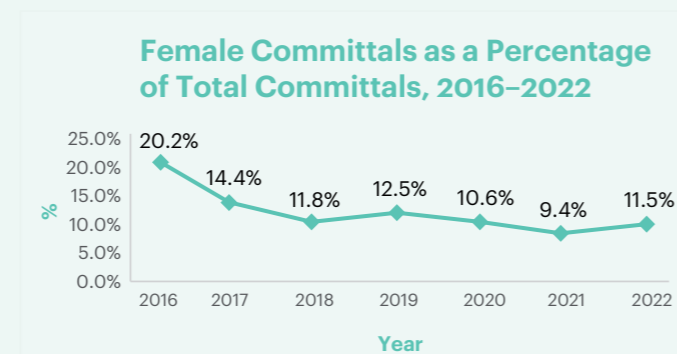
It is further recognised that women in prison are an at-risk group that differ substantially from men in both the likelihood of committing offences and the circumstances in which they commit offences.¹⁸ This information underpins the analysis and key actions under this standard.

2. Women in prison: The data

2.1. Committals of women to prison

The majority of women committed to prison in Ireland are committed on a short-term basis (e.g. less than a year) for non-violent offences. While women make up about 4% of the daily prison population, they have at times represented up to 20% of annual prison committals,¹⁹ making up 9.4% of committals in 2021²⁰ and 11.5% in 2022.²¹ In 2022, 5.7% of all female committals to prison were for non-payment of court-ordered fines; while this represents a small proportion of female committals, this is over double the comparable figure for men (2.5%).²² Despite this gender disparity, the continued decline in the number of female committals since the commencement of the *Fines (Payment and Recovery) Act 2014* demonstrates that positive change for women is achievable.

Figure 32.1.1: Female committals as a percentage of total committals, 2016 – 2022²³



- 13 Office of the High Commissioner on Human Rights, ‘United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)’ (21 December 2012) www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-treatment-women-prisoners-and-non-custodial accessed 18 January 2023.
- 14 Beryl Ann Cowan, ‘Incarcerated women: Poverty, trauma and unmet need’ (American Psychological Association, 2019) www.apa.org/pi/ses/resources/indicator/2019/04/incarcerated-women accessed 8 February 2023.
- 15 Ann Clarke and Anne Eustace, ‘Review of Drug and Alcohol Treatment Services for Adult Offenders in Prison and in the Community’ (The Probation Service and the Irish Prison Service 2016) https://www.drugsandalcohol.ie/26569/1/PS_IPS_Probation_Review_of_treatment_for_offenders.pdf accessed 3 February 2023.
- 16 Harry Kennedy et al., *Mental Illness in Irish Prisoners: Psychiatric Morbidity in Sentenced, Remanded and Newly Committed Prisoners* (NFMHS 2005) www.drugsandalcohol.ie/6393/1/4338_Kennedy_Mental_illness_in_Irish_prisoners.pdf accessed 26 January 2023.
- 17 Susan Finnerty, *Access to Mental Health Services for People in the Criminal Justice System* (Mental Health Commission 2021) www.mhcoil.ie/sites/default/files/2021-11/Access%20to%20mental%20health%20services%20for%20people%20in%20the%20criminal%20justice%20system%20FINAL.pdf accessed 25 January 2023.
- 18 United Nations Office on Drugs and Crime, *Handbook on Women and Imprisonment* (UNODC 2014) https://www.unodc.org/documents/justice-and-prison-reform/women_and_imprisonment_-_2nd_edition.pdf accessed 26 January 2023.
- 19 Irish Prison Service, *Persons Committed to Prison - Year 2007 to Year 2021* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/01-PERSONS-COMMITTED-by-Age-and-Gender-Year-2007-to-2021.pdf accessed 8 February 2023.
- 20 Irish Prison Service, *Annual Report 2021* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-21_Final.pdf accessed 8 February 2023.
- 21 Houses of the Oireachtas, ‘Prison Service’ (19 April 2023) www.oireachtas.ie/en/debates/question/2023-04-19/89 accessed 24 April 2023.
- 22 Ibid.
- 23 Irish Prison Service, *Persons Committed to Prison - Year 2007 to Year 2021* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/01-PERSONS-COMMITTED-by-Age-and-Gender-Year-2007-to-2021.pdf and Houses of the Oireachtas, ‘Prison Service’ (19 April 2023) www.oireachtas.ie/en/debates/question/2023-04-19/89 both accessed 24 April 2023.

In 2021, 85% of all sentenced committals of women were for 12 months or less. This compares to 69% for men.²⁴ In many cases, not only are short sentences ineffective in addressing the underlying cause of the offending behaviour, but they can also aggravate vulnerabilities. A custodial sentence can cause enormous disruption to the lives of women and their families, breaking links with employment, stable housing, and contact with dependents and family.

There is no information available as to why short sentences continue to be handed down to these women instead of Community Service Orders (CSOs). The ongoing review of the *Criminal Justice (Community Service) (Amendment) Act 2011* is being informed by research exploring the views of the judiciary on the Act.²⁵ IPRT urges that this research include a specific focus on women. The Sentencing Guidelines and Information Committee, in its work on developing sentencing guidelines in Ireland,²⁶ should further consider developing guidance for sentencing women. This echoes a recent recommendation in England from their Committee of Justice, namely that their Sentencing Council should consider ‘whether an overarching guideline or guidance for sentencing female offenders is required’.²⁷

2.2. Average number of women in custody

While annual committals of women to prison have generally decreased in recent years, the average daily number of women in custody has increased.²⁸ In 2022, there was a daily average of 173 women in custody.²⁹ This compares to 144 in 2021 and 148 in 2020.³⁰ This further compares to 104 in 2002, representing a 65% increase over the 20-year period.³¹ Over the same period, there was a 28% increase in the average number of men in custody.³²

While the growth of the Irish female prison population reflects a global trend,³³ the rate at which the average number of women in custody has risen compared to men is profound.

2.3. Overcrowding in women’s prisons

Ireland’s two female prisons (the Dóchas Centre in Dublin and Limerick Female Prison) are consistently the most overcrowded in the state. With three exceptions, the prison with the highest occupancy rate at the beginning of each month during 2022 was Limerick Female Prison.³⁴ Monthly snapshot figures from 2022 in the table below demonstrate the occupancy rates in female prisons, compared to the total estate.

Table 32.1.1: Occupancy rates of female prisons at the start of each month in 2022³⁵

Date	Dóchas Centre	Limerick Female Prison	All prisons
3 January 2022	77%	93%	85%
1 February 2022	78%	104%	88%
1 March 2022	84%	111%	90%
1 April 2022	89%	100%	91%
2 May 2022	90%	111%	91%
1 June 2022	95%	121%	94%
1 July 2022	98%	132%	95%
1 August 2022	95%	125%	94%
1 September 2022	92%	114%	94%
1 October 2022	103%	121%	94%
1 November 2022	112%	136%	98%
1 December 2022	112%	154%	99%

- 24 Irish Prison Service, *Sentenced Committals for Years 2007 to 2021* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/06-SENTENCED-COMMITTALS-by-Sentence-LengthGender-Year-2007-to-Year-2021.pdf accessed 27 January 2023.
- 25 Department of Justice, *Request for Tender for Research Services: An exploration of the use of short custodial sentences and community service orders as part of the review of the Criminal Justice (Community Service) (Amendment) Act 2011* (DoJ 2023) www.gov.ie/pdf/?file=https://assets.gov.ie/227071/63fcdcc4-6f1d-4e98-a4fd-633dc13ded2.pdf accessed 14 February 2023.
- 26 The Judicial Council, ‘Sentencing Guidelines and Information Committee: Update on the Committee’s work’ (2023) <https://judicialcouncil.ie/sentencing-guidelines/> accessed 8 February 2023.
- 27 House of Commons, *Justice Committee report on Women in Prison* (House of Commons 2022) <https://committees.parliament.uk/publications/23269/documents/169738/default/> accessed 14 February 2023.
- 28 See reports for recent years. Irish Prison Service, ‘Annual Reports’ (2023) www.irishprisons.ie/information-centre/publications/annual-reports/ accessed 26 January 2023.
- 29 Houses of the Oireachtas, ‘Prison Service’ (19 April 2023) www.oireachtas.ie/en/debates/question/2023-04-19/89 accessed 24 April 2023.
- 30 Data for both years are detailed in Annual Report 2021. Irish Prison Service, *Annual Report 2021* (IPS 2022), 37 www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-21_Final.pdf accessed 8 February 2023.
- 31 Irish Prison Service, *Annual Report 2002* (IPS 2002) www.drugsandalcohol.ie/5572/1/IPS_annual_report_2002pdf.pdf accessed 8 February 2023.
- 32 Calculated using the average number of men in custody in 2002 (total 3,061) and in 2022 (estimated 3,923). Irish Prison Service ‘Monthly Information Note’ (2023) www.irishprisons.ie/information-centre/statistics-information/monthly-information-note/ and Irish Prison Service, *Annual Report 2002* (IPS 2002) www.drugsandalcohol.ie/5572/1/IPS_annual_report_2002pdf.pdf both accessed 8 February 2023.
- 33 Penal Reform International, *Global Prison Trends 2022* (PRI 2022), 20 <https://cdn.penalreform.org/wp-content/uploads/2022/05/GPT2022.pdf> accessed 20 January 2023.
- 34 See the first available date in each month in 2022, ‘2022 Prison Population’ www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2022-prison-population/ accessed 20 January 2023.
- 35 Irish Prison Service, ‘2022 Prison Population’ (IPS, 2022) www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2022-prison-population/ accessed 8 February 2023.

In December 2019, in response to increased numbers of women in prison, the Irish Prison Service (IPS) increased the capacity of the Dóchas Centre from 105 to 146 by adding more beds to the existing space.³⁶ This is a regressive practice and should be reconsidered in the medium term.

During December 2022, there were 2,408 instances of people sleeping on mattresses. Of these, 320 (13% of all instances of mattress use) were women.³⁷ This is despite the fact that women represented only 4.6% of the average number of prisoners in custody in that month.³⁸ This indicates that the pains of overcrowding during 2022 were more acutely felt by women in custody.

2.4. Use of remand in response to female offending

The complex backgrounds of women in contact with the criminal justice system, including poverty, accommodation problems and poor family relationships, can make it difficult for women to adhere to traditional bail conditions.³⁹ This can lead to an overuse of remand for women offenders.

An IPS interim report on women on remand found a 37% increase in the number of female remand committals between 2013 and 2019.⁴⁰ However, the number of female remand committals has since decreased by 32% between 2019 and 2022.⁴¹ though this data relates to the pandemic period. The use of remand will need to be closely monitored in the coming years.

The *Review of Policy Options for Prison and Penal Reform 2022–2024* (‘the Review’) has committed to developing responses to the IPS interim report. This includes scoping the development of a Women’s Supported Bail Service and the launch of a pilot scheme.⁴² The Review also commits to examining

the ‘One Stop Shop’ Scottish model and exploring the feasibility of providing an intensive community-based supervision and support programme for women who offend.⁴³ While these commitments are promising, similar initiatives were set out in the Department of Justice’s 2014 *Strategic Review of Penal Policy* but have not yet been actioned.⁴⁴

2.5. Data gaps

Available data on recidivism indicates that there are differences in the reoffending patterns of males and females.⁴⁵ The joint strategy of the IPS and the Probation Service – *An Effective Response to Women Who Offend* – made a commitment to developing a specific focus on women offenders in recidivism data.⁴⁶ Aside from the provision of gender breakdowns in the available reoffending data, no further disaggregation or exploration of the specific reoffending patterns of women appears to have been developed.

While there are pockets of good practice in the publication of data on women in the criminal justice system in Ireland, more work is needed to understand their overall experiences across the system. Linking up data sources would support more informed decision-making, and a combined resource could encourage joined-up decision-making. In England and Wales, the Ministry of Justice (MoJ) publishes a biennial report that compiles statistics from across the criminal justice system, providing a combined perspective on the experiences of women in contact with the system. It includes data from the police, courts, prisons, parole, and education.⁴⁷

3. Community sanctions: A viable alternative?

IPRT welcomed the publication of the *Joint Probation Service – Irish Prison Service Strategy 2014–2016: An Effective Response to Women Who Offend* (‘the Strategy’), which recognised the need for a distinct approach for women in the penal system. However, many of the actions were not implemented within its intended lifetime, which has long passed. The Review commits to building on the Strategy,⁴⁸ but given the limited delivery of certain elements of the Strategy, this will need sustained commitment and resourcing to implement.

The Strategy committed to the development of female-specific Community Service (CS) and Community Return (CR) options,⁴⁹ and there are now two female specific programmes available for women on CSOs or supervision orders as well as other gender-informed practices developing.⁵⁰ Services designed around the needs of women also continue to be funded through the Probation Service, such as the ‘Building Recovery Inwards and Outwards’ (BRIO) programme.⁵¹ The *Probation Service Strategy Statement 2021 – 2023* reaffirms the Service’s commitment to discrete responses, stating that it will ‘strengthen specific initiatives and put forward new proposals that are gender specific and responsive to the challenges faced by women’.⁵²

The Review commits to exploring the feasibility of providing an intensive community-based supervision and support programme for women who offend.⁵³ While welcome, emphasis also needs to be placed on the diversion of women at the earliest possible opportunity. Female-specific diversion schemes are in operation in many areas of the UK and have been found to be successful in keeping women out of prison where it is not suitable.⁵⁴

A minority within a minority: Traveller women in the penal system

Traveller women are significantly overrepresented in prison. Although Travellers represent 0.7% of the national population,⁵⁵ they account for an estimated 22% of female prisoners and 15% of male prisoners.⁵⁶ Research by the Traveller Justice Initiative (formerly ‘Travellers in Prison Initiative’) on Traveller women in prison identified the multifaceted experiences of Traveller women, who face intersectional discrimination both as women and as Travellers.⁵⁷

Traveller women also appear to be overrepresented among those on probation. In 2022 research published by IPRT, analysis found that Irish Travellers (of all genders) comprised an estimated 8.9% of those engaged with the Probation Service, and Traveller women comprised an estimated 12.5% of all females engaged with the Probation Service.⁵⁸

36 See 11 and 12 December 2019, Irish Prison Service, ‘2019 Prison Populations’ www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2019-prison-populations/ accessed 8 February 2023.

37 Kildare Street, ‘Prison Service’ (21 March 2023) www.kildarestreet.com/wrants/?id=2023-03-21a.2875 accessed 30 March.

38 Irish Prison Service, *Monthly Information Note – December 2022* (IPS 2023) www.irishprisons.ie/wp-content/uploads/documents_pdf/December-2022-Website.pdf accessed 26 January 2023.

39 IPRT, *Women in the Criminal Justice System: Towards a non-custodial approach* (IPRT 2013) www.iprt.ie/site/assets/files/6332/iprt_position_paper_on_women_in_the_criminal_justice_system.pdf accessed 24 April 2023.

40 Caroline Finn, *Women on Remand - Interim Report for IPRT Analysis of PIMS, 13/08/20* (IPS 2020) [Unpublished]

41 From 462 in 2019 to 314 in 2022. Irish Prison Service, *Annual Report 2019* (IPS 2020) https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2019-Web.pdf and Houses of the Oireachtas, ‘Prison Service’ (19 April 2023) www.oireachtas.ie/en/debates/question/2023-04-19/89 both accessed 24 April 2023.

42 Department of Justice, *Review of Policy Options for Prison and Penal Reform 2022–2024* (DoJ 2022), 19 www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf accessed 28 January 2023.

43 Ibid.

44 Department of Justice, *Strategic Review of Penal Policy: Final Report* (DoJ 2014) www.gov.ie/pdf/?file=https://assets.gov.ie/137203/a2f65a3d-9402-490e-98d7-3d154661acae.pdf accessed 15 February 2023.

45 Central Statistics Office, ‘Prison Re-offending Statistics 2019: Details of 3-Year Custodial Re-offending’ (CSO, 21 June 2022) www.cso.ie/en/releasesandpublications/ep/p-pros/prisonre-offendingstatistics2019/details3-yearcustodialre-offending/; Central Statistics Office, ‘Probation Re-offending Statistics 2018: 2018 Results’ (CSO, 1 December) www.cso.ie/en/releasesandpublications/ep/p-prs/probationre-offendingstatistics2018/2018results/ both accessed 8 February 2023.

46 Probation Service and Irish Prison Service, *An Effective Response to Women Who Offend 2014 – 2016* (IPS 2014), 8 www.irishprisons.ie/images/pdf/female_strategy.pdf accessed 28 January 2023.

47 Ministry of Justice, *Statistics on Women and the Criminal Justice System 2021* (MoJ 2023) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1119965/statistics-on-women-and-the-criminal-justice-system-2021-.pdf accessed 2 March 2023.

48 Department of Justice, *Review of Policy Options for Prison and Penal Reform 2022–2024* (DoJ 2022), 19 www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf accessed 28 January 2023.

49 Probation Service and Irish Prison Service, *An Effective Response to Women Who Offend 2014 – 2016* (IPS 2014), 14 www.irishprisons.ie/images/pdf/female_strategy.pdf accessed 28 January 2023.

50 Irish Penal Reform Trust, *Maternal Imprisonment in Ireland: A Scoping Study* (IPRT 2023), 36 <https://www.iprt.ie/iprt-publications/maternal-imprisonment-in-ireland-a-scoping-study/> accessed 27 April 2023.

51 The Probation Service, *Towards a “Best Practice” Approach to Working with Women who Offend* (The Probation Service 2021), 19, 23 [www.probaton.ie/EN/PB/O/B28AE56CoED49Co6802588AF005FB514/\\$File/Towards%20a%20Best%20Practice%20approach%20to%20Working%20with%20Women%20who%20Offend%20\(June%202021\).pdf](http://www.probaton.ie/EN/PB/O/B28AE56CoED49Co6802588AF005FB514/$File/Towards%20a%20Best%20Practice%20approach%20to%20Working%20with%20Women%20who%20Offend%20(June%202021).pdf) accessed 28 April 2023.

52 The Probation Service, *Strategic Statement 2021-23 Action Plan* (Gov.ie 2021), 5 www.gov.ie/pdf/?file=https://assets.gov.ie/180320/5cb95805-ddc1-4fdc-9423-5179a70f6d14.pdf accessed 15 February 2023.

53 Department of Justice, *Review of Policy Options for Prison and Penal Reform 2022–2024* (DoJ 2022), 19 www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf accessed 28 January 2023.

54 Centre for Justice Innovation, ‘Checkpoint Plus’ (2020) <https://justiceinnovation.org/project/checkpoint-plus> accessed 2 February 2023.

55 Central Statistics Office, *Press statement census 2016 results profile 8 – Irish Travellers, ethnicity and religion* (CSO 2017) www.cso.ie/en/csolatestnews/pressreleases/2017pressreleases/pressstatementcensus2016resultsprofile8-irishtravellersethnicityandreligion/ accessed 25 January 2023.

56 Rachel Doyle, ‘Hearing their Voices’ *Traveller Women in Prison* (SSGT 2017) www.ssgt.ie/wp-content/uploads/2017/11/Hearing-their-Voices-Traveller-Women-in-Prison.pdf accessed 3 February 2023.

57 Ibid.

58 David Doyle et al., ‘Sometimes I’m missing the words’: *The rights, needs and experiences of foreign national and minority ethnic groups in the Irish penal system* (IPRT 2022) 28-29 https://iprt.ie/site/assets/files/7076/iprt_the_rights_-_needs_and_experiences_of_foreign_national_and_minority_ethnic_groups.pdf accessed 9 March 2023. These figures were calculated using a cohort for which Ethnic Identifier information was incomplete.

4. Access to healthcare

Nobody should have to go to prison in order to avail of healthcare that is not accessible in the community (see *Standard 12*). Nevertheless, prison can act as an opportunity to deliver healthcare to marginalised women.⁵⁹ The UN Bangkok Rules highlight the specific health needs of women in prison and the need for gender-specific healthcare that is comparable to that in the community. They also note that female prisoners' requests for a female physician or nurse should be respected.⁶⁰

An independent health needs assessment ('the assessment') of the prison population was commenced in 2019, to review the current and future delivery of healthcare services to people in custody.⁶¹ It has not yet been published at the time of writing, so it is unclear what impact this will have on healthcare for women. At a minimum, the assessment should identify up-to-date information on the varied healthcare needs of female prisoners, compared to men, to inform the development of an enhanced suite of gender-responsive options.

A previous Irish study found that services to tackle addiction were identified as the most basic and urgent need by the women in prison who participated in the study.⁶² Female prisoners in Ireland are more likely than male prisoners to report having used heroin and methadone in their lifetime, in the previous twelve months, and in the

previous thirty days.⁶³ International research has also found that women are at greater risk than men of entering prison with HIV, hepatitis C, and STIs.⁶⁴ The complex relationship many women have with substance misuse services should be considered in the development and delivery of services in a prison setting, and on release. For example, some women have avoided accessing substance misuse services because of fear that they could lose custody of their children, or inadequate childcare prevented their attendance.⁶⁵

While pregnant women should only be imprisoned in absolutely compelling circumstances,⁶⁶ between 2019 and 2022, there were between 15 and 21 incidences of pregnant women receiving care in Irish prisons annually. During the same period, the number of babies born in prison ranged from zero to two.⁶⁷

While negative experiences of some women in prison in relation to access to sanitary products were detailed by the Office of the Inspector of Prisons (OIP) in reports published in 2021 and 2022,⁶⁸ it appears work has been ongoing to ensure prisoners have access to period products (in Limerick through prison staff⁶⁹ and in the Dóchas through the Red Cross Volunteer Group).⁷⁰ Female prisoners are also provided with an 'exit pack' containing period products on release.⁷¹

- 59 Michelle Baybutt and Khadoudja Chemlal, 'Health-promoting prisons: theory to practice' (2016) 23(1) *Global Health Promotion* 66 <https://doi.org/10.1177/1757975915614182> accessed 3 February 2023.
- 60 UN OHCHR, 'United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)' (UN OHCHR, 21 December 2010) www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-treatment-women-prisoners-and-non-custodial accessed 3 February 2023.
- 61 Niamh Quinlan, 'Prison health needs assessment set to be published' *The Medical Independent* (8 January 2023) www.medicalindependent.ie/in-the-news/latest-news/prison-health-needs-assessment-set-to-be-published/ accessed 11 April 2023.
- 62 Rosemarie McHugh, *Tracking the Needs and Service Provision for Women Ex-Prisoners* (ACJRD 2013) www.acjrd.ie/images/PDFs/research/Tracking_the_needs_and_service_provision_for_women_ex-prisoners_-_Final.pdf accessed 2 February 2023.
- 63 Anne Drummond et al., *Study on the prevalence of drug use, including intravenous drug use, and blood-borne viruses among the Irish prisoner population* (NACDA 2014) www.drugsandalcohol.ie/21750/1/Full-Drug-use-among-Irish-prisoner-population.pdf accessed 20 February 2023.
- 64 Brenda van den Bergh et al., *Women's health and the prison setting* (WHO 2009) www.euro.who.int/_data/assets/pdf_file/0006/249207/Prisons-and-Health,-18-Womens-health-and-the-prison-setting.pdf accessed 26 January 2023.
- 65 Aoife Dermody et al., 'Resilience in the Face of Trauma: Implications for Service Delivery' (2018) 15 *Irish Probation Journal* 161 [www.probaton.ie/EN/PB/0/385F3A68E39DEFE8025834E004CB36E/\\$File/Dermody_Aoife_et_al_IPJ.pdf](http://www.probaton.ie/EN/PB/0/385F3A68E39DEFE8025834E004CB36E/$File/Dermody_Aoife_et_al_IPJ.pdf) accessed 1 March 2023.
- 66 World Health Organization, *Women's health in prison: Correcting gender inequality in prison health* (WHO 2009), 31 <https://apps.who.int/iris/bitstream/handle/10665/349844/WHO-EURO-2009-4247-44006-62055-eng.pdf?sequence=1&isAllowed=y> accessed 15 March 2023.
- 67 The number of pregnant women might not be individual prisoners, as there may be overlaps in those receiving care in Dóchas and Limerick. Kildare Street, 'Prison Service' (10 March 2022) www.kildarestreet.com/wrants/?id=2022-03-10a.941 and House of the Oireachtas, 'Prison Service' (18 April 2023) http://www.oireachtas.ie/en/debates/question/2023-04-18/1026/#pq_1026 both accessed 21 April 2023.
- 68 Office of the Inspector of Prisons, *COVID-19 Thematic Inspection of Limerick Prison* (OIP 2021) www.oip.ie/wp-content/uploads/2021/08/Limerick-Prison-COVID-19-Thematic-Inspection-Report-2021.pdf and Office of the Inspector of Prisons, *COVID-19 Thematic Inspection of Mountjoy Women's Prison - Dóchas Centre* (OIP 2022) www.oip.ie/wp-content/uploads/2022/04/Mountjoy-Womens-Prison-Dochas-Centre-COVID-19-Inspection-Report.pdf both accessed 3 February 2023.
- 69 See status update 1 September 2022, LMCT7 Limerick Prison. Office of the Inspector of Prisons, 'Inspections Recommendation Monitoring' (Oip.ie, 2023) www.oip.ie/inspections-recommendation-monitoring/ accessed 3 February 2023.
- 70 See status update 22 December 2021, DOCT7 Dóchas Centre. Office of the Inspector of Prisons, 'Inspections Recommendation Monitoring' (Oip.ie, 2023) www.oip.ie/inspections-recommendation-monitoring/ accessed 3 February 2023.
- 71 Government of Ireland, *Period Poverty in Ireland: Discussion Paper* (Gov.ie 2021), 21 www.gov.ie/pdf/?file=https://assets.gov.ie/122535/db3c2a18-297a-40de-a2bd-c5707961799e.pdf accessed 1 March 2023.

5. Access to mental healthcare

Mental illness is arguably among the most prevalent issues facing women in prison. Self-harm, traumatic stress disorder, and depression are frequently reported by female prisoners globally.⁷² While women in prison in Ireland represent a small portion of the prison population, they have proportionally greater levels of mental health difficulties.⁷³ However, public data on the prevalence of mental illness are inadequate (see *Standard 13*). In the last systematic representative study of the prevalence of mental illness in Irish prisons in 2005, 41% of committed women, and 60% of sentenced women had a mental illness.⁷⁴

Recent reports of the Dóchas Centre Chaplaincy Service and Prison Visiting Committee (PVC) describe the prison as a 'dumping ground' for mental illness, with prisons often dealing with 'other agencies' problems'.⁷⁵

Mental health intervention should occur as soon as possible, and in the community, ideally before anyone – regardless of gender – ends up in prison. The Prison In-reach and Court Liaison Service (PICLS), which diverts mentally ill remand prisoners at Cloverhill and provides in-reach to other prisons, is an important innovation in this regard. However, there are no data available on the number of women diverted by PICLS. Regarding forensic mental healthcare provision, the new Central Mental Hospital (CMH) in Portrane will include ten acute beds and ten pre-discharge beds specifically for women,⁷⁶ an increase from the total of ten beds provided in the old CMH, which combined all levels of service and was recognised as 'not the optimal situation'.⁸⁰

A 2021 report by the Inspector of Mental Health Services highlighted the inadequate mental health support for female prisoners, with under-resourced and under-staffed forensic in-reach teams in both

In December 2022, 58 of the 152 sentenced female prisoners in Ireland were over 40 years old (38.2%), and 16 were over 50 (11%).⁷² Women in prison often have bodies that seem decades older than their actual age due to life experiences such as homelessness, addiction, and the prison environment itself. Older women in prison have unique healthcare requirements, such as mammograms and menopausal care.⁷³

Health issues and substance abuse can complicate reintegration, and people with health problems are more likely to experience difficulties in obtaining employment, housing, and medical care upon release.⁷⁴ Given the high rates of poor health outcomes among women, these obstacles are likely to be felt more intensely by women.

- 72 Irish Prison Service, *Monthly Information Note – December 2022* (IPS 2023) www.irishprisons.ie/wp-content/uploads/documents_pdf/December-2022-Website.pdf accessed 26 January 2023.
- 73 Joanna Joyce and Tina Maschi, 'In Here, Time Stands Still' *The Rights, Needs and Experiences of Older People in Prison* (IPRT 2016) www.iprt.ie/site/assets/files/6388/iprt-older_people_in_prison_report_web.pdf accessed 26 January 2023.
- 74 Aurélie Augsburger et al., 'Assessing incarcerated women's physical and mental health status and needs in a Swiss prison: a cross-sectional study' (2022) 10(1) *Health & Justice* 8 www.ncbi.nlm.nih.gov/pmc/articles/PMC8864867/ accessed 1 March 2023.
- 75 World Health Organisation, *Women's health in prison Correcting gender inequity in prison health* (WHO and UNODC 2009) www.euro.who.int/_data/assets/pdf_file/0004/76513/E92347.pdf accessed 2 February 2023.
- 76 Department of Justice and Department of Health, *High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector: Final Report* (DoJ and DoH 2022) 175 www.gov.ie/pdf/?file=https://assets.gov.ie/236035/ode04b4d-817a-41cf-9779-771ab57703ac.pdf accessed 2 February 2023.
- 77 Harry Kennedy et al., *Mental Illness in Irish Prisoners: Psychiatric Morbidity in Sentenced, Remanded and Newly Committed Prisoners* (NFMHS 2005) www.drugsandalcohol.ie/6393/1/4338_Kennedy_Mental_illness_in_Irish_prisoners.pdf accessed 26 January 2023.
- 78 Irish Prison Service, *2020 Dóchas Centre Report* (IPS 2021) www.irishprisons.ie/wp-content/uploads/documents_pdf/Dochas-Chaplaincy-Annual-Report-2020.pdf and Department of Justice, *Report of the Dóchas Visiting Committee 2020* (DoJ 2022) www.gov.ie/pdf/?file=https://assets.gov.ie/217499/799d3578-8ce6-4bdd-81fd-0fcd6d93366f.pdf both accessed 2 February 2023.
- 79 Department of Justice and Department of Health, *High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector: Final Report* (DoJ and DoH 2022) 99 www.gov.ie/pdf/?file=https://assets.gov.ie/236035/ode04b4d-817a-41cf-9779-771ab57703ac.pdf accessed 2 February 2023.
- 80 Ibid 127.

female prisons.⁸¹ An analysis of the psychiatry caseload in the Dóchas Centre revealed that 67% of patients were actively homeless, 41% reported childhood abuse and neglect, and 18.52% reported domestic abuse.⁸² The High Level Task Force (HLTF) to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector recommended researching the overlap between homelessness and criminality to address the throughcare needs of those in custody, inclusive of minority groups, including women.⁸³ In order to be meaningful, this will require a cross-departmental and cross-agency commitment.

Trauma-informed mental healthcare should be provided to women in prison.⁸⁴ A recent study with Irish women in prison found that all participants had experienced past trauma, including sexual abuse, neglect, domestic violence, and loss and separation from their children.⁸⁵ Trauma can affect how imprisonment is experienced⁸⁶ and women who have experienced trauma may struggle with the unpredictable nature of shared prison spaces.⁸⁷ These concerns should be considered in both healthcare provision and day-to-day operations to ensure that women's specific needs are met.

In 2019, women in prison were 8.2 times more likely to engage in recorded self-harm than male prisoners. Women were also more likely to self-harm repeatedly (50% of women compared to 29.4% of men).⁸⁸ The gap between the recorded rates of self-harm among women and men has become increasingly pronounced with each annual edition of this report.⁸⁹ There are no published statistics on self-harm during the pandemic, which is concerning, particularly in relation to women.

6. Staying connected: Family ties

Women's caregiving responsibilities and their children's best interests are often overlooked at the point of sentencing, despite many women in prison being mothers and carers. This can have serious negative emotional consequences for themselves, their children, and their families. (For more on family contact, see *Standard 11*.)

In a recent study with 122 women in prison (out of 126 total at the time of the research), 98 women (78%) reported that they were mothers to both young and adult children. Of these mothers, 62 participated in further research and had a total of 148 children, with 73% (108) being under 18 and 27% (40) being 18 or older.⁹⁰ Many of the women had been separated from their children before they were imprisoned, for multi-faceted reasons including drug addiction, domestic violence, prior imprisonment, and mental illness.⁹¹ Those who received visits from their children described negative experiences such as long journeys, wait times, and searches, leading to their children's reluctance to return.⁹² Aside from this study, there has been limited examination of the experiences of mothers imprisoned in Ireland and their children.⁹³ There are gaps in data in this area. For example, details of the number of women in prison who have children who are in the care of Tusla, or the number of women in prison who have children who are in the care of relatives or family friends, are not currently collated.⁹⁴

81 Susan Finnerty, *Access to Mental Health Services for People in the Criminal Justice System* (Mental Health Commission 2021) www.mhcirl.ie/sites/default/files/2021-11/Access%20to%20mental%20health%20services%20for%20people%20in%20the%20criminal%20justice%20system%20FINAL.pdf accessed 25 January 2023.

82 Ibid.

83 Department of Justice and Department of Health, *High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector: Final Report* (DoJ and DoH 2022) 28 www.gov.ie/pdf/?file=https://assets.gov.ie/236035/0de04b4d-817a-41cf-9779-771ab57703ac.pdf accessed 2 February 2023.

84 UN OHCHR, 'United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)' (UN OHCHR, 21 December 2010) www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-treatment-women-prisoners-and-non-custodial accessed 3 February 2023.

85 Sinead O'Malley et al., 'Incarcerated mothers' experience of adversity heard using participatory mixed-method research' (2022) *Probation Journal* <https://journals.sagepub.com/doi/full/10.1177/02645505221143335> accessed 1 March 2023.

86 Jude Kelman et al., 'How Does a History of Trauma Affect the Experience of Imprisonment for Individuals in Women's Prisons: A Qualitative Exploration' (2022) *Women and Criminal Justice* www.tandfonline.com/doi/full/10.1080/08974454.2022.2071376 accessed 23 February 2023.

87 Annie McAnallen and Emma McGinnis, 'Trauma-Informed Practice and the Criminal Justice System: A Systematic Narrative Review' (2021) 18 *Irish Probation Journal* 109 [www.probation.ie/EN/PB/O/52C510DFDCAEA963802587C8005E7C64/\\$File/Irish%20Probation%20Journal%20-%20Volume%2018%20-%20pp%20109-128.pdf](http://www.probation.ie/EN/PB/O/52C510DFDCAEA963802587C8005E7C64/$File/Irish%20Probation%20Journal%20-%20Volume%2018%20-%20pp%20109-128.pdf) accessed 2 March 2023.

88 Niall McTernan et al., *Self-harm in Irish Prisons 2019 – Third report from the Self-Harm Assessment and Data Analysis (SADA) Project* (Irish Prison Service 2021) www.nsr.ie/wp-content/uploads/2021/04/Self-harm-in-Irish-Prisons-2019-Third-report-from-the-SADA-Project-Final-for-Publication.pdf accessed 26 January 2023.

89 In 2017, the rate of recorded self-harm was 4.4 times higher among female prisoners. This rose to 5.7 in 2018. This rose further to 8.2 in 2019. See reports for 2017, 2018 and 2019 on HSE, 'Self-harm in Irish Prisons Reports' (HSE, 14 April 2021) www.hse.ie/eng/services/list/4/mental-health-services/connecting-for-life/publications/self-harm-in-irish-prisons-reports.html accessed 23 February 2023.

90 Sinead O'Malley et al., 'Incarcerated mothers' experience of adversity heard using participatory mixed-method research' (2022) *Probation Journal* <https://journals.sagepub.com/doi/full/10.1177/02645505221143335> accessed 1 March 2023.

91 Ibid.

92 Ibid.

93 One example of a limited report on this matter is as follows: Irish Penal Reform Trust, *Maternal Imprisonment in Ireland: A Scoping Study* (IPRT 2023) <https://iprt.ie/iprt-publications/maternal-imprisonment-in-ireland-a-scoping-study/> accessed 27 April 2023.

94 Kildare Street, 'Child Protection' (10 May 2022) www.kildarestreet.com/wrans/?id=2022-05-10a.1606 accessed 15 March 2023.

7. Gendered accountability

Measures to address the impact of imprisonment on mothers and their children could include ensuring that pre-sentence reports produced by the Probation Service include full details as to the individual's family circumstances; the introduction of guidelines that require judges to consider family circumstances/caretaking responsibilities when deciding a sentence; and expanding the availability of credible alternatives to custody, particularly those designed to cater for the needs of women.

The need for gender-sensitive monitoring in prisons has been outlined by the European Committee for the Prevention of Torture (CPT).⁹⁵ The revised European Prison Rules, published in 2020, acknowledge the unique needs of women in prison and require states to take 'positive measures' to address them. The new rules also recognise that women can experience specific forms of abuse, such as physical, mental, and sexual abuse.⁹⁶

The OIP COVID-19 Thematic Inspection of the Dóchas Centre was published in April 2022. Outside of this report, little information about the situation in Dóchas has been made available to the public.

The Minister for Justice has the power to publish or withhold reports by the OIP (for more, see *Standard 24*).⁹⁷ The Minister is currently withholding publication of a three day monitoring report of the Dóchas Centre produced by the OIP, as well as a section 31(2) investigation report and a supplementary report produced at the Minister's request following the section 31(2) investigation, citing 'legal advice'.⁹⁸ Refusal to publish these reports, and failure to communicate in detail the reasons for non-publication, ties into bigger issues with accountability and transparency in our penal system.

In 2022, the UN Human Rights Committee specifically called on Ireland to 'improve transparency related to the conditions of detention of women detainees, including by publishing the Dóchas reports'.⁹⁹ IPRT strongly supports this recommendation and emphasises the impact of the decision not to publish on both perceptions of the effectiveness of oversight and on prison life for women in Ireland. Such a lack of transparency is incongruous with the core aims of external oversight functions.

95 Council of Europe, *Women in prison, CPT/Inf(2018)5* (CoE 2017) <https://bip.brpo.gov.pl/sites/default/files/CPT-Women%20in%20Prison.pdf> accessed 27 January 2023.

96 Council of Europe, 'Recommendation Rec(2006)2-rev of the Committee of Ministers to member States on the European Prison Rules' (CoE 2020) https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809ee581 accessed 27 January 2023.

97 Prisons Act 2007, s 31(4).

98 Kildare Street, 'Departmental Reports' (29 November 2022) www.kildarestreet.com/wrans/?id=2022-11-29a.1492 accessed 24 March 2023.

99 UN Human Rights Committee, '135th session, Summary record of the 3886th meeting' (UN OHCHR, 14 July 2022) <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6GqG1d%2FPPrICAqhKb7yhsM0BTkOuDPNIMXWauPwondGvvt%2FG20yKJteV9hb3OZaTpdfqHTFpkC6DTfQB%2FJbgaq8vY9%2BJCOPpaeYR7Z%2BFf16bO%2BhWNGUoECv%2Fk%2By7rol> accessed 20 February 2023.

8. Complaints

Recent research on complaints in Irish prisons revealed that prisoners felt that submitting complaints could have negative impacts, including on family visits or progression within prison.¹⁰⁰

The research highlighted the time-sensitive nature of some problems in prison and found that prisoners do not know if a complaint has reached the intended person when it is written down and submitted.¹⁰¹ This can create a sense of futility in bringing a complaint. Some research participants spoke of a preference to engage with someone in person, both to ensure that the person who could handle the complaint received the message, and also due to concerns about expressing themselves clearly and making sure nothing was missed in writing. This was particularly the case for those with literacy issues.¹⁰² While data on literacy in prison in Ireland are outdated (see *Standard 19*), in a previous study that had been conducted in this area, more female prisoners scored in the lowest two levels of literacy than male prisoners, which suggests that literacy barriers could be a particular challenge for women in accessing their rights.¹⁰³

Relatedly, only one complaint, out of a total of 235 complaints by female prisoners in the Dóchas, was upheld between 2018 and April 2021.¹⁰⁴ Five Category A complaints were made in 2022, with two external independent investigations concluding that there were no reasonable grounds to sustain the complaints. At the time of writing, two complaints are under investigation, and one is awaiting assignment to an investigator.¹⁰⁵

9. Staff training and prisoner-staff relationships

Following its COVID-19 Thematic Inspection of the Dóchas Centre the OIP recommended, in line with Rule 81.3 of the revised European Prison Rules, that all prison staff undertake comprehensive and continuous gender-specific training. The IPS confirmed that plans were in place to offer this training via eLearning Portal in Q4 2022.¹⁰⁶

The main sources of information on prisoner-staff relationships in Irish prisons to date, particularly in women's prisons, have been media,¹⁰⁷ Visiting Committee reports,¹⁰⁸ and Chaplaincy reports.¹⁰⁹ Recent research on staff-prisoner dynamics in an English women's prison found issues such as the inappropriate divulging of prisoners' personal information by staff, overuse of authority, infantilising treatment, and inconsistency in enforcing rules. It also found that environmental factors unique to women's prisons can adversely impact staff interactions with women in prison.¹¹⁰ While caution is advised in interpreting these findings as they relate to another jurisdiction, we have had to draw on international research due to the dearth of information on the topic in Ireland. More thorough research would shed light on the situation in an Irish context.

10. Reintegration

Women are more likely to be held in custody further from their home due to the small size of the female estate, which adds challenges to resettlement. Further to this, women are generally serving shorter sentences than men. While these sentences are lengthy enough to result in the loss of accommodation, employment and caregiving responsibilities, they are often not long enough for women to be able to access the services required to improve their circumstances on release.

In 2022, there were still no plans to develop an open prison for women, despite there being two open prisons available for men (see *Standard 6*).¹¹¹ IPRT continues to call for equitable access to more open facilities for women in prison, particularly for those serving longer sentences.

The Outlook Programme, which is funded by the IPS and the Probation Service and operated in collaboration with Focus Ireland, supports women serving sentences of imprisonment or on probation who pose a low risk to society to reintegrate into the community.¹¹² The programme has been operational since May 2019. The number of women who have been supported by the programme appears to be upwards of 30,¹¹³ with capacity for ten women at any one time. IPRT welcomes that an evaluation of the programme will be commenced in 2023.¹¹⁴

Additionally, family reunification is among the biggest challenges faced by women on release from prison, and the size and location of any accommodation is a key factor in supporting this. In instances where accommodation is available to women, efforts should be made to ensure that it appropriately meets the needs of women and their children.

The Review notes that it would be timely to repeat a 2005 study examining the profile and progression routes of homeless persons before the courts and in custody, as part of accommodation and support planning for women in the criminal justice system.¹¹⁵ IPRT would wholly support this.

100 Sophie van der Valk and Mary Rogan, 'Complaining in Prison: "I suppose it's a good idea but is there any point in it?"' (2023) 264 *Prison Service Journal* www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/PSJ%20264%20January%202023_0.pdf accessed 13 February 2023.

101 Ibid.

102 Ibid.

103 Mark Morgan and Mary Kett, *The Prison Adult Literacy Survey Results and Implications* (IPS 2003), 36 www.drugsandalcohol.ie/27366/1/adult_literacy_survey.pdf accessed 13 February 2023.

104 Complaints where the investigation was still ongoing at the time this data was provided may later have been upheld; however, only one had been upheld at the time of providing the data. Houses of the Oireachtas, 'Prison Service' (24 June 2021) www.oireachtas.ie/en/debates/question/2021-06-24/365/; Sonja Tutty, 'Just one complaint out of 232 by female prisoners upheld in three years' *The Times, Ireland Edition* (28 June 2021) www.thetimes.co.uk/article/just-one-complaint-out-of-232-by-female-prisoners-upheld-in-three-years-zd3wx2vtj both accessed 13 February 2023.

105 Houses of the Oireachtas, 'Prison Service' (19 April 2023) www.oireachtas.ie/en/debates/question/2023-04-19/88/ accessed 24 April 2023.

106 See status update 22 December 2021, DOCT8 Dóchas Centre. Office of the Inspector of Prisons, 'Inspections Recommendation Monitoring' (Oip.ie, 2023) www.oip.ie/inspections-recommendation-monitoring/ accessed 3 February 2023.

107 Patrick O'Connell, 'Female prison officer threatened over reporting 'relationship' between colleague and inmate' *Sunday World* (13 February 2020) www.sundayworld.com/crime/irish-crime/female-prison-officer-threatened-over-reporting-relationship-between-colleague-and-inmate/41341555.html and Ken Foy, "'Scissor Sister' Charlotte Mulhall in "inappropriate sexual relationship" with member of prison staff' *Independent.ie* (22 November 2017) www.independent.ie/irish-news/scissor-sister-charlotte-mulhall-in-inappropriate-sexual-relationship-with-member-of-prison-staff-36345376.html both accessed 8 February 2023.

108 Department of Justice, 'Prison Visiting Committee Annual Reports' (Gov.ie, 2023) www.gov.ie/en/collection/f3d7b-prison-visiting-committee-annual-reports/?referrer=http://www.justice.ie/en/JELR/Pages/Prison-Visiting-Committee-Annual-Reports accessed 14 March 2023.

109 Irish Prison Service, 'Chaplains Reports' (IPS, 2023) www.irishprisons.ie/information-centre/publications/chaplains-reports/ accessed 14 March 2023.

110 Ben Crewe et al., "'It causes a lot of problems": Relational ambiguities and dynamics between prisoners and staff in a women's prison' (2022) *European Journal of Criminology* <https://journals.sagepub.com/doi/10.1177/14773708221140870> accessed 2 March 2023.

111 Kildare Street, 'Prison Service' (8 November 2022) www.kildarestreet.com/wrans/?id=2022-11-08a.2501 accessed 2 March 2023.

112 Kildare Street 'Probation and Welfare Service' (1 March 2022) www.kildarestreet.com/wrans/?id=2022-03-01a.1454 accessed 2 March 2023.

113 See Minister's response to a Parliamentary Question in March 2022 stating that the number was 34, and another response eight months later stating the number was 30. Kildare Street 'Probation and Welfare Service' (1 March 2022) www.kildarestreet.com/wrans/?id=2022-03-01a.1454 and Kildare Street, 'Prison Service' (8 November 2023) www.kildarestreet.com/wrans/?id=2022-11-08a.2501 both accessed 24 February 2023.

114 Focus Ireland, *Invitation to Tender: Evaluation of Focus Ireland's Outlook Programme for Women* (Activelink 2023) www.activelink.ie/sites/default/files/attach/notice-entry/2023/03/09/invitation-to-tender-evaluation-of-focus-irelands-outlook-programme-for-women.pdf accessed 14 March 2023.

115 Department of Justice, *Review of Policy Options for Prison and Penal Reform 2022-2024* (DoJ 2022), 42 www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf accessed 28 January 2023.

11. Women in the penal system: A look to the future

A new prison facility is set to open in Limerick Prison in 2023, providing accommodation for an additional 22 female prisoners, bringing the total capacity for women in Limerick to 50.¹¹⁶ While IPRT welcomes the modernisation of the female estate, it is disappointing that female capacity in the prison will be almost doubled. This expansion is contrary to the consensus that community-based responses to less-serious offending are less damaging.¹¹⁷

The design of the new facility is centred around a courtyard setting, providing a mix of accommodation types, including a mother and baby unit. In addition, it will also provide improved facilities for families visiting.¹¹⁸ Until now, the only mother and baby unit, where infants under 12 months can remain with their mothers in prison, has existed in the Dóchas Centre.¹¹⁹ The design of the new facility has been based on the principles of rehabilitation and normalisation. However, the new prison will still have perimeter security features associated with medium-level security,¹²⁰ which may limit the effectiveness of any intended normalisation principles.

Parliamentary oversight is important for promoting human rights and public confidence in the criminal justice system. Consideration should be given by the Oireachtas Joint Committee on Justice to an examination of the issues facing women in prison, similar to the recent House of Commons Justice Committee inquiry into 'Women in Prison'. This inquiry examined progress made in addressing female offending, reducing the number of women in custody, and improving custodial conditions.¹²¹

It is encouraging that the *Review* makes a range of commitments relating to women in the criminal justice system, and that these commitments primarily relate to expanding the range of community-based sanctions and improving alternatives to custody. This will be an opportunity to develop more options that are truly woman-centred, that address the wide-ranging and often complex needs of women offenders, and that limit further harm to both women and society.

12. Conclusion

There has been a longstanding acknowledgement of the complex needs and vulnerabilities of women entering the criminal justice system in Ireland. Prison is not the solution to the needs of women living chaotic and difficult lives who engage in low level offences. A non-custodial approach should be adopted for women; and in the few cases where prison is necessary, the negative impact of imprisonment on women and their families should be minimised.

While the needs of women in contact with the criminal justice system are nuanced, and the solutions to addressing these needs will require substantial resources, with joined-up action, research, and implementation, these needs can and should be met.

IPRT recommends seven overarching key actions in this area:

1. Improved provision of health, addiction and education services in the community would help address the needs of women who offend, both before and after they come into contact with the criminal justice system. This is a matter for the whole of Government.
2. Imprisonment should be used as a last resort for women who offend, when all other alternatives are deemed unsuitable. Following its review of the *Criminal Justice (Community Service) (Amendment) Act 2011*, the Department of Justice should take specific measures to address the reasons why short sentences continue to be handed down to women instead of Community Service Orders.
3. The Irish Prison Service and the Probation Service should develop a successor to their 2014 strategy *An Effective Response to Women who Offend*, which should prioritise the development of gender-specific alternatives to custody, in consultation with women with lived experience. A programme of engagement with the judiciary in relation to community-based alternatives for women should also be considered.
4. The impact of maternal imprisonment should be considered by sentencing judges. Where prison is deemed the only appropriate option, contact between women and their families, particularly their children, should be facilitated and encouraged.
5. A gender-sensitive approach should be adopted across all stages of the criminal justice system to respond to the unique needs of women who offend. This includes the provision of gender-sensitive healthcare that respects the dignity of all women.
6. The section 31(2) investigation report completed by the Office of the Inspector of Prisons at the request of the Minister for Justice, as well as any other reports being withheld pending its publication, should be published without further delay.
7. The Oireachtas Joint Committee on Justice should conduct an examination of the issues facing women in the penal system. This could examine, *inter alia*, progress made in addressing female offending, reducing the number of women in custody, gender-sensitive community alternatives, and improving custodial conditions.

Assessment of Standard 32.1: No change

2022 has seen only limited changes in this standard and a fuller assessment is accordingly not possible. While female committal rates have decreased, the persistently high daily population of women and subsequent overcrowding are cause for significant concern, and we continue to see numerous issues in respect of women's access to appropriate healthcare in prison. Further, the non-publication of reports on the Dóchas Centre continues to undermine any positive work being done in this area.

¹¹⁶ Kildare Street, 'Prison Service' (14 February 2023) www.kildarestreet.com/wrans/?id=2023-02-14a.1260 accessed 1 March 2023.

¹¹⁷ Department of Justice, *Strategic Review of Penal Policy: Final Report* (DoJ 2014) www.gov.ie/pdf/?file=https://assets.gov.ie/137203/a2f65a3d-9402-490e-98d7-3d154661acae.pdf accessed 15 February 2023.

¹¹⁸ Kildare Street, 'Prison Service' (6 December 2022) www.kildarestreet.com/wrans/?id=2022-12-06a.71 accessed 1 March 2023.

¹¹⁹ Irish Penal Reform Trust, *Piecing it Together: Supporting Children and Families with a Family Member in Prison in Ireland* (IPRT 2021), 29 www.iprt.ie/site/assets/files/6958/piecing_it_together_supporting_children_and_families.pdf accessed 27 January 2023.

¹²⁰ Kildare Street, 'Prison Service' (1 February 2022) www.oireachtas.ie/en/debates/question/2022-02-01/609/ accessed 1 March 2023.

¹²¹ House of Commons, *Justice Committee report on Women in Prison* (House of Commons 2022) <https://committees.parliament.uk/publications/23269/documents/169738/default/> accessed 14 February 2023.

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.**

Penal policy in Ireland should reflect the guiding principles and values of penal reform.¹²² 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. Implementation, regular review, and evaluation of penal policy are therefore imperative.

In recent years, there has been some consensus on the goals of penal policy in Ireland, as reflected in a number of domestic reports, including the Department of Justice's 2014 *Strategic Review of Penal Policy* (SRPP),¹²³ the Oireachtas Joint Committee on Justice, Defence and Equality's 2013 *Report on Penal Reform*¹²⁴ and Oireachtas Joint Committee on Justice's 2018 *Report on Penal Reform and Sentencing*.¹²⁵ These goals have broadly included: making society safer by reducing reoffending; promoting crime reduction through rehabilitation; and reducing reliance on prison as a response to crime, while encouraging the use of community sanctions.

In 2022, the Department of Justice's future vision for penal policy was consolidated with the publication

of the *Review of Policy Options for Prison and Penal Reform 2022–2024* ('the Review').¹²⁶ The Review identified six priority policy interventions in order to reduce reoffending, support desistance from offending, avoid overcrowding in prisons and reduce reliance on custodial sentences.¹²⁷ While not detailed as priority areas, additional focus on areas such as restorative justice, expanding access to spent convictions and introducing a diversion approach for young adults are also welcome.¹²⁸

Publication of the Review followed the first *Criminal Justice Sectoral Strategy 2022–2024*, also published in 2022, which was designed to develop a shared vision for a more joined-up criminal justice system.¹²⁹ Together, these mark a landmark roadmap for the development of more progressive penal policy in Ireland.

However, it is important that a level of flexibility is retained in order to adapt to emerging issues, and that there is oversight of implementation. Ireland has a history of visionary penal policy that has not always been fully implemented.¹³⁰ At the time of writing, the eighth report of the Implementation Oversight Group, which was set up to monitor the implementation of the SRPP, has not yet been published. This is despite a commitment to publish the report alongside the Review,¹³¹ however, the Minister for Justice has stated he expects this report will be published 'soon'.¹³² It is worth noting that there is some uncertainty around how implementation of the Action Plan stemming from the Review will be monitored, with 'alternative modalities of oversight' apparently being

¹²² See the guiding principles and values of penal reform in Section 1.1. Irish Penal Reform Trust, *Progress in the Penal System (PIPS): A Framework for Penal Reform* (2018) (IPRT 2019) www.iprt.ie/site/assets/files/6470/pips2018.pdf accessed 15 February 2023.

¹²³ Department of Justice, *Strategic Review of Penal Policy: Final Report* (DoJ 2014) www.gov.ie/pdf/?file=https://assets.gov.ie/137203/a2f65a3d-9402-490e-98d7-3d154661acae.pdf accessed 15 February 2023.

¹²⁴ Houses of the Oireachtas, *Joint Committee on Justice, Defence and Equality Report on Penal Reform* (Houses of the Oireachtas 2013) www.drugsandalcohol.ie/19618/1/Penal-Reform-Report-13-March-2013-Final.pdf accessed 15 February 2023.

¹²⁵ Houses of the Oireachtas, *Joint Committee on Justice and Equality Report on Penal Reform and Sentencing* (Houses of the Oireachtas 2018) https://opac.oireachtas.ie/AWDData/Library3/Penal_reform_report_final_092026.pdf accessed 15 February 2023.

¹²⁶ Department of Justice, *Review of Policy Options for Prison and Penal Reform 2022–2024* (DoJ 2022) www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf accessed 28 January 2023.

¹²⁷ *Ibid* 17.

¹²⁸ *Ibid* 23.

¹²⁹ Department of Justice, *Criminal Justice Sectoral Strategy 2022–2024* (DoJ 2022) www.gov.ie/pdf/?file=https://assets.gov.ie/217963/4244bbf0-3d5c-4b55-a468-a4c88966f60d.pdf accessed 1 March 2023.

¹³⁰ See for example, the Report of the Committee of Inquiry into the penal system ('the Whitaker report') (1985), the Strategic Review of Penal Policy (2014) and the National Commission on Restorative Justice Final Report (2009).

¹³¹ House of the Oireachtas, 'Penal Policy Review Group' (23 September 2022) www.oireachtas.ie/en/debates/question/2020-09-23/168/ accessed 17 February.

¹³² Houses of the Oireachtas, 'Sentencing Policy' (14 February 2023) www.oireachtas.ie/en/debates/question/2023-02-14/525/ accessed 17 February 2023.

considered.¹³³ Given the considerable number of actions not fully implemented in the 2014 SRPP, despite monitoring by the Implementation Oversight Group, it is crucial that there is a strong oversight function connected to the 2022 Review.

The 2014 SRPP recommended the establishment of a Penal Policy Consultative Council to advise on penal policy issues to ensure any changes are evidence led.¹³⁴ This was later contained in the Programme for Government and as a priority action in the Review.¹³⁵ Officials commenced work on establishing the Council in Q3 2022, preparing a draft terms of reference for the membership and processes of the group, with a view to appointing its chair and members shortly.¹³⁶ While welcome, this is long overdue.

Publication of relevant data and research is essential to inform evidence-led criminal justice policy. The year 2022 saw the publication of research by the Department on reoffending,¹³⁷ public attitudes,¹³⁸ and by the Probation Service on community service.¹³⁹ While there was no formal adoption of the Irish Penal Reform Trust's (IPRT) PIPS standards by relevant bodies during 2022, PIPS was 'given full consideration' in the development of the Review.¹⁴⁰

The State is increasingly recognising and agreeing that offending behaviour is often the result of complex social and economic factors, and that punishment alone is not an effective solution. However, much work needs to be done to ensure that penal policy is not only agreed upon but that the recommended evidence-based policy actions are effectively implemented, monitored, and evaluated, and that they continue to evolve. The ambition of recent government publications is clear, but many of the progressive proposals made in the Review were informed by recommendations made by previous bodies and reports. Dedicated resources, alongside sustained political will, will be needed to fully translate its goals into reality.

Key Actions

- The Review of Policy Options for Prison and Penal Reform 2022–2024 should be fully resourced and implemented within the plan's lifetime, with a comprehensive designated implementation oversight model.
- The Penal Policy Consultative Council, as committed to in the Programme for Government 2020 and the Review of Policy Options for Prison and Penal Reform 2022–2024, should be fully established and become operational without further delay.

Assessment of Standard 1: Progress

While there is still a way to go, there has been significant progress in this area in 2022. This includes the publication of the Review of Policy Options for Prison and Penal Reform 2022–2024, investment in research, and ambitious but achievable commitments to more progressive responses to offending. However, while progressive policy has come a considerable way during 2022, action on these policy recommendations have been less forthcoming – this will be explored in many of the other PIPS 2022 standards.

133 This conflicts with the information in the Review, which notes that the action plan will be incorporated into the Implementation Oversight Group's reporting to the Minister for Justice, see Department of Justice, Review of Policy Options for Prison and Penal Reform 2022–2024 (DoJ 2022), 17 [www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf](https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf); and Houses of the Oireachtas, 'Sentencing Policy' (14 February 2023) www.oireachtas.ie/en/debates/question/2023-02-14/525/ accessed 17 February 2023.

134 Department of Justice, Strategic Review of Penal Policy: Final Report (DoJ 2014), 111 [www.gov.ie/pdf/?file=https://assets.gov.ie/137203/a2f65a3d-9402-490e-98d7-3d154661acae.pdf](https://assets.gov.ie/137203/a2f65a3d-9402-490e-98d7-3d154661acae.pdf) accessed 1 March 2023.

135 Government of Ireland, Programme for Government: Our Shared Future (Gov.ie 2020), 86 [www.gov.ie/pdf/?file=https://assets.gov.ie/130911/feg3e24e-dfe0-40ff-9934-def2b44b7b52.pdf](https://assets.gov.ie/130911/feg3e24e-dfe0-40ff-9934-def2b44b7b52.pdf); Department of Justice, Review of Policy Options for Prison and Penal Reform 2022–2024 (DoJ 2022), 22 [www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf](https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf) both accessed 23 March 2023.

136 Houses of the Oireachtas, 'Sentencing Policy' (14 February 2023) www.oireachtas.ie/en/debates/question/2023-02-14/525/ accessed 17 February 2023.

137 Dennis Gough and Megan Coghlan, Understanding Reoffending: Push factors and preventative responses (DoJ 2022) [www.gov.ie/pdf/?file=https://assets.gov.ie/239978/75a21996-0062-405b-8a45-366ac01e8306.pdf](https://assets.gov.ie/239978/75a21996-0062-405b-8a45-366ac01e8306.pdf) accessed 17 February 2023.

138 Behaviour and Attitudes, Criminal Justice Public Attitudes Survey: 2021 Results (DoJ 2022) [www.gov.ie/pdf/?file=https://assets.gov.ie/236616/9e7ededd-5e2b-4e73-962a-0dc283e656b5.pdf](https://assets.gov.ie/236616/9e7ededd-5e2b-4e73-962a-0dc283e656b5.pdf) accessed 9 February 2023.

139 Louise Kennefick and Eoin Guilfoyle, An Evidence Review of Community Service Policy, Practice and Structure (The Probation Service 2022) [www.probaton.ie/EN/PB/O/B28C57C6B765BFF98025891000379F2E/\\$File/FOR%20PRINT%20CS%20Review_FINAL_271022.docx.pdf](https://www.probaton.ie/EN/PB/O/B28C57C6B765BFF98025891000379F2E/$File/FOR%20PRINT%20CS%20Review_FINAL_271022.docx.pdf) accessed 9 February 2023.

140 Department of Justice, Review of Policy Options for Prison and Penal Reform 2022–2024 (DoJ 2022), 8 [www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf](https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf) accessed 28 January 2023.

Standard 2: Imprisonment as a last resort

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

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. Furthermore, prison sentences have been shown to be largely ineffective in preventing reoffending and, in some cases, to be criminogenic.¹⁴¹

IPRT believes the courts should only impose a custodial sentence in cases where it is deemed that no other sanction would reflect the seriousness of the offence committed, or that a person's offence cannot be dealt with safely in the community. This is a longstanding and widely held perspective. In 1992, the Council of Europe recommended that 'custodial sentences should be regarded as a sanction of last resort' and where a custodial sentence is justified it 'should be no longer than is appropriate for the offence(s) of which the person is convicted'.¹⁴²

While the principle of imprisonment as a last resort has yet to be enshrined in domestic legislation, positive steps towards this were made in 2022. Of several milestones in this area during 2022,¹⁴³ the most significant was the publication by the

Department of Justice of the Review of Policy Options for Prison and Penal Reform 2022–2024 ('the Review'), which contained 'to consider the incorporation of the principle of prison as a sanction of last resort in statute, in relation to people who do not pose a risk of serious harm' as its first priority.¹⁴⁴ However, the reality of the use of imprisonment in 2022 was not aligned with this policy objective. Ireland continued to systematically overuse imprisonment as punishment.

Ireland's imprisonment rate stood at 86 per 100,000 at the end of January 2023.¹⁴⁵ Compared to the previous year (78), this is further away from the medium-term goal set by PIPS in 2017 of reducing our prison population to 50 per 100,000.¹⁴⁶ There was an 18% increase in the number of prisoners in custody between the start of January 2022 and the start of December 2022.¹⁴⁷ There was also an 8% increase in the annual average number of people in custody between 2021 (3,794) and 2022 (4,095),¹⁴⁸ which is a concerning increase in the space of one year.

In 2013, the Oireachtas Sub-Committee on Penal Reform recommended that the Government reduce the prison population by one-third over a ten-year period.¹⁴⁹ This period will end in 2023. Not only has this vision not been achieved, the number of people in custody has actually increased.¹⁵⁰

One of the key indicators of whether imprisonment is being used as a last resort is the number and proportion of people sentenced to custody on short sentences. Unfortunately, data on the number of people committed to prison on short sentences in 2022 were not available for analysis.¹⁵¹ The most recent Council of Europe (CoE) SPACE I report showed that Ireland's prison 'turnover' rate is comparatively high, with data indicating that this

141 Ian O'Donnell, An Evidence Review of Recidivism and Policy Responses (DoJ 2020) [www.gov.ie/pdf/?file=https://assets.gov.ie/74991/b2d18629-257a-4dd4-b72c-38cefa3ed809.pdf](https://assets.gov.ie/74991/b2d18629-257a-4dd4-b72c-38cefa3ed809.pdf) accessed 7 February 2023.

142 Council of Europe, Recommendation No. R (92) 17 Concerning consistency in sentencing (CoE 1992), 5(a) <https://rm.coe.int/16804d6ac8> accessed 27 January 2023.

143 Department of Justice, Justice Plan 2022 (DoJ 2022), 38 [www.gov.ie/pdf/?file=https://assets.gov.ie/219724/820c37a2-8514-44b9-984c-709c68894d7f.pdf](https://assets.gov.ie/219724/820c37a2-8514-44b9-984c-709c68894d7f.pdf) accessed 28 January 2023.

144 Department of Justice, Review of Policy Options for Prison and Penal Reform 2022–2024 (DoJ 2022), 18 [www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf](https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf) accessed 28 January 2023.

145 World Prison Brief, 'Ireland, Republic of' (WPB 2023) www.prisonstudies.org/country/ireland-republic accessed 7 February 2023.

146 IPRT, Progress in the Penal System: A Framework for Penal Reform (IPRT 2017), 5 https://www.iprt.ie/site/assets/files/6431/progress_in_the_penal_system_compressed.pdf accessed 30 January 2023.

147 Calculated using data from Monday 3 January 2022 and Thursday 1 December. Irish Prison Service, Prisoner Population on Monday 3rd (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/03-January-2022.pdf; and Irish Prison Service, Prisoner Population on Thursday 1st December 2022 (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/01-December-2022.pdf both accessed 3 February 2023.

148 Calculated using the 2021 average number in custody provided in the IPS annual report for 2021 and an average of the average number in custody each month in 2022. Irish Prison Service, Annual Report 2021 (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-21_Final.pdf; and Irish Prison Service 'Monthly Information Note' (2023) www.irishprisons.ie/information-centre/statistics-information/monthly-information-note/ both accessed 8 February 2023.

149 Houses of the Oireachtas, Joint Committee on Justice, Defence and Equality Report on Penal Reform (Drugs and Alcohol 2013) www.drugsandalcohol.ie/19618/1/Penal-Reform-Report-13-March-2013-Final.pdf accessed 27 January 2023.

150 Ibid 11; Irish Prison Service, Prisoner Population on Monday 5th December 2022 (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/05-December-2022.pdf accessed 27 January 2023.

151 IPRT requested this information from the Irish Prison Service, but as of late April 2023, it was not available.

stands at 63.6%, compared to a CoE median of 46.7%.¹⁵² This high flow indicator is a signal that imprisonment is not being used as a last resort.

Committals to prison for the non-payment of court-ordered fines decreased from 234 in 2021 to 205 in 2022. While welcome, a disproportionate amount (22%) of such committals continue to relate to women (see *Standard 32.1*).¹⁵³ IPRT welcomes the Review's recommendation to conduct a review of the impact of the *Fines (Payment and Recovery) Act 2014* and that, in advance of the completion of that review, the Act should be implemented 'to the fullest extent possible'.¹⁵⁴

Community alternatives often avoid most of the negative consequences of imprisonment. They can maximise the chances of addressing the root causes of offending and can offer the opportunity to repair the harm caused by offending.¹⁵⁵ Not only do community sanctions benefit individuals and their families,¹⁵⁶ but they are also significantly more cost-effective than imprisonment.¹⁵⁷ At the same time, in the absence of robust data and information – particularly from the courts – it remains difficult to determine whether alternatives to custody are being used as a *direct* alternative to short-term custodial sentences.

It is hoped that understanding of the use of alternatives to prison will be bolstered through the Department of Justice's review of the *Criminal Justice (Community Service) (Amendment) Act 2011 ('2011 Act')*. It is understood that in-depth research will form part of this review process.¹⁵⁸ Furthermore, the Probation Service published a review of the policy, practice, and structure of community

service in 2022,¹⁵⁹ with further research on the operation of Community Service Orders to follow in 2023 (see *Standard 14*).

In respect of sentencing, in 2022, the Sentencing Guidelines and Information Committee (SGIC) published several documents, including a short information guide for the public on core factors influencing sentencing¹⁶⁰ and a collation of the existing case law on sentencing judgments from the Court of Appeal on particular offences.¹⁶¹ The SGIC also published four pieces of research commissioned from the University of Strathclyde, including a detailed final report on approaches to sentencing data collection and analysis.¹⁶² These publications are welcome, and will hopefully guide the work of the SGIC to enhance transparency in sentencing in Ireland and build trust in the judicial process. However, this will require action on the 'strongest recommendation' of the commissioned researchers to 'establish a Research Unit in the Judicial Council to support the work of the SGIC'.¹⁶³

While the policy commitments of the Department of Justice are vital to the progression of this standard, the roles of the judiciary (sentencing practice) and probation services (availability, promotion, and effectiveness of community sanctions) are central to contributing positively to this standard.

152 The turnover ratio is described as the ratio between the number of inmates released during the year and the number of inmates held in prison during that whole year. Marcelo F. Aebi et al., *Prison Populations SPACE I – 2021* (UNIL 2022) 116 http://www.antonioacasella.eu/nume/Aebi_SPACE.I_19apr22.pdf accessed 8 February 2023.

153 Houses of the Oireachtas, 'Prison Service' (19 April 2023) www.oireachtas.ie/en/debates/question/2023-04-19/89 and Irish Prison Service, *Annual Report 2021* (IPS 2022), 37 www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-21_Final.pdf both accessed 24 April 2023.

154 Department of Justice, *Review of Policy Options for Prison and Penal Reform 2022–2024* (DoJ 2022), 53 www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf accessed 24 April 2023.

155 Irish Penal Reform Trust, *Community Sanctions* (IPRT 2010) www.iprt.ie/site/assets/files/6176/iprt_position_paper_8_-_community_sanctions.pdf accessed 9 February.

156 Michelle Martyn, 'Picking up the Pieces': *The Rights and Needs of Children and Families Affected by Imprisonment* (IPRT 2012), 40 www.iprt.ie/site/assets/files/6320/iprt_children_of_imprisoned_parents2.pdf accessed 2 February 2023.

157 For example, in 2021 there were 203,306 hours worked through community service orders in lieu of 713 years in prison and over €2 million worth of unpaid work carried in communities, compared with an available staffed prison space in 2021 costing €80,335. The Probation Service, *Annual Report 2021* (The Probation Service 2022) [www.probation.ie/EN/PB/O/B8B4CE7423E8D339802588BB0052DBD9/\\$File/Probation%20Service%202021%20Annual%20Report.pdf](http://www.probation.ie/EN/PB/O/B8B4CE7423E8D339802588BB0052DBD9/$File/Probation%20Service%202021%20Annual%20Report.pdf); and Irish Prison Service, *Annual Report 2021* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-21_Final.pdf accessed 9 February 2023.

158 Department of Justice, *Request for Tender for Research Services* (DoJ 2022) www.gov.ie/pdf/?file=https://assets.gov.ie/227071/63fcdcc4-6f1d-4e98-a4fd-633dc13eded2.pdf accessed 30 January 2023.

159 Louise Kenefick and Eoin Guilfoyle, *An Evidence Review of Community Service Policy, Practice and Structure* (The Probation Service 2022) [http://www.probation.ie/EN/PB/O/B28C57C6B765BFF98025891000379F2E/\\$File/FOR%20PRINT%20CS%20Review_FINAL_271022.docx.pdf](http://www.probation.ie/EN/PB/O/B28C57C6B765BFF98025891000379F2E/$File/FOR%20PRINT%20CS%20Review_FINAL_271022.docx.pdf) accessed 30 January 2023.

160 SGIC, *SENTENCING JUDGMENTS GUIDANCE FOR THE GENERAL PUBLIC* (Judicial Council 2022) <https://judicialcouncil.ie/assets/uploads/documents/Sentence%20Information%20for%20the%20General%20Public.pdf> accessed 8 February 2023.

161 Judicial Council, 'Guideline Sentencing Judgments' (2022) <https://judicialcouncil.ie/sentencing-judgments/> accessed 8 February 2023.

162 Jay Gormley et al., *Assessing Approaches to Sentencing Data Collection and Analysis: Final Report* (Judicial Council 2022) <https://judicialcouncil.ie/assets/uploads/Strathclyde%20Final%20Report.pdf> accessed 3 February 2023.

163 Ibid 155-156.

Key Actions

- Legislators should embed into statute the principle of prison as a sanction of last resort for people who do not pose a risk of serious harm.
- The Judicial Council should be resourced to enable the establishment of a dedicated Research Unit tasked with the collection, analysis and presentation of sentencing data as required by the Sentencing Guidelines and Information Committee (and other Committees, as appropriate).

Assessment of Standard 2: Mixed

Despite some welcome policy commitments and focus on this area, there continues to be an over-reliance on the use of imprisonment in response to less serious offending, despite its damaging social and economic impact on individuals, families, and communities. If existing commitments receive sustained focus over the coming years, there is potential for Ireland to be a world leader in its use of imprisonment and responses to offending behaviour.

Standard 3: Safe custody limits

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

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.¹⁶⁴ Overcrowding – among other impacts – reduces the quality of living conditions and adversely impacts a prisoner's privacy and mental health.¹⁶⁵

The prison population in Ireland has increased during 2022, putting pressure on the prison system to provide adequate facilities and conditions for people in custody and for staff. When prisons are operating at or near their capacity, it becomes more difficult to maintain order, control the movement of prisoners, and prevent the spread of infectious diseases. The Irish Prison Service's (IPS) mission of providing safe and secure custody¹⁶⁶ is challenged when the courts continue to send people to overcrowded prisons. On 1 December 2022, there were 104 prisoners sleeping on mattresses,¹⁶⁷ with 2,408 instances of prisoners sleeping on mattresses during the month of December 2022.¹⁶⁸

On 1 December 2022, the official capacity of the prison estate was recorded as 4,411, including closed and open prisons.¹⁶⁹ The occupancy level of the prison estate, based on IPS official capacity, was recorded as 99%.¹⁷⁰ This compares to 87% on the same week in 2021,¹⁷¹ 87% in 2020,¹⁷² 95% in 2019¹⁷³ and 92% in 2018.¹⁷⁴ The highest occupancy levels on 1 December 2022 were recorded in Limerick (Female) Prison (154%), Dóchas Centre (112%) and Limerick (Male) Prison (110%); only the

164 Council of Europe, *Recommendation No. R (99) 22 concerning prison overcrowding and prison population inflation* (CoE 1999) <https://rm.coe.int/168070c8ad> accessed 27 January 2023.

165 European Parliament, *Prison Conditions in the Member States: Selected European Standards and Best Practices* (European Parliament 2017), 4 [www.europarl.europa.eu/RegData/etudes/BRIE/2017/583113/IPOL_BRI\(2017\)583113_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/583113/IPOL_BRI(2017)583113_EN.pdf); Susan Finnerty, *Access to Mental Health Services for People in the Criminal Justice System* (MHC 2021) www.mhcirl.ie/sites/default/files/2021-11/Access%20to%20mental%20health%20services%20for%20people%20in%20the%20criminal%20justice%20system%20FINAL.pdf both accessed 28 January 2023.

166 Irish Prison Service, 'Mission and Values' (IPS 2023) www.irishprisons.ie/about-us/mission-and-values/ accessed 2 February 2023.

167 Kildare Street, 'Prison Service' (21 March 2023) www.kildarestreet.com/wrans/?id=2023-03-21a.2875 accessed 30 March.

168 Ibid.

169 Irish Prison Service, *Prisoner Population on Thursday 1st December 2022* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/01-December-2022.pdf accessed 27 January 2023.

170 Ibid.

171 Irish Prison Service, *Prisoner Population on Wednesday 1st December 2021* (IPS 2021) www.irishprisons.ie/wp-content/uploads/documents_pdf/01-December-2021.pdf accessed 27 January 2023.

172 Irish Prison Service, *Prisoner Population on Tuesday 1st December 2020* (IPS 2020) www.irishprisons.ie/wp-content/uploads/documents_pdf/01-December-2020.pdf accessed 27 January 2023.

173 Irish Prison Service, *Prisoner Population on Monday 2nd December 2019* (IPS 2019) www.irishprisons.ie/wp-content/uploads/documents_pdf/02-December-2019.pdf accessed 27 January 2023.

174 Irish Prison Service, *Prisoner Population on Monday 3rd December 2018* (IPS 2018) www.irishprisons.ie/wp-content/uploads/documents_other/03-December-2018.xlsx accessed 27 January 2023.

Training Unit met the PIPS goal of occupancy of at least 10% below its recommended maximum capacity. In January 2023, the occupancy rate in Irish prisons was ranked joint 13th highest out of 57 prison administrations in Europe.¹⁷⁵

The European Committee for the Prevention of Torture (CPT), in its 2020 report on Ireland, stated it ‘is not convinced’ by the creation of additional capacity by placing a second bed in a single-occupancy cell, which ‘puts an increased strain on the existing prison resources in terms of access to activities, provision of services and supervision and support by staff’.¹⁷⁶ It also noted that ‘actual prison capacity is usually lower than the official figures’, and offered examples of the use of mattresses on floors even when the number of prisoners was lower than the official capacity.¹⁷⁷

The Council of Europe (CoE) has previously stated that capacity levels above 90% should be treated as ‘high risk’.¹⁷⁸ Given the capacity levels outlined above, the vast majority of closed prisons were operating at unsafe occupancy levels at the end of 2022. With significant delays and backlogs in the criminal justice system as a result of COVID-19,¹⁷⁹ at the time of writing (early 2023) the number in custody is continuing to accelerate.

It is important that published capacity figures reflect the lived reality in Irish prisons, and that figures do not distort that reality. Published capacity figures are currently provided only by the IPS. Previously, maximum capacity limits were first set by the Office of the Inspector of Prisons (OIP) in 2013¹⁸⁰ and were included in published prisoner population data until 18 February 2020.¹⁸¹ These limits took into account factors such as access to structured activity, exercise time, access to more than one hour of out-of-cell time for protection prisoners and access to single cells for long-sentenced prisoners.¹⁸² At the time of writing, it appears that no work is underway by the OIP in setting new capacity limits.¹⁸³

Key Action

- The Office of the Inspector of Prisons should review and set safe custody limits (operational capacity limits) for each prison in 2023. Consideration should be given to setting the ideal safe custody limit as one person per cell in all closed prisons.

Assessment Of Standard 3: Regress

Based on the available information, not only has there been an increase in occupancy levels (the number of people in each prison), but there has also been an increase in capacity levels (the limit set for occupancy). This indicates that the increase in the overall occupancy percentage is even more significant.

175 World Prison Brief, ‘Highest to Lowest - Occupancy level (based on official capacity)’ (WPB 2023) www.prisonstudies.org/highest-to-lowest/occupancy-level?field_region_taxonomy_tid=14 accessed 8 February 2023.
 176 CPT, *Report to the Government of Ireland on the Visit to Ireland Carried out by the CPT from 23 September to 4 October 2019* (CoE 2020), 20 <https://rm.coe.int/1680a078cf> accessed 8 February 2023.
 177 Ibid.
 178 Council of Europe, *White Paper On Prison Overcrowding* (CoE 2016) <https://rm.coe.int/white-paper-on-prison-overcrowding-cm-2016-121-add3-e/16807c886b> accessed 7 February 2023.
 179 Eleanor Burnhill, ‘Delays in criminal justice system due to pandemic, rise in case files - DPP’ *RTÉ* (19 November 2022) www.rte.ie/news/ireland/2022/11/19/1337097-dpp-criminal-justice-system/ accessed 7 February 2023.
 180 Office of the Inspector of Prisons, *An Assessment of the Irish Prison System by the Inspector of Prisons Judge Michael Reilly* (OIP 2013) www.oip.ie/wp-content/uploads/2022/02/An-Assessment-of-the-Irish-Prison-System.pdf accessed 27 January 2023.
 181 See February 18 and 19 2020, Irish Prison Service, ‘2020 Prison Populations’ (IPS 2020) www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2020-prison-populations/ accessed 1 February 2023.
 182 Office of the Inspector of Prisons, *An Assessment of the Irish Prison System by the Inspector of Prisons Judge Michael Reilly* (OIP 2013) www.oip.ie/wp-content/uploads/2022/02/An-Assessment-of-the-Irish-Prison-System.pdf accessed 27 January 2023.
 183 Houses of the Oireachtas, ‘Prison Service’ (15 February 2023) www.oireachtas.ie/en/debates/question/2023-02-15/136/ accessed 17 February 2023.

Standard 4: Size of prisons

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

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.

For staff and management, smaller prisons can be governed more easily, and prisoners can be more easily observed when needed.¹⁸⁴ For prisoners, smaller prisons tend to have less bureaucratic hierarchy, leading to greater responsiveness to prisoner needs, more opportunities for autonomy and an opportunity for prisoners to resolve problems among themselves in informal ways.¹⁸⁵

At the end of 2022, eight out of all 14 operational prisons (of 12 prison institutions) met this standard, with six out of 12 closed prisons meeting the standard.

Table 4.1: Capacity of prisons

Prison	Irish Prison Service capacity	Standard met
Arbour Hill	138	✓
Castlerea	340	✗
Cloverhill	431	✗
Cork	296	✗
Limerick (female)	28	✓
Limerick (male)	210	✓
Loughan House	140	✓
Midlands	875	✗
Mountjoy (female) / Dóchas	146	✓
Mountjoy (male)	755	✗
Portlaoise	231	✓
Shelton Abbey	115	✓
Training Unit	96	✓
Wheatfield	610	✗

While there has been no reportable change in the size of prisons across the estate during 2022, the redevelopment at Limerick Prison is planned to

open in Q1 2023.¹⁸⁶ This will result in the growth of Limerick Prison by an additional 22 spaces for women (rising to 50 total) and 90 spaces for men (rising to 300 total). While the modernisation of the environment is welcome, it is regrettable that PIPS *Standard 2: Imprisonment as a last resort* was not realised sooner, which could have allowed for modernisation of the estate without the need for expansion of prison capacity in order to safely hold all of the men and women committed to Limerick Prison.

The Training Unit on Mountjoy Campus opened in July 2022 as a facility for older prisoners, following refurbishment.¹⁸⁷ Its capacity of 96 meets the current standard; however as this is the reopening of a former facility (with the same capacity) rather than the replacement of larger prisons with new smaller-scale facilities, this is not considered as a development by IPRT for the purposes of assessment.

Key Action

- The upcoming Irish Prison Service Strategic Plan should include a commitment to exploring the development of smaller prisons, which should replace existing prison spaces rather than adding more capacity to the prison system.

Assessment of Standard 4: No change

Based on the available information, there has been no significant change in this standard in 2022. In fact, this standard has been largely unchanged since the first edition of the PIPS project was published in 2017. The upcoming Irish Prison Service Strategic Plan marks an opportunity for the Irish Prison Service to give further consideration to this area.

184 David Skarbek, ‘Smaller prisons are smarter’ (Oxford University Press Blog, 7 September 2020) <https://blog.oup.com/2020/09/smaller-prisons-are-smarter/> accessed 8 February 2023.
 185 Ibid.
 186 Houses of the Oireachtas, ‘Prison Service, Dáil Éireann Debate’ (6 December 2022) www.oireachtas.ie/en/debates/question/2022-12-06/33/ accessed 8 February 2023.
 187 This is the date on which occupancy started being reported for the Training Unit again. See 15 and 18 July 2022, Irish Prison Service, ‘2022 Prison Population’ (2022) www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2022-prison-population/ accessed 9 February 2023.

Standard 5: Minimum prison security settings

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

Having access to less restrictive security settings in prison is important as it provides for the ‘normalisation’ principle,¹⁸⁸ thus reducing the risk of institutionalisation and facilitating the transition back to life outside prison.¹⁸⁹

No new low-security settings were established across the prison estate in 2022. Existing low-security accommodation units include the Progression Unit (on the Mountjoy Campus), the Grove and Harristown House (in Castlerea), and the Independent Living Skills Unit (ILSU) (in Wheatfield).¹⁹⁰

The Irish Prison Service (IPS) in its *Capital Strategy 2016–2021* acknowledged the ‘minimal existing low-security capacity’ and aimed to ‘develop a small number of new open, semi-open or low-security centres’.¹⁹¹ However, delivery on this has been minimal. In addition, there have been no further ILSUs, which give prisoners at high risk of institutionalisation an opportunity to live more independently, set up during 2022. There are also no plans to review the operation of the existing ILSU (currently located in Wheatfield Prison) or to develop further ILSUs across the prison estate.¹⁹² These units are particularly important for people who are less likely to access an open prison before release.

Greater efforts are required to match the security levels in which prisoners are detained more closely with their risk and requirements, and to provide a more individualised approach to the accommodation of prisoners. Consideration should also be given to the growing movement in Europe campaigning for more small-scale, differentiated and community-based detention settings.¹⁹³

Key Action

- The Irish Prison Service should conduct a review of current security and regime levels across the prison estate, with a view to expanding access to less restrictive settings (based on thorough risk assessments) during the lifetime of its next Strategic Plan.

Assessment of Standard 5: No change

Despite the varying levels of risk posed by different people in the prison environment, the range of security settings provided by the Irish Prison Service continues to be quite minimal. Options for accommodation in less restrictive settings should be enhanced.

188 Council of Europe, *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* (CoE 2003) <https://pjp-eu.coe.int/documents/41781569/42171329/CMRec+%282003%29+23+on+the+management+of+life+sentence+and+other+long+term+prisoners.pdf/bb16b837-7a88-4b12-b9e8-803c734a6117> accessed 15 February 2023.

189 Council of Europe, *Situation of Life-Sentenced Prisoners CPT/Inf(2016)10-part* (CoE 2016) <https://rm.coe.int/16806cc447> accessed 15 February 2023.

190 Kildare Street, ‘Prison Service’ (15 February 2023) www.kildarestreet.com/wrans/?id=2023-02-15a.280 accessed 21 March 2023.

191 Irish Prison Service, *Capital Strategy 2016–2021* (IPS 2016) www.irishprisons.ie/wp-content/uploads/documents_pdf/capital_strategy_2016.pdf accessed 15 February 2023.

192 Kildare Street, ‘Prison Service’ (15 February 2023) www.kildarestreet.com/wrans/?id=2023-02-15a.280 accessed 21 March 2023.

193 RESCALED, ‘Homepage’ (RESCALED.org, 2023) www.rescaled.org accessed 21 March 2023.

Standard 6: Open prison provision

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

Open prisons differ from closed prisons in their philosophy. Open prisons have many benefits, including a reduced likelihood of institutionalisation, and provide a gradual transition to life on the outside. However, notwithstanding the benefits of open prisons relative to closed institutions, open prisons still have many similar features to closed institutions, so their use must always be considered in line with other options, such as sentences served in the community.

At the end of 2022, open prison provision comprised 5.8% of bed capacity in the prison estate in Ireland,¹⁹⁴ which represents a decrease on the rate in previous years.¹⁹⁵ However, this is due to the expansion of the overall prison estate resulting in a greater portion of closed prison spaces, rather than the closing of open prison spaces. The two open prisons, Loughan House and Shelton Abbey, have had the same capacity – 140 and 115, respectively – throughout 2022, and since the commencement of the PIPS project.

Despite recognition of the need for a tailored response to women and the low risk to society that most women who offend pose,¹⁹⁶ there continues to be no open prison provision for women. This continues to be a significant gap in support. Further, there are no known updates on the Government’s *National Development Plan 2021–2030*, which contained plans to ‘upgrade, improve and provide additional capacity at these centres to provide appropriate accommodation in line with sentence management plans for prisoners’.¹⁹⁷

The limited access to open prisons, particularly in the context of the growing number of prisoners serving long and life sentences (see *Standard 33*) is a significant gap.

Key Action

- The Irish Prison Service Capital Strategy should prioritise the opening of more open prison spaces, particularly for women; the Strategy (and relevant related documents) should be clear that this should be met with a matched (or greater) reduction in closed prison spaces.

Assessment of Standard 6: Regress

While there has been no closure of open prison spaces, Ireland is moving further away from the PIPS goal of open prisons comprising at least 30% of the prison estate by creating more closed prison spaces.

194 Calculated using the combined bed capacity of Loughan House and Shelton Abbey on 1 December 2022 (255) as a proportion of the total prison bed capacity on that date (4,411). Irish Prison Service, *Prisoner Population on Thursday 1st December 2022* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/01-December-2022.pdf accessed 20 February 2023.

195 Under Standard 6 in PIPS 2018 and PIPS 2019, IPRT reported open prison provision making up 6.7% of the prison estate. Irish Penal Reform Trust, *Progress in the Penal System: A framework for penal reform (2018)* (IPRT 2019) www.iprt.ie/site/assets/files/6470/pips2018.pdf; Irish Penal Reform Trust, *Progress in the Penal System: A framework for penal reform (2019)* (IPRT 2020) <https://pips.iprt.ie/site/assets/files/Progress-in-the-Penal-System-2019.pdf> both accessed 16 February 2023.

196 Department of Justice, *Review of Policy Options for Prison and Penal Reform 2022–2024* (DoJ 2022), 41 www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf accessed 17 February 2023.

197 Department of Public Expenditure and Reform, *National Development Plan 2021–2030* (Government of Ireland 2021) 154 www.gov.ie/en/publication/774e2-national-development-plan-2021-2030/ accessed 17 February 2023.



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.**

The deprivation of liberty is the punishment when someone is imprisoned; prison conditions and the treatment of people in prison should not be used as additional punishment. Good prison conditions are likely to reduce conflict and violence, which can improve the prospects of rehabilitation.

Access to humane living conditions is directly impacted by overcrowding due to its knock-on effects on all aspects of prison life. International standards make it clear that, at a minimum, prisoners should be provided with their own bed.¹⁹⁸ On 1 December 2022, there were 104 prisoners sleeping on mattresses,¹⁹⁹ with 2,408 instances of prisoners sleeping on mattresses during the month of December 2022.²⁰⁰

The importance of regular oversight in improving living conditions across the estate cannot be overstated (see *Standard 24*). Following recommendations by the Office of the Inspector of Prisons in its COVID-19 Thematic Inspections, the Irish Prison Service (IPS) has acted on recommendations to improve living conditions,

including recommendations on bedding and clothing,²⁰¹ access to greenspace,²⁰² and access to information.²⁰³

Regarding the provision of a balanced diet, the 28-day nutritionally advised menu cycle across the estate is currently being updated and tested, and is expected to be ready for implementation in early Q2 2023.²⁰⁴ However, despite the common issue of meal times being raised in COVID-19 thematic inspection reports,²⁰⁵ and the altering of main meal provision in some prisons as a result,²⁰⁶ the IPS has confirmed that it is not proposed to change the times at which meals are served.²⁰⁷

As well as catering to the dietary needs of prisoners in accordance with their faith, a room is available in all prisons for religious observance. If prisoners of the same faith wish to gather for private worship this is facilitated, if practicable, with the assistance of the Chaplaincy Service.²⁰⁸ More generally, the Chaplaincy Service provides crucial support to people in custody, addressing the physical, social, and spiritual needs of prisoners in a holistic manner. A review of the Chaplaincy Service, which aims to identify optimal chaplaincy services to support the delivery of IPS operations, was delayed due to the pandemic.²⁰⁹ Tender documents for the review were issued, however, in late 2022.²¹⁰ Given the vital role of chaplains across the prison estate, this is to be welcomed.

The IPS commenced a review of the *Prison Rules 2007* in 2020 following the publication of the

198 Council of Europe, 'Recommendation Rec(2006)2-rev of the Committee of Ministers to member States on the European Prison Rules' (CoE, 1 July 2020), 21 https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809ee581 and UN General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)* A/RES/70/175 (UN 2015), 21 <https://cdn.penalreform.org/wp-content/uploads/1957/06/ENG.pdf> both accessed 24 March 2023.

199 Kildare Street, 'Prison Service' (21 March 2023) www.kildarestreet.com/wrans/?id=2023-03-21a.2875 accessed 30 March.

200 Ibid.

201 See status update 1 September 2022, CHCT6 Cloverhill Prison. Office of the Inspector of Prisons, 'Inspections Recommendation Monitoring' (Oip.ie, 2023) www.oip.ie/inspections-recommendation-monitoring/ accessed 30 March 2023.

202 See status update 1 September 2022, MDCT23 Midlands Prison, CKCT17 Cork Prison, CRCT19 Castlereagh Prison and WFCT20 Wheatfield Prison. Ibid.

203 See status update 1 September 2022, DOCT3 Dóchas Centre and LMCT2 Limerick Prison. Ibid.

204 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

205 For example, see MJCT3 Mountjoy, CHCT3 Cloverhill and WFCT3 Wheatfield. Ibid.

206 See status update 1 September 2022, CHCT3 Cloverhill Prison. Ibid.

207 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023. This follows a limited review of the practicality of changing the scheduling of the main daily meal.

208 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

209 See status update 1 September 2022, SACT4 Shelton Abbey. Office of the Inspector of Prisons, 'Inspections Recommendation Monitoring' (Oip.ie, 2023) www.oip.ie/inspections-recommendation-monitoring/ accessed 30 March 2023.

210 eTenders, '11 PQQ - Review of Chaplaincy Services at IPS' (eTenders.ie, 2022) https://irl.eu-supply.com/app/rfq/publicpurchase_docs.asp?PID=225786&LID=256749&AllowPrint=1 accessed 24 March 2023.

revised European Prison Rules by the Council of Europe. While progress on the review was delayed due to the pandemic, this work restarted in 2022. This includes the development of draft amendments to give effect to the provisions of the European Prison Rules 2020, amendments suggested from within the IPS and amendments arising from the public consultation phase.²¹¹ Separately, the IPS is currently in the process of reviewing and updating its Prisoner Information Booklet, which, once completed, will be translated into various languages.²¹² Consideration should also be given to making this booklet available in a variety of formats, such as audio and Irish Sign Language, to meet the needs of the prison population.

The daily gratuity in prison (which varies according to regime level), has remained the same since it was introduced in 2012.²¹³ This is despite a review of the Incentivised Regimes Policy, concluded in September 2020, which recommended that consideration be given to an increase in the level of gratuity awarded under the policy (subject to resource availability).²¹⁴ In the absence of this increase, and to assist in alleviating the cost of tuck shop items for prisoners, the IPS changed the sales prices for all non-tobacco products in February 2021, with tuck shop items now for sale at cost price plus 5%.²¹⁵

The Citizens Information Service, which provides confidential, independent information and advice to prisoners through regular in-reach clinics,²¹⁶ reported in 2022 that prisoners face numerous barriers to accessing information and assistance from outside state services, which impacts their wellbeing.²¹⁷ While the addition of in-cell phones is discussed in greater detail elsewhere in this report (see *Standard 11*), it is worth noting that not only will this support maintaining family contact, it will allow more flexibility in accessing outside services when required.

While little information is publicly available regarding access to legal representation in prison, the IPS has continued to enhance the infrastructure for greater use of video link for court hearings.²¹⁸ While its use is reviewed on an ongoing basis, it has been reported that the use of video link allows the IPS to redirect resources into the provision of prisoner services.²¹⁹ While access to legal advice often centres on criminal issues, the ongoing review of civil legal aid must also consider the accessibility of the scheme to people in prison.²²⁰

Key Action

- In reviewing the *Prison Rules 2007*, general principles of respect for human rights, non-discrimination, and commitment to the rehabilitative aspects of imprisonment should be included. More generally, caveats such as ‘in so far as practicable’ and ‘wherever possible’ should only be used sparingly.²²¹

Assessment Of Standard 7: Mixed

This standard is broad as it assesses many of the things that aren’t captured by other standards. For the most part, these are things that impact on the day-to-day life of someone in custody. While welcome developments such as reviews of the *Prison Rules 2007* and the Chaplaincy Service should be acknowledged, genuine efforts by the Irish Prison Service to improve life in prison are undermined by persistent levels of overcrowding and overly generalised prison rules.

211 Kildare Street, ‘Prison Service’ (21 March 2023) www.kildarestreet.com/wrans/?id=2023-03-21a.2875 accessed 30 March.

212 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

213 For context, the daily gratuity payable is as follows: basic €0.95, standard €1.70, and enhanced €2.20. For more, see Houses of the Oireachtas, ‘Prison Service’ (15 February 2023) www.oireachtas.ie/en/debates/question/2023-02-15/137 accessed 24 March 2023.

214 Houses of the Oireachtas, ‘Prison Service’ (15 February 2023) www.oireachtas.ie/en/debates/question/2023-02-15/137 accessed 24 March 2023.

215 Ibid.

216 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

217 South Leinster Citizens Information Service, *Equality of Access to Information and Services Enhances Personal Power* (Citizens Information Board 2022) www.citizensinformationboard.ie/downloads/social_policy/SLCIS_report_2022.pdf accessed 24 March 2023.

218 For example, see status update 1 September 2022, CKCT4 Cork Prison and PLCT5 Portlaoise Prison. Office of the Inspector of Prisons, ‘Inspections Recommendation Monitoring’ (Oip.ie, 2023) www.oip.ie/inspections-recommendation-monitoring/ accessed 30 March 2023.

219 For example, see status update 2 September 2021, CKCT4 Cork Prison and PLCT5 Portlaoise Prison. Ibid.

220 Irish Penal Reform Trust, *IPRT Submission on the Review of Ireland’s Civil Legal Aid Scheme* (IPRT 2023) www.iprt.ie/site/assets/files/7184/iprt_submission_to_review_of_civil_legal_aid.pdf accessed 12 April 2023.

221 Irish Penal Reform Trust, ‘Submission to the Irish Prison Service Public Consultation on the Review of Prison Rules’ (IPRT, 5 November 2021) www.iprt.ie/latest-news/iprt-submission-to-the-irish-prison-service-public-consultation-on-the-review-of-prison-rules/ accessed 10 April 2023.

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.**

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.²²²

The practice of ‘slopping out’²²³ in Irish prisons has largely declined, though it still took place in Portlaoise and Limerick prisons during 2022. The development of new accommodation in Limerick Prison will replace outdated accommodation that has no in-cell sanitation. As of October 2022, 29 prisoners (0.7%) were required to slop out.²²⁴ This compared to 38 prisoners at the same period in 2021,²²⁵ 47 in 2020²²⁶ and 58 in 2019.²²⁷ While this is a welcome decrease, this practice should be viewed as an archaic feature of the prison estate and should be completely abolished without further delay.

The Irish Prison Service (IPS) has been completing engineering surveys on E Block in Portlaoise to explore the options of providing in-cell sanitation, with works on the construction of a sample cell examined to determine the feasibility of installing

in-cell sanitation in the block. The Minister has stated that any decision to commence a project to install in-cell sanitation to E Block would be subject to a cost-benefit analysis.²²⁸ Given the impact of slopping out on the rights and dignity of people in custody and prison staff, the decision to progress with adding in-cell sanitation should not be overly influenced by cost.

While it is encouraging that the practice of slopping out is nearly abolished, 50.3% (2,138 people) of the prison population continued to toilet in the presence of others as of October 2022.²²⁹ This is an increase on the 43% (1,639 people) required to use the toilet in the presence of another person at the same time in 2021.²³⁰ Toileting in the presence of others has been cited as a factor in cases where the European Court of Human Rights has upheld violations under Article 3 (prohibition of inhuman or degrading treatment).²³¹

In its most recent report on its visit to Ireland, the European Committee for the Prevention of Torture (CPT) criticised the State’s use of partial screens, stating ‘toilets in multi-occupancy cells should be fully partitioned up to the ceiling’.²³² In response, the State informed the CPT that there were no plans to provide fully partitioned screens in cells.²³³ However, the IPS is currently examining a new privacy curtain, which would provide enhanced privacy to persons using toilets and/or showers in a prison cell. Consultation and risk assessments are ongoing, but the IPS plans on installing this across the prison estate once approved.²³⁴

222 UNODC, *The United Nations Standard Minimum Rules for the Treatment of Prisoners* (UNODC 2015), Rule 15 www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf and Council of Europe, ‘Recommendation Rec(2006)2-rev of the Committee of Ministers to member States on the European Prison Rules’ (CoE 2020), 19.3 https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809ee581 both accessed 17 February 2023.

223 ‘Slopping out’ is understood as when prisoners without a toilet in cell have to use other means (e.g. bucket, chemical toilet) and manually empty the human waste when prison cells are unlocked.

224 Irish Prison Service, *Census Prison Population October 2022 – Cell occupancy – In-Cell Sanitation* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2022-In-Cell.pdf accessed 20 February 2023.

225 Irish Prison Service, *Census Prison Population October 2021 – Cell occupancy – In-Cell Sanitation* (IPS 2021) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2021-In-Cell.pdf accessed 20 February 2023.

226 Irish Prison Service, *Census Prison Population October 2020 – Cell occupancy – In-Cell Sanitation* (IPS 2020) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2020-In-Cell.pdf accessed 20 February 2023.

227 Irish Prison Service, *Census Prison Population October 2019 – Cell occupancy – In-Cell Sanitation* (IPS 2019) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2019-In-Cell.pdf accessed 20 February 2023.

228 Houses of the Oireachtas, ‘Prison Service’ (14 February 2023) www.oireachtas.ie/en/debates/question/2023-02-14/503/ accessed 20 February 2023.

229 Irish Prison Service, *Census Prison Population October 2022 – Cell occupancy – In-Cell Sanitation* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2022-In-Cell.pdf accessed 7 February 2023.

230 Irish Prison Service, *Census Prison Population October 2021 – Cell occupancy – In-Cell Sanitation* (IPS 2021) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2021-In-Cell.pdf accessed 7 February 2023.

231 European Court of Human Rights, *Factsheet – Detention conditions and treatment of prisoners (ECTHR 2019)* www.echr.coe.int/Documents/FS_Detention_conditions_ENG.pdf accessed 16 February 2023.

232 CPT, *Report to the Government of Ireland on the Visit to Ireland Carried out by the CPT from 23 September to 4 October 2019* (CoE 2020), 39 <https://rm.coe.int/1680a078cf> accessed 8 February 2023.

233 CPT, *Response of the Government of Ireland to the report of the CPT on its visit to Ireland from 23 September to 4 October 2019* (CPT 2020), 25 <https://rm.coe.int/1680a078d1> accessed 8 February 2023.

234 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

Key Actions



- The Irish Prison Service, supported by the Department of Justice, should abolish the practice of slopping out in Irish prisons without further delay.
- The Department of Justice and the Irish Prison Service 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*).

Assessment of Standard 8: Mixed

While there has been a decrease in the number of people slopping out, there has been an increase in the number of people who have to use the toilet in the presence of another person. The State's seeming inaction on introducing full partitions to protect people's dignity – despite calls from international detention monitoring experts to act on this – is an area of particular concern.

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

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 to reduce violence.

Despite general consensus on the importance of single-cell accommodation and commitments to single-cell occupancy as an estate-wide norm in the Irish Prison Service (IPS) *Capital Strategy 2016–2021*,²³⁵ as of October 2022, 47.6% of people in custody were accommodated in single cells.²³⁶ This compares to 56% at the same time in 2021,²³⁷ 52% at the same time in 2020²³⁸ and 52% at the same time in 2019.²³⁹ We are moving further away from achieving the vision of this standard. Furthermore, the IPS has no formal written policy on cell sharing.²⁴⁰

Mountjoy Prison's practice of single-cell occupancy was deservedly heralded as local progressive practice under this standard in previous years. However, for the first time since early 2016,²⁴¹ Mountjoy Prison reported people sharing cells in October 2022, with 17 prisoners sharing cells at the time of the Census.²⁴² On the face of it, this is concerning. However, in the absence of information about the reasons for cell sharing, or a consistent pattern of this, it is difficult to analyse. This will need to be closely observed in 2023.

As well as international human rights guidance,²⁴³ more recent Ireland-specific guidance in this area is clear. For example, the Office of the Inspector of Prisons (OIP), in its *Framework for the Inspection of Prisons in Ireland*, states that cells should be occupied in accordance with the capacity for which they are designed, but where possible

²³⁵ Irish Prison Service, *Capital Strategy 2016–2021* (IPS 2016), 20 www.irishprisons.ie/wp-content/uploads/documents_pdf/capital_strategy_2016.pdf accessed 9 February 2023.

²³⁶ Irish Prison Service, *Census Prison Population October 2022 – Cell occupancy – In-Cell Sanitation* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2022-In-Cell.pdf accessed 9 February 2023.

²³⁷ Irish Prison Service, *Census Prison Population October 2021 – Cell occupancy – In-Cell Sanitation* (IPS 2021) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2021-In-Cell.pdf accessed 9 February 2023.

²³⁸ Irish Prison Service, *Census Prison Population October 2020 – Cell occupancy – In-Cell Sanitation* (IPS 2020) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2020-In-Cell.pdf accessed 9 February 2023.

²³⁹ Irish Prison Service, *Census Prison Population October 2019 – Cell occupancy – In-Cell Sanitation* (IPS 2019) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2019-In-Cell.pdf accessed 9 February 2023.

²⁴⁰ Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

²⁴¹ In this case, two people were sharing a cell. Irish Prison Service, *Census Prison Population April 2016 – Cell occupancy – In-Cell Sanitation* (IPS 2016) www.irishprisons.ie/wp-content/uploads/documents_pdf/April16_incell.pdf accessed 9 February 2023.

²⁴² Irish Prison Service, *Census Prison Population October 2022 – Cell occupancy – In-Cell Sanitation* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2022-In-Cell.pdf accessed 9 February 2023.

²⁴³ UNODC, *The United Nations Standard Minimum Rules for the Treatment of Prisoners* (UNODC 2015), Rule 12.1 www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf; and Council of Europe, 'Recommendation Rec(2006)2-rev of the Committee of Ministers to member States on the European Prison Rules' (CoE 2020), 18.6 and 18.7 https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809ee581 both accessed 17 February 2023.

single-occupancy cells are preferred.²⁴⁴ In its 2020 report following its visit to Ireland, the European Committee for the Prevention of Torture (CPT) stated that it was 'not convinced by the apparent policy of creating additional capacity by placing a second bed in a single-occupancy cell, which on top of issues of cell sharing, puts an increased strain on the existing prison resources in terms of access to activities, provision of services and supervision and support by staff'.²⁴⁵ This regressive approach to penal policy should be re-considered.

The PIPS vision of a best-practice prison system is one where single-cell accommodation is the default option. In the event that people do choose to share cells, a thorough risk assessment should be undertaken on a regular basis. To achieve this vision of single-cell occupancy across the prison estate, prisoner numbers need to be reduced to below approximately 3,300.²⁴⁶ For context, at its lowest point during 2022, the daily prison population stood at 3,704 on 6 January 2022²⁴⁷ and steadily rose throughout the course of 2022, reaching highs of over 4,300 on many occasions during December 2022.²⁴⁸

Key Action



- In reviewing the *Prison Rules 2007*, Rule 18 should be amended to include a presumption that every prisoner is accommodated within a single-occupancy cell. This should be supported by a designated policy on cell sharing, for circumstances where a prisoner wishes to share a cell and/or cell sharing is unavoidable.

Assessment of Standard 9: Regress

The proportion of men and women accommodated in single cells decreased in 2022 and it appears the commitment to single-cell occupancy in Mountjoy Prison has not been retained. No policy has been introduced to prioritise the use of single-cell accommodation across the prison estate.

²⁴⁴ Office of the Inspector of Prisons, *A Framework for the Inspection of Prisons in Ireland* (OIP 2020) www.oip.ie/wp-content/uploads/2020/09/OIP-Inspection-Framework-Single.pdf accessed 7 February 2023.

²⁴⁵ CPT, *Report to the Government of Ireland on the Visit to Ireland Carried out by the CPT from 23 September to 4 October 2019* (CoE 2020), 18.6 <https://rm.coe.int/1680a078cf> accessed 8 February 2023.

²⁴⁶ This is based on the total number of useable cells across the prison estate. Irish Prison Service, *Census Prison Population October 2022 – Cell occupancy – In-Cell Sanitation* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2022-In-Cell.pdf accessed 9 February 2023.

²⁴⁷ Irish Prison Service, *Prisoner Population on Thursday 6th January 2022* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/06-January-2022.pdf accessed 16 February 2023.

²⁴⁸ See dates in December 2022. Irish Prison Service, '2022 Prison Population' (2022) www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2022-prison-population/ accessed 16 February 2023.

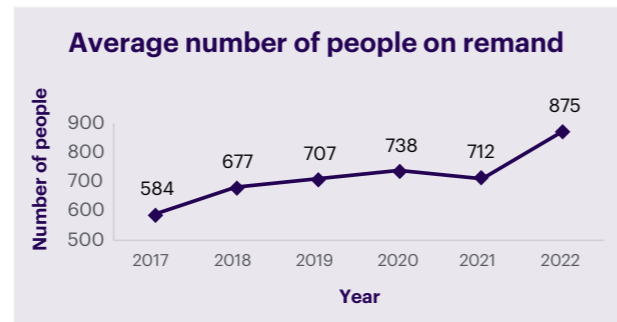
Standard 10: Pre-trial detention as an exceptional measure

**Standard 10:
Pre-trial detention is used as an
exceptional measure. Remand
prisoners are held separately from
sentenced prisoners across the entire
prison estate.**

To justify the detention of a person who is presumed innocent, there must be 'a genuine requirement of public interest which, notwithstanding the presumption of innocence, outweighs the rule of respect for individual liberty'.²⁴⁹ Remand detention can have severe psychological effects, with suicide rates higher among remand detainees than sentenced prisoners internationally.²⁵⁰ Research in Ireland has also shown that recorded self-harm rates are consistently higher for remand prisoners than those sentenced.²⁵¹ Additionally, those held on remand should be separated from sentenced prisoners, as they have not been found guilty of an offence.²⁵²

The average number of people being held on remand in Irish prisons is growing, with a 23% increase in the average number of people held on remand between 2021 and 2022, and a 50% increase since 2017 when the PIPS project commenced.²⁵³

Figure 10.1: Average number of people on remand, 2017–2022²⁵⁴

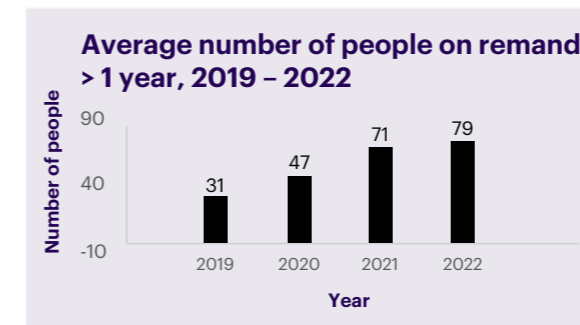


This sustained growth poses increasing challenges to detaining people on remand separately from the sentenced prison population. Relatedly, the State maintains its reservation to Article 10.2(b) of the International Covenant on Civil and Political Rights (ICCPR), which requires states to segregate people in pre-trial detention from sentenced prisoners, 'save for in exceptional circumstances'.²⁵⁵ This reservation was reaffirmed at Ireland's fifth periodic review under ICCPR in 2022, with the Irish State confirming it was not in a position to guarantee the separation of different categories of prisoners.²⁵⁶ The Human Rights Committee recommended that the State take necessary measures to ensure separation between adult remand and convicted prisoners, as it also recommended in 2014.²⁵⁷ Separately, the Irish Prison Service (IPS) has confirmed that it does not record data on the number of prisoners solely on remand who shared a cell with sentenced prisoner(s).²⁵⁸

Furthermore, data on the length of time people are being held on remand indicates that the number of people spending longer periods on remand has increased. Of the data published for 2019, there

was an average of 31 people on remand for more than one year.²⁵⁹ This increased to 79 (an increase of 154%) in 2022.²⁶⁰ The increasing seriousness of charges has previously been cited by the IPS as a reason for this increase.²⁶¹ Further information is needed to interrogate this. Such information would also support stakeholders to assess opportunities to minimise the need for this practice, where possible.

Figure 10.2: Average number of people on remand for longer than one year, 2019–2022²⁶²



To reduce the number of people remanded in custody, the criminal justice system should operate on the presumption of bail and deny it only when absolutely necessary. The pilot Bail Supervision Scheme introduced for children in 2016 enabled a reduction in the number of children in custody and a reduction in the rate of reoffending among children on the scheme.²⁶³ While supporting a general extension of the scheme, IPRT would *particularly* welcome an age-appropriate adjustment of the scheme to support young adults (those between 18 and 24 years old) to further reduce the use of remand detention.²⁶⁴ Bail support schemes allow the accused to remain in their community, encourage court attendance, reduce pressure on prison spaces and save public money.²⁶⁵

The use of pre-trial detention should be balanced against the individual's right to liberty, dignity, and a fair trial. Alternative measures – such as

bail, community-based programmes and, where appropriate, electronic monitoring²⁶⁶ – should be maximised to ensure that human rights are respected. Where custodial remand is used, it should be for the shortest period possible.

Key Action

- Extended bail support schemes should be developed, in particular for women, young adults and repeat offenders who are committed on remand to prison for less serious offences. This will require strong interagency cooperation from departments such as the Department of Health and the Department of Housing, Local Government and Heritage.

Assessment of Standard 10: Regress

There has been a sustained increase in the use of pre-trial detention in Ireland in recent years. Not only can the over-reliance on pre-trial detention undermine someone's presumption of innocence and have impacts on procedural rights, it also places increased pressure on the Irish Prison Service's ability to provide rehabilitative and other services to sentenced prisoners.

249 European Court of Human Rights, *Guide on Article 5 of the European Convention on Human Rights* (ECHR, 2022) www.echr.coe.int/documents/guide_art_5_eng.pdf accessed 20 February 2023.

250 Council of Europe, *Remand detention CPT/Inf(2017)* (CoE 2017) <https://rm.coe.int/168070d0c8> accessed 14 February 2023.

251 Health Service Executive, 'Self-harm in Irish Prisons Reports' (HSE 2023) www.hse.ie/eng/services/list/4/mental-health-services/connecting-for-life/publications/self-harm-in-irish-prisons-reports.html accessed 17 February 2023.

252 UN OHCHR, 'International Covenant on Civil and Political Rights' (1966), 10 2(a) www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights accessed 21 February 2023.

253 Calculated using the average number on remand in IPS 2017 and 2021 Annual Reports, and an average of the 'Average on remand' for all months in 2022. Irish Prison Service, *Annual Report 2017* (IPS 2018) www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2017.pdf; Irish Prison Service, *Annual Report 2021* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-21_Final.pdf; and Irish Prison Service, 'Monthly Information Note' (2023) www.irishprisons.ie/information-centre/statistics-information/monthly-information-note/ all accessed 17 February 2023. Data on remand, for the purposes of this section, focuses solely on those held on a remand/trial warrant and not those who are already serving a sentence and also have a remand warrant.

254 Irish Prison Service 'Annual Reports' (2023) www.irishprisons.ie/information-centre/publications/annual-reports/; and Irish Prison Service, 'Monthly Information Note' (2023) www.irishprisons.ie/information-centre/statistics-information/monthly-information-note/ both accessed 17 February 2023.

255 UN OHCHR, 'International Covenant on Civil and Political Rights' (1966) www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights accessed 1 March 2023.

256 UN Human Rights Committee, '135th session, Summary record of the 3886th meeting' (UN OHCHR 2023) <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsM0BTkOuDPNIMXWauPwondGwvt%2FG20yuKJteV9hb3OZaTpdqhfTpkC6DTfQB%2FJbgaq8vYg%2BJCOPpaeYR7Z%2Bffl6b0%2BhWNGUoECv%2Fk%2By7rol> accessed 20 February 2023.

257 UN Human Rights Committee, 'Concluding observations on the fifth periodic report of Ireland' (UN OHCHR, 26 January 2003) <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsieXFSudRZs%2FX1ZaMqUUOS%2BbcAGuuCi6l4l7uiVhbuLp%2F2IGSD7bncJtzRhGdU%2Buuibeg7sXz%2F5gGDvOE3%2BT1gNlx3fUqWN8gmOpFITlqn>; UN Human Rights Committee, *Concluding observations on the fourth periodic report of Ireland* (IHREC 2014) www.ihrec.ie/app/uploads/download/pdf/un_hrc_concluding_observations_on_ireland_and_iccpr_24_july_2014.pdf both accessed 20 February 2023.

258 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

259 Calculated using snapshot data of the number of people on remand for more than one year and more than two years in all monthly information notes from June 2019 to December 2019. Irish Prison Service, 'Monthly Information Note' (2023) www.irishprisons.ie/information-centre/statistics-information/monthly-information-note/ accessed 17 February 2023.

260 Calculated using snapshot data of the number of people on remand for more than one year and more than two years in all monthly information notes for 2022. Ibid.

261 Irish Prison Service, *Annual Report 2019* (IPRT 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2019-Web.pdf (accessed 1 March 2023).

262 Calculated using snapshot data on the number of people on remand for more than one year and more than two years in all monthly information notes from June 2019 (when publication commenced) to December 2022. Irish Prison Service, 'Monthly Information Note' (2023) www.irishprisons.ie/information-centre/statistics-information/monthly-information-note/ accessed 17 February 2023.

263 Catherine Naughton at al., *Evaluation of The Bail Supervision Scheme for Children (Pilot Scheme)* (DoJ 2019) www.gov.ie/pdf/?file=https://assets.gov.ie/44387/f5c278637a844b199cea79ba497886d7.pdf accessed 15 February 2023.

264 Irish Penal Reform Trust, *IPRT Submission to the Department of Justice Consultation on diversion paths for young adults aged 18–24* (IPRT 2023) https://iprt.ie/site/assets/files/7177/iprt_submission_to_the_department_of_justice_consultation_on_diversion_for_young_adults_18-24_final.pdf accessed 20 February 2023.

265 Irish Penal Reform Trust, *IPRT Position Paper 11: Bail and Remand* (IPRT 2015) www.iprt.ie/site/assets/files/6363/iprt_position_paper_11_on_bail_and_remand_sml.pdf accessed 17 February 2023.

266 Vivian Geiran, 'Electronic Monitoring in Ireland: Disruptive Innovation, Affordance, or a Technology in Search of a Rationale?' (2021) 18 Irish Probation Journal 49 [www.probation.ie/EN/PB/O/04AAB6C28BB82241802587C80058F17B/\\$File/Irish%20Probation%20Journal%20-%20Volume%2018%20-%20Vivian%20Geiran.pdf](http://www.probation.ie/EN/PB/O/04AAB6C28BB82241802587C80058F17B/$File/Irish%20Probation%20Journal%20-%20Volume%2018%20-%20Vivian%20Geiran.pdf) accessed 5 April 2023.

Standard 11: Family contact

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

Every member of the family maintains a right to family life and children have the right to maintain regular and direct contact with their parent(s).²⁶⁷ While children and families should not be held responsible for the successful reintegration of their family member, maintaining close relationships and positive family contact is a crucial factor in the rehabilitation process.

While some gradual unwinding of pandemic-related prison restrictions took place across 2021 and 2022, the unwinding of most restrictions on in-person prison visits only took place in May 2022. This resulted in the removal of infection control screens for visits, the resumption of hospitality areas and the reopening of play areas for children.²⁶⁸ However it was not until December 2022 that access to physical visits was restored to pre-pandemic levels (one physical visit per week of 30 minutes duration) across the prison estate.²⁶⁹ As of early 2023, prisoners continue to be entitled to one physical family visit (or one virtual visit) per week.²⁷⁰

During 2022, the number of physical visits recorded with at least one child (aged under 18) present was 14,238, with a total of 17,646 children attending in-person visits.²⁷¹ This compares to a total of 2,238 children recorded as physically visiting a prison between January and November 2021.²⁷² While data on enhanced family visits are not recorded, the Irish Prison Service (IPS) confirmed that there were limited opportunities to support enhanced

family visits during 2022 due to ongoing COVID-19 restrictions.²⁷³ As of January 2023, all prisons, with the exception of Midlands Prison, facilitate Sunday visits at regular intervals.²⁷⁴ This is an improvement on availability in previous years.²⁷⁵ Additionally, while evening visits are not common practice, evening video calls are facilitated in many prisons.²⁷⁶

During 2022, 55,832 family video calls were scheduled and 53,276 were completed.²⁷⁷ This indicates a success rate of over 95%. IPS capital development projects during 2022 involved the enhancement of video link systems, including the installation of specialist video link booths in Cloverhill, Castlerea, and Midlands Prisons.²⁷⁸

Following recommendations by the Office of the Inspector of Prisons (OIP) relating to the photocopying of post, the IPS has invested in new security equipment (ion scanners), which were rolled out to all prisons to support the testing of incoming correspondence for illicit substances, thus eliminating the need for the photocopying.²⁷⁹ Additionally, the IPS confirmed that it is piloting the use of eCorrespondence for prisoner communications in Mountjoy, Cloverhill and Midlands Prisons, which allows for more timely distribution of correspondence.²⁸⁰ Consideration is being given to extending the system to other locations.²⁸¹

In-cell telephones were rolled out in Castlerea, Cloverhill, Cork, Midlands, and Limerick Prisons in 2021. Up to March 2023, approximately 1,500 phones have been installed and are active in cells. Work is underway to progress in-cell telephones in Wheatfield, Portlaoise and Dóchas and it is envisaged that these sites will be operational by the end of 2023.²⁸² As of Q1 2023, a tender was being prepared for the works required to support this initiative in Mountjoy Prison, with plans for the remaining prisons to be scoped later in 2023, subject to resource availability.²⁸³

267 For example, see European Convention on Human Rights (Article 8) and UN Convention on the Rights of the Child (Article 9.3).

268 Irish Prison Service, 'Unwinding of Restrictions' (IPS, 4 May 2023) www.irishprisons.ie/unwinding-prison-restrictions/ accessed 4 April 2023.

269 Irish Prison Service, 'Entitlement to Weekly Physical Visits Restored in all Prisons' (IPS, 13 December 2022) www.irishprisons.ie/entitlement-to-weekly-physical-visits-restored-in-all-prisons/ accessed 10 April 2023.

270 Irish Prison Service, 'Visit a Prison' (IPS, 2023) www.irishprisons.ie/visiting-a-prison/ accessed 6 April 2023.

271 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

272 Kildare Street, 'Prison Service' (24 November 2021) www.kildarestreet.com/wrants/?id=2021-11-24a.313 accessed 5 April 2023.

273 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

274 Ibid.

275 PIPS 2021 reported that Sunday visits were only advertised as being available in five prisons. Irish Penal Reform Trust, *Progress in the Penal System: The need for transparency* (IPRT 2022), 71 www.iprt.ie/site/assets/files/7052/progress_in_the_penal_system_2021_-_final.pdf accessed 23 March 2023.

276 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

277 Ibid.

278 Ibid.

279 See status updates, MDCT11 Midlands Prison and CRCT13 Castlerea Prison. Office of the Inspector of Prisons, 'Inspections Recommendation Monitoring' (Oip.ie, 2023) www.oip.ie/inspections-recommendation-monitoring/ accessed 4 April 2023.

280 See status updates, MJCT11 Mountjoy Prison and CHCT12 Cloverhill Prison. Ibid.

281 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

282 Ibid.

283 Ibid.

The IPS has confirmed that a key priority in 2023 is to recruit a dedicated resource to progress and enhance family links.²⁸⁴ As part of this, a national policy on visiting conditions standards – a milestone previously measured by the Implementation Oversight Group²⁸⁵ – should be developed.

Key Action

- The Irish Prison Service should make the relevant data it collects regarding families and family contact publicly available.

Assessment of Standard 11: Progress

The rollout of in-cell telephones, investment in video call infrastructure, and extended access to Sunday visits will have significant impacts on the ability of people in custody to maintain relationships in the community. Additionally, plans to appoint a dedicated resource to enhance family links cements the Irish Prison Service's commitment to maintaining family ties. However, it is regrettable that much of the data and information relevant to this standard can only be accessed through direct requests and parliamentary scrutiny.

Standard 12: Access to healthcare services

**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.**

The right to healthcare in prison is equal to that enjoyed by the general population. This is laid out in the Mandela Rules, the Bangkok Rules, and the European Prison Rules. The healthcare needs of the prison population are in fact often higher than those of the general population. These needs must be met, particularly in light of the lack of autonomy prisoners face in both access to and choice of healthcare.

At the outset, it should be acknowledged that the European Committee for the Prevention of Torture (CPT), in its 2020 report following its 2019 visit to Ireland, acknowledged the progress made in the delivery of healthcare in Irish prisons since its 2014 visit.²⁸⁶ We welcome the concerted efforts by various stakeholders over many years to address many of the issues identified by the CPT.

The average number of prison nurses available in 2022 was 142,²⁸⁷ resulting in a nurse–prisoner ratio of 1:29.²⁸⁸ The average number of chief nurse officers available was 10.²⁸⁹ The average number of prison GPs was 10.5,²⁹⁰ resulting in a GP–prisoner ratio of 1:390.²⁹¹ While there is no established aspirational goal for this ratio, it is worth noting that this ratio has worsened since 2020, when there were 13.6 whole-time equivalent GPs and 141 nurses for a considerably lower prison population.²⁹² The Office of the Inspector of Prisons (OIP) has recently noted the need to reduce healthcare waiting lists and to ensure continuous healthcare is provided to people in custody.²⁹³ The Irish Prison Service (IPS) has had mixed success in appointing additional

284 Ibid.

285 Department of Justice, *Seventh Report of the Implementation Oversight Group to the Minister for Justice and Equality* (DoJ 2019) www.gov.ie/pdf/?file=https://assets.gov.ie/137223/4d67e66e-ebe4-4337-b6d7-dafde0892e95.pdf accessed 6 April 2023.

286 CPT, *Report to the Government of Ireland on the Visit to Ireland Carried out by the CPT from 23 September to 4 October 2019* (CoE 2020), 42 <https://rm.coe.int/1680a078cf> accessed 6 April 2023.

287 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

288 Calculated using the average number in custody in 2022, using the average of all 2022 monthly averages. Irish Prison Service 'Monthly Information Note' (IPS, 2023) www.irishprisons.ie/information-centre/statistics-information/monthly-information-note/ accessed 8 February 2023.

289 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

290 Ibid.

291 Calculated using the average number in custody in 2022, using the average of all 2022 monthly averages. Irish Prison Service 'Monthly Information Note' (IPS, 2023) www.irishprisons.ie/information-centre/statistics-information/monthly-information-note/ accessed 8 February 2023.

292 Houses of the Oireachtas, 'Prison Staff' (7 July 2020) www.oireachtas.ie/en/debates/question/2020-07-07/651/ accessed 6 April 2023.

293 See recommendations CRCT11 Castlerea Prison and MDCT10 Midlands Prison. Office of the Inspector of Prisons, 'Inspections Recommendation Monitoring' (Oip.ie, 2023) www.oip.ie/inspections-recommendation-monitoring/ accessed 11 April 2023.

full-time GPs.²⁹⁴ These recruitment difficulties remain a significant concern, given the impact of limited available medical staff on waiting list times for prisoners.

While other healthcare staff, such as occupational therapists, physiotherapists, and speech and language therapists are not currently directly employed by the IPS, they can be provided by the Health Service Executive (HSE) if their services are required.²⁹⁵

An independent health needs assessment ('the assessment') of the prison population was commenced in 2019, in line with recommendations made by the CPT on the need for a whole system review of healthcare in prisons²⁹⁶ and similar recommendations by the Inspector of Prisons in 2016.²⁹⁷ It is intended that the assessment will provide a framework for how the IPS delivers and plans for healthcare within the prison estate over the next decade.²⁹⁸ While numerous previously stated timelines for completion and publication of the assessment have been missed, the new timeline for its completion is Q1 2023.²⁹⁹ It is also expected that, subject to the agreement of the Department of Justice, the report will be published in Q1 2023.³⁰⁰

While the final recommendations of the assessment are not yet publicly known, the Director General of the IPS confirmed to an Oireachtas Committee that one recommendation relates to necessary upgrades to the medical system to allow for more disaggregated data.³⁰¹ The IPS confirmed that it is committed to examining the data at national and specific prison levels to assess performance in order to identify gaps and ultimately improve performance, and that a significant data analytics process has been ongoing in this respect.³⁰² Consideration should be given to using the information arising from this process to inform an annual report on the state of medical services in the IPS, as previously recommended by the CPT.³⁰³

It is widely understood that continuity of care

between prison and community healthcare can play a vital role in addressing health inequalities.³⁰⁴ As of the end of 2022, responsibility for healthcare in prisons continues to lie with the IPS and there are no independent inspections of prison healthcare services carried out by the Health Information and Quality Authority. It is anticipated that the question of whether responsibility for prison healthcare should be transferred to the Department of Health will be considered in the forthcoming assessment. In the event that the assessment recommends the transfer of governance mechanisms, the *Prison Rules 2007* will need to be updated accordingly.

Key Action

- Following publication of the prison health needs assessment, an action plan based on its recommendations should be developed, resourced, and implemented.

Assessment of Standard 12: No change

Access to healthcare was at the forefront of the work of the Irish Prison Service during the pandemic period. While that work should be commended, progress on improving access to healthcare more generally has been slowed by the investment in the pandemic response. While there were some developments during 2022, the upcoming publication of the health needs assessment will likely create a much-needed roadmap for progress under this standard in the future.

294 See status updates 1 September 2022, CRCT11 Castlerea Prison and MDCT10 Midlands Prison. Ibid.

295 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

296 CPT, *Report to the Government of Ireland on the visit to Ireland carried out by the CPT from 16 to 26 September 2014* (CoE 2015) <https://rm.coe.int/pdf%20/1680727e23>; and CPT, *Report to the Government of Ireland on the Visit of Ireland carried out by the CPT from 25 January 2010 to 5 February 2010* (CoE 2011) <https://rm.coe.int/1680696c98> both accessed 6 April 2023.

297 Judge Michael Reilly, *Healthcare in Irish Prisons* (OIP 2016) www.oip.ie/wp-content/uploads/2020/04/Healthcare-in-Irish-Prisons.pdf accessed 6 April 2023.

298 Niamh Quinlan, 'Prison health needs assessment set to be published', *The Medical Independent* (8 January 2023) www.medicalindependent.ie/in-the-news/latest-news/prison-health-needs-assessment-set-to-be-published/ accessed 11 April 2023.

299 Kildare Street, 'Departmental Projects' (23 February 2023) www.kildarestreet.com/wrants/?id=2023-02-23a.672 accessed 4 April 2023.

300 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

301 Kildare Street, 'Joint Oireachtas Committee on Disability Matters: Accessing Justice' (2 March 2023) www.kildarestreet.com/committees/?id=2023-03-02a.1084 accessed 6 April 2023.

302 Ibid.

303 CPT, *Report to the Government of Ireland on the Visit of Ireland carried out by the CPT from 25 January 2010 to 5 February 2010* (CoE 2011) <https://rm.coe.int/1680696c98> accessed 6 April 2023.

304 WHO Europe, *Health in prisons: A WHO guide to the essentials in prison health* (WHO 2007) www.euro.who.int/_data/assets/pdf_file/0009/99018/E90174.pdf accessed 6 April 2023.

Standard 13: Mental healthcare

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

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 effective and prompt health intervention, including diversion to appropriate treatment services outside prison.

The UN Human Rights Committee, in its Concluding Observations to Ireland in 2022, noted its concerns about the 'disproportionately high rate of persons in prison with severe mental health issues compared with that of the general population, and the lack of sufficient mental health services in detention facilities to support them'.³⁰⁵

At the start of 2023, there were 1,398 prisoners on waiting lists to access psychology services.³⁰⁶ This represents approximately 33% of all prisoners in custody on that date.³⁰⁷ More recent figures provided suggest that more than 2,000 people in custody (approximately half of the entire prison population) are either engaging with or waiting to see psychology services.³⁰⁸ This demonstrates the high level of mental health need across the prison population.

In order to get up-to-date data on the levels of mental health need to inform service planning and delivery, it is anticipated that a mental health needs analysis of the prison population will be conducted in the coming years, as recommended in Ireland's mental health policy, *Sharing the Vision*.³⁰⁹ The Irish Prison Service (IPS) and the Health Service Executive (HSE) are working together to engage in this needs analysis.³¹⁰

The ratio of psychologists to prisoners appears to have remained unchanged since *PIPS 2021*, at one psychologist to every 257 beds at the start of 2023.³¹¹ (A number of prisons are operating above their maximum capacity, meaning that the ratio there is likely to be poorer than this.) Resourcing the IPS Psychology Service to 'at least' the levels recommended in the Porporino report³¹² – a ratio of one psychologist to every 150 prisoners – was reaffirmed in the report of the High Level Task Force (HLTF) to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector.³¹³

The IPS received additional funding for psychologists in 2022, specifically for interventions associated with mental health and sexual violence. This has provided for increased psychologist posts across most closed prisons and part-time psychologist posts in both open prisons for the first time.³¹⁴ Previously, the IPS Psychology Service provided services one day per month in open prisons,³¹⁵ but more formalised access to psychology in open prisons has been the subject of calls from many bodies for several years.³¹⁶ A new psychologist recruitment campaign is due to

305 UN Human Rights Committee, 'Concluding observations on the fifth periodic report of Ireland' (UN OHCHR 2003) <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6GkG1d%2FPPRiCAqhKb7yhsieXFSudRZs%2FX1ZaMqUJOS%2BbcAGuuCi6l47uiVhbuLp%2F2lGSD7bncJtZrRhGdU%2Buuibeg7sXz%2F5gGDvOE3%2BT1gNlx3fUqWN8gmOpFITqn> accessed 28 March 2023.

306 Houses of the Oireachtas, 'Prison Service' (28 February 2023) www.oireachtas.ie/en/debates/question/2023-02-28/478/#pq_478 accessed 24 March 2023.

307 Of 4,258 in custody. Irish Prison Service, *Prisoner Population on Wednesday 4th January 2023* (IPS 2023) www.irishprisons.ie/wp-content/uploads/documents_pdf/04-January-2023.pdf accessed 24 March 2023.

308 Kildare Street, 'Joint Oireachtas Committee on Disability Matters: Accessing Justice' (2 March 2023) www.kildarestreet.com/committees/?id=2023-03-02a.1084 accessed 6 April 2023.

309 Department of Health, *Sharing the Vision A Mental Health Policy for Everyone* (Gov.ie 2020) www.gov.ie/pdf/?file=https://assets.gov.ie/76770/b142b216-f2ca-48e6-a551-79c208f1a247.pdf accessed 12 April 2023.

310 Kildare Street, 'Joint Oireachtas Committee on Disability Matters: Accessing Justice' (2 March 2023) www.kildarestreet.com/committees/?id=2023-03-02a.1084 accessed 6 April 2023.

311 This is calculated using prisoner bed capacity, rather than the prisoner population figure. Houses of the Oireachtas, 'Prison Service' (28 February 2023) www.oireachtas.ie/en/debates/question/2023-02-28/478/#pq_478 accessed 24 March 2023.

312 Frank Porporino, 'New Connections' *Embedding Psychology Services and Practice in the Irish Prison Service* (IPS 2015), 25 www.irishprisons.ie/wp-content/uploads/documents_pdf/porporino_report.pdf accessed 4 April 2023.

313 Department of Justice, *High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector: Final Report* (Department of Justice and Department of Health 2022), 27 www.gov.ie/pdf/?file=https://assets.gov.ie/236035/Ode04b4d-817a-41cf-9779-771ab57703ac.pdf accessed 3 April 2023.

314 Houses of the Oireachtas, 'Prison Service' (28 February 2023) www.oireachtas.ie/en/debates/question/2023-02-28/478/#pq_478 accessed 24 March 2023.

315 Kildare Street, 'Prison Medical Service' (13 June 2019) www.kildarestreet.com/wrants/?id=2019-06-13a.296 accessed 6 April 2023.

316 For example, see recommendation LHCT6 Loughan House and SACT9 Shelton Abbey. Office of the Inspector of Prisons, 'Inspections Recommendation Monitoring' (Oip.ie, 2023) www.oip.ie/inspections-recommendation-monitoring/; Irish Prison Service, *Loughan House Chaplaincy Annual Report 2019-2020* (IPS 2021) www.irishprisons.ie/wp-content/uploads/documents_pdf/CR_Loughan-House-2019-2020.pdf; and Department of Justice, *Shelton Abbey Visiting Committee Annual Report 2020* (Gov.ie 2022) www.gov.ie/pdf/?file=https://assets.gov.ie/217517/01620c7f-0e9d-4434-a570-443aa66d33a3.pdf all accessed 12 April 2023.

commence in May 2023.³¹⁷ Additionally the IPS has started sponsoring the training of psychologists, to support recruitment, for the first time in ten years.³¹⁸

Among the biggest developments relating to this standard in 2022 was the publication of the final report of the HLTF.³¹⁹ The report's emphasis on multi-agency responses and interdepartmental working will be key to the successful rollout of its recommendations. IPRT particularly welcomes the actions focusing on a 'prosecution avoidance policy' for when Gardaí come into contact with adults with mental illness and addiction challenges.³²⁰ In 2022, An Garda Síochána and the HSE approved a pilot project in Limerick, which creates a specialist unit within An Garda Síochána, that will work conjointly with health professionals to provide an integrated 24/7 response to persons with mental health issues who come in contact with the Gardaí.³²¹ The HLTF recommended that the pilot model receive 'full support'.³²²

Another significant development during 2022 was the opening of the new Central Mental Hospital (CMH).³²³ When fully operational, the campus will provide care for 170 patients, with 130 beds in the CMH and the opening on a phased basis during 2023–2024 of a 30-bed intensive care rehabilitation unit and a 10-bed forensic child and adolescent mental health services (CAMHS) unit provided by the National Forensic Mental Health Service (NFMHS), which are the first of their kind in Ireland.³²⁴ While this modernising of the forensic mental health estate is welcome, resourcing of the HLTF recommendations and consistent diversion

at all stages in the justice system will be required to ensure that demand does not rapidly outstrip the capacity of the new CMH.

As of the end of December 2022, there were 18 people in prison awaiting transfer to the CMH,³²⁵ which is a decrease compared to the same time in 2021 (23 people).³²⁶ There was an average of 28 people on the waiting list for transfer to the CMH in 2022,³²⁷ which is an increase on the reported average of 21 people in 2021.³²⁸ The number of patients seen by the Prison In-Reach and Court Liaison Service (PICLS) in Cloverhill increased from 261 in 2021 to 280 in 2022.³²⁹ While there continued to be little public data about access to the CMH during 2022, the NFMHS is developing a clinical management system in 2023 that will support the collation and publication of information.³³⁰

Safety Observation Cells (SOCs) are prison cells designed to accommodate prisoners who pose 'an immediate threat of serious harm to him/herself and/or others arising from a health care condition'.³³¹ The only available data on the use of these cells is a quarterly snapshot and the IPS does not routinely keep records on the lengths of time individuals are held in SOCs (despite commitments made by the former Director General in 2017 to publish this information).³³² However, the IPS confirmed that it would like to maintain such health data; it accordingly plans to recruit a healthcare risk manager during 2023, with this forming part of their role.³³³ An audit of SOC utilisation is also planned following their recruitment.³³⁴

317 Kildare Street, 'Prison Service' (29 November 2023) www.kildarestreet.com/wrans/?id=2022-11-29a.1460 accessed 6 April 2023.

318 Kildare Street, 'Joint Oireachtas Committee on Disability Matters: Accessing Justice' (2 March 2023) www.kildarestreet.com/committees/?id=2023-03-02a.1084 accessed 6 April 2023.

319 Department of Justice, *High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector: Final Report* (Department of Justice and Department of Health 2022) www.gov.ie/pdf/?file=https://assets.gov.ie/236035/0de04b4d-817a-41cf-9779-771ab57703ac.pdf accessed 3 April 2023.

320 Ibid 11.

321 Policing Authority, 'Policing Authority publishes report on roundtable symposium on co-response models to crisis mental health events' (Policing Authority, 23 November 2022) www.policingauthority.ie/en/news/policing-authority-publishes-report-on-roundtable-symposium-on-co-response-models-to-crisis-mental-health-events accessed 12 April 2023.

322 Department of Justice, *High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector: Final Report* (Department of Justice and Department of Health 2022), 13 www.gov.ie/pdf/?file=https://assets.gov.ie/236035/0de04b4d-817a-41cf-9779-771ab57703ac.pdf accessed 3 April 2023.

323 Department of Health, 'Health Ministers Donnelly, Butler and Feighan officially open new National Forensic Mental Health Service' (Gov.ie, 4 November 2022) www.gov.ie/en/press-release/d6a4b-health-ministers-donnelly-butler-and-feighan-officially-open-new-national-forensic-mental-health-service/ accessed 4 April 2023.

324 Ibid.

325 Information provided directly to IPRT by the National Forensic Mental Health Service on 27 March 2023.

326 Irish Penal Reform Trust, *Progress in the Penal System: The need for transparency* (IPRT 2022), 15 www.iprt.ie/site/assets/files/7052/progress_in_the_penal_system_2021_-_final.pdf accessed 4 April 2023.

327 Information provided directly to IPRT by the National Forensic Mental Health Service on 27 March 2023.

328 IPRT, *Progress in the Penal System: The need for transparency* (IPRT 2022), 15 www.iprt.ie/site/assets/files/7052/progress_in_the_penal_system_2021_-_final.pdf 27 March 2023.

329 Information provided directly to IPRT by the National Forensic Mental Health Service on 27 March 2023.

330 Ibid.

331 CPT, *Report to the Government of Ireland on the Visit to Ireland Carried out by the CPT from 23 September to 4 October 2019* (CoE 2020), 34 <https://rm.coe.int/1680a078cf> accessed 8 February 2023.

332 UN Web Tv, 'Consideration of Ireland (Cont'd) – 1551st Meeting 61st Session Committee Against Torture' (28 July 2017), 00:12:30 <https://media.un.org/en/asset/k1x/k1xjaqg18m> accessed 13 April 2023.

333 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

334 Ibid.

Key Action



- The State should ensure the recommendations of the High Level Task Force are fully implemented within their stated timeframes. This should include the resourcing of an oversight function to track (and make public) the progress of implementation.

Assessment of Standard 13: Progress

We hope that in years to come, 2022 will be reflected on as the turning point for access to appropriate mental health support for those who come into contact with the criminal justice system in Ireland. While issues persist with access to services, there has been a sustained investment and focus on the issue of mental health. The recommendations of the High Level Task Force offer a blueprint for progress. Implementation will rely, however, on commitment and ambition at all levels.

Standard 14: Drug and alcohol treatment

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.

Drug and alcohol use is increasingly recognised as a public health issue in Ireland.³³⁵ The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) highlights two important principles for health interventions in prison: equivalence of care to that in the community, and continuity of care between the community and prison on admission and after release.³³⁶

The report of the High Level Task Force (HLTF) to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector (discussed further in *Standard 13*) makes a range of welcome recommendations relevant to this standard, focusing on the need for diversionary approaches that could have significant impacts across the

justice system.³³⁷

Within prisons, while it is frequently stated that approximately 70% of people have addiction issues, this statistic appears to date from a systematic study from 2005.³³⁸ Up-to-date estimates are needed to inform service planning and delivery, and to demonstrate the interdepartmental response needed. Therefore, IPRT strongly welcomes the HLTF recommendation that research be conducted on the prevalence and impact of addiction across the prison estate.³³⁹

While data for 2022 are not yet available, 6.1% of all treatment for problem drug use in Ireland in 2021 occurred in prison.³⁴⁰ This is down from 7.8% in 2020.³⁴¹ As of the end of 2022, 825 prisoners were on the waiting list for addiction services.³⁴² This represents almost 20% of the population at that time,³⁴³ but is just a snapshot of the waiting list on one day. During 2022, Merchants Quay Ireland delivered 13,241 client interventions in prison³⁴⁴ and 1,011 prisoners received methadone.³⁴⁵

The Irish Prison Service (IPS) drugs policy, *Keeping Drugs out of Prison*, dates back to 2006.³⁴⁶ A new drugs policy has been planned since 2018,³⁴⁷ with an initial review completed by the IPS in 2020. However, finalisation was delayed first due to the pandemic, then to consider the recommendations of the HLTF, but is expected to be published in late 2023.³⁴⁸ The IPS has also established a Steering

335 See Department of Health, *Reducing Harm, Supporting Recovery: A health-led response to drug and alcohol use in Ireland 2017-2025* (DoH 2017) [www.gov.ie/pdf/?file=https://assets.gov.ie/14571/c22d1dd1756440f8946717a80ad2ffc3.pdf](https://assets.gov.ie/14571/c22d1dd1756440f8946717a80ad2ffc3.pdf) and Houses of the Oireachtas, *Report on an Examination of the Present Approach to Sanctions for Possession of Certain Amounts of Drugs for Personal Use* (Houses of the Oireachtas 2022) https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_justice/reports/2022/2022-12-14_report-on-an-examination-of-the-present-approach-to-sanctions-for-possession-of-certain-amounts-of-drugs-for-personal-use_en.pdf both accessed 14 April 2023.

336 EMCDDA, 'Prisons and drugs: health and social responses' (EMCDDA, 21 April 2022) www.emcdda.europa.eu/publications/mini-guides/prisons-and-drugs-health-and-social-responses_en accessed 12 April 2023.

337 Department of Justice, *High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector: Final Report* (Department of Justice and Department of Health 2022) [www.gov.ie/pdf/?file=https://assets.gov.ie/236035/0de04b4d-817a-41cf-9779-771ab57703ac.pdf](https://assets.gov.ie/236035/0de04b4d-817a-41cf-9779-771ab57703ac.pdf) accessed 3 April 2023.

338 '70%' referred to by the Minister for Justice on a number of occasions in 2022. For example, see Kildare Street, 'Prison Service' (11 May 2022) www.kildarestreet.com/wrans/?id=2022-05-11a.505 and Kildare Street, 'Prison Service' (27 January 2022) www.kildarestreet.com/wrans/?id=2022-01-27a.798. Derived from Harry Kennedy et al., *Mental Illness in Irish Prisoners* (NFMHS 2005) www.drugsandalcohol.ie/6393/1/4338_Kennedy_Mental_illness_in_Irish_prisoners.pdf all accessed 13 April 2023.

339 Department of Justice, *High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector: Final Report* (Department of Justice and Department of Health 2022), 17 [www.gov.ie/pdf/?file=https://assets.gov.ie/236035/0de04b4d-817a-41cf-9779-771ab57703ac.pdf](https://assets.gov.ie/236035/0de04b4d-817a-41cf-9779-771ab57703ac.pdf) accessed 6 April 2023.

340 Where someone treated in prison has been in prison for less than six months prior to starting treatment, area of residence is the place of residence prior to imprisonment. This could mean that the prevalence of treatment in prison is higher than reported. Health Research Board, *2015 – 2021 Drug Treatment Data* (HRB 2022), 5 www.hrb.ie/fileadmin/2_Plugin_related_files/Publications/2022_Publication_files/NDTRS_2022/Drug_Bulletin/Drug_treatment_in_Ireland_2015_to_2021.pdf accessed 14 April 2023.

341 Ibid.

342 Kildare Street, 'Prison Service' (14 February 2023) www.kildarestreet.com/wrans/?id=2023-02-14a.1310 accessed 14 April 2023.

343 Estimated using the number in custody on 30 December 2022. Irish Prison Service, *Prisoner Population on Friday 30th December 2022* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/30-December-2022.pdf accessed 14 April 2023.

344 Kildare Street, 'Prison Service' (14 February 2023) www.kildarestreet.com/wrans/?id=2023-02-14a.1310 accessed 14 April 2023.

345 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

346 Irish Prison Service, *Keeping Drugs Out of Prisons: Drugs Policy & Strategy* (IPS 2006) www.irishprisons.ie/wp-content/uploads/documents/drugspolicy.pdf accessed 12 April 2023.

347 Irish Prison Service, *Annual Report 2018* (IPS 2019), 36 www.irishprisons.ie/wp-content/uploads/documents_pdf/Annual-Report-2018.pdf accessed 11 April 2023.

348 Kildare Street, 'Departmental Reviews' (14 February 2023) www.kildarestreet.com/wrans/?id=2023-02-14a.1307 accessed 12 April 2023.

Group to review the current Drug Treatment Programme.³⁴⁹

While the report of the health needs assessment has not been published, the IPS Director General stated that the assessment recommended the setting up of a dual diagnosis service within the prison system to deal with people who have both a mental illness and an addiction.³⁵⁰ A similar recommendation was made by the HLTF, which recommended that a pilot dual diagnosis programme be established to provide the basis for a broader roll-out across the prison estate.³⁵¹

Given the high proportion of prisoners with addiction issues, alternatives to imprisonment involving access to treatment are needed. The integrated community service model, first piloted in 2016 and rolled out nationally on an incremental basis in 2017, allows one-third of a participant's community service hours to be used for programmes such as education, training, or treatment.³⁵² The programme was due to be evaluated in 2019,³⁵³ but no specific evaluation has been completed to date.³⁵⁴ In July 2022, the Probation Service commissioned an operational review of community service, which includes an examination of the integrated model.³⁵⁵ Recent research found that while the model is effective in promoting rehabilitation and desistance, low take-up rates and its inconsistent imposition indicate that an evaluation is needed to assess if the sanction is operating to its full potential.³⁵⁶

349 Ibid.

350 Kildare Street, 'Joint Oireachtas Committee on Disability Matters: Accessing Justice' (2 March 2023) www.kildarestreet.com/committees/?id=2023-03-02a.1084 accessed 6 April 2023.

351 Department of Justice, *High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector: Final Report* (Department of Justice and Department of Health 2022), 122 [www.gov.ie/pdf/?file=https://assets.gov.ie/236035/0de04b4d-817a-41cf-9779-771ab57703ac.pdf](https://assets.gov.ie/236035/0de04b4d-817a-41cf-9779-771ab57703ac.pdf) accessed 3 April 2023.

352 Louise Kennefick and Eoin Guilfoyle, *An Evidence Review of Community Service Policy, Practice and Structure* (Probation Service 2022) [www.probaton.ie/EN/PB/O/B28C57C6B765BFF98025891000379F2E/\\$File/FOR%20PRINT%20CS%20Review_FINAL_271022.docx.pdf](http://www.probaton.ie/EN/PB/O/B28C57C6B765BFF98025891000379F2E/$File/FOR%20PRINT%20CS%20Review_FINAL_271022.docx.pdf) accessed 14 April 2023.

353 Houses of the Oireachtas, 'Probation and Welfare Service Data' (12 March 2019) www.oireachtas.ie/en/debates/question/2019-03-12/12/ accessed 13 April 2023.

354 Information provided directly to IPRT by the Probation Service on 14 March 2023. Final data pending publication of the Probation Service Annual Report 2022 in mid-2023.

355 Ibid.

356 Louise Kennefick and Eoin Guilfoyle, *An Evidence Review of Community Service Policy, Practice and Structure* (Probation Service 2022) [www.probaton.ie/EN/PB/O/B28C57C6B765BFF98025891000379F2E/\\$File/FOR%20PRINT%20CS%20Review_FINAL_271022.docx.pdf](http://www.probaton.ie/EN/PB/O/B28C57C6B765BFF98025891000379F2E/$File/FOR%20PRINT%20CS%20Review_FINAL_271022.docx.pdf) accessed 14 April 2023.

357 Houses of the Oireachtas, *Report on an Examination of the Present Approach to Sanctions for Possession of Certain Amounts of Drugs for Personal Use* (Houses of the Oireachtas 2022), 6 https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_justice/reports/2022/2022-12-14_report-on-an-examination-of-the-present-approach-to-sanctions-for-possession-of-certain-amounts-of-drugs-for-personal-use_en.pdf accessed 14 April 2023.

358 Government of Ireland, *Programme for Government: Our Shared Future* (Gov.ie 2020), 50 [www.gov.ie/pdf/?file=https://assets.gov.ie/130911/fe93e24e-dfe0-40ff-9934-def2b44b7b52.pdf](https://assets.gov.ie/130911/fe93e24e-dfe0-40ff-9934-def2b44b7b52.pdf) accessed 21 March 2023.

359 Department of the Taoiseach, 'Government agrees to establish a Citizens' Assembly on Drug Use' (Gov.ie, 14 February 2023) www.gov.ie/en/press-release/64aa6-government-agrees-to-establish-a-citizens-assembly-on-drugs-use/ accessed 13 April 2023.

Key Action

- The Irish Prison Service should update and publish its drugs policy. This policy should adopt a health-led approach to responding to drug use in prison.

Assessment of Standard 14: No change

While the publication of the final report of the High Level Task Force is welcome, action under this standard during 2022 has been minimal. However, some foundations for progress were set in 2022. The publication of a new health-led Irish Prison Service drugs policy, the evaluation and promotion of the integrated community service model (as needed), as well as systematic and representative research on the prevalence of problem drug and alcohol use in the prison system, would mark significant progress under this standard in the year ahead.

Standard 15: Privacy

Standard 15: A prisoner's right to privacy, and that of his/her family members, is respected and protected.

Privacy is a fundamental human right, enshrined in numerous international human rights instruments.³⁶⁰ Privacy is central to the protection of human dignity and reinforces other rights, such as freedom of expression, information, and association. Sensationalistic media reporting can negatively impact both the privacy of the prisoner and their family, impeding future rehabilitation prospects.

In recent years, there have been a number of media reports that lead to questions about where the boundaries of appropriate reporting lie. Coverage has included photographs of serving prisoners on prison grounds, photographs of recently released prisoners outside their homes, and photographs of prisoners on temporary release.³⁶¹ It is important that the privacy rights of the individual and his/her family are respected at all stages of the criminal justice system, and that the media are held to account when privacy rights are breached.

A recent complaint made to the Press Ombudsman by a taxi driver who took a fare from someone on release from prison demonstrates the intrusive impact that media reporting can have, not only on the person being released, but also on others with whom they come into contact. In this case, the news article included photographs of a former prisoner, which contained the man's taxi licence number: the Press Ombudsman upheld the taxi driver's complaint that the publication breached Principle 5 (Privacy) of the Press Council's Code of Practice.³⁶²

Along with intrusive coverage, the language used by certain media outlets when referring to prisoners is often derogatory. The absence of guidance in this respect is a notable gap. 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. Public interest is arguably not served by media reporting that heightens disproportionate fear or interrupts positive rehabilitation.

The formal establishment of Coimisiún na Meán (Ireland's media commission) marks an expansion of media regulation in the State and effectively introduces regulatory oversight of online content for the first time.³⁶³ The Coimisiún will be responsible for overseeing updated regulations for broadcasting providers. It is unclear what impact – if any – this will have on the protection of rights for people in prison and on release from prison. However, as part of updating the regulations, consideration should be given to people in contact with the criminal justice system.

Key Action

- The Press Ombudsman of Ireland and Coimisiún na Meán 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.

Assessment of Standard 15: Insufficient data

Since the commencement of the PIPS project, accessing sufficient information to make a thorough assessment of this standard has been a challenge. With both the appointment of a new Press Ombudsman³⁶⁴ and the establishment of Coimisiún na Meán, there is now an opportunity for potential progress in this space.

³⁶⁰ For example, see Universal Declaration of Human Rights (Article 12), International Covenant on Civil and Political Rights (Article 17); and the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 8).

³⁶¹ [Please note that the hyperlinks have purposely been withheld in the following references] Emma McMenemy, 'Veronica Guerin killer Brian Meehan developing golfing green for fellow inmates to play on' *Irish Mirror* (27 November 2022); Paul Healy, 'Samurai sword killer released from Irish prison after just 13 years despite 22 year 'minimum' sentence' *Irish Mirror* (1 May 2021); and Conor Feehan, 'Back on the streets: Frank McCann – the swimming coach who killed his wife and child to hide a sordid secret' (30 July 2022).

³⁶² Office of the Press Ombudsman, '1386/2022 - Mr Brian McDermott and the Sunday World' (2022) (*Office of the Press Ombudsman, 2022*) www.presscouncil.ie/office-of-the-press-ombudsman/outcome-of-complaints/decided-by-the-press-ombudsman/13862022-mr-brian-mcdermott-and-the-sunday-world accessed 8 March 2023.

³⁶³ Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, 'New media regulator, Coimisiún na Meán, formally established' (*Gov.ie*, 15 March 2023) www.gov.ie/en/press-release/83829-unpublished-new-media-regulator-coimisiun-na-mean-formally-established-today/ accessed 15 March 2023.

³⁶⁴ Press Council of Ireland, 'Susan McKay appointed Press Ombudsman' (*Press Council*, 13 July 2023) www.presscouncil.ie/press-council-of-ireland/press-releases-and-annual-reports/press-releases/susan-mckay-appointed-press-ombudsman accessed 4 April 2023.



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.

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 activities during their sentences.

The lack of published data on out-of-cell time for the general prison population continues to frustrate the monitoring of trends. Data on average out-of-cell time for the general population during 2022 were not available for analysis.³⁶⁵

There continues to be a high number of people on restricted regimes (i.e. locked in a cell for 19 hours a day or more). In October 2022, there were 733 people on a restricted regime.³⁶⁶ This represented approximately 17.3% of all people in prison at the time. This marked a slight decrease on the total number of people on restricted regimes in the previous Census in July 2022 (763);³⁶⁷ however, it is a significant increase on the number of people held on a restricted regime prior to the pandemic (545).³⁶⁸ The overall increase in the use of restricted regimes has meant that the system's capacity to fulfil one of the primary purposes of prison – rehabilitation – has been diminished.

While acknowledging efforts of the Irish Prison Service (IPS) to support those who are confined to their cells for long hours, such as the introduction of in-cell telephones (see *Standard 11*) and the prisoner TV channel,³⁶⁹ these are not effective long-term substitutes for out-of-cell time. The primary focus should be on reducing the number of people subject to restricted regimes. While the IPS has confirmed that the decision to remove a prisoner from the general population is reviewed at regular intervals to ensure that the prisoner is not detained for longer than necessary on a restricted regime,³⁷⁰ little is known about what steps are proactively taken to minimise the number of people on a restricted regime (see *Standard 26*).

The impact of staffing shortfalls on access to out-of-cell activities, often as a result of staff being diverted to escort activities, has been highlighted by the Director General of the IPS³⁷¹ and the Minister for Justice.³⁷² The Minister has stated that the IPS will monitor and audit the application of additional staffing resources afforded to it under Budget 2023 for commensurate improvements in access to prisoner services.³⁷³

³⁶⁵ IPRT requested this information from the Irish Prison Service, but as of late April 2023, it was not available.

³⁶⁶ Irish Prison Service, *Census of Restricted Regime Prisoners October 2022* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2022-Restriction.pdf accessed 6 April 2023.

³⁶⁷ Irish Prison Service, *Census of Restricted Regime Prisoners July 2022* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/July-2022-Restriction.pdf accessed 6 April 2023.

³⁶⁸ Irish Prison Service, *Census of Restricted Regime Prisoners October 2019* (IPS 2019) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2019-Restriction.pdf accessed 5 April 2023.

³⁶⁹ See status updates, CKCT13 Cork Prison and MDCT16 Midlands Prison. Office of the Inspector of Prisons, 'Inspections Recommendation Monitoring' (*Oip.ie*, 2023) www.oip.ie/inspections-recommendation-monitoring/ accessed 6 April 2023.

³⁷⁰ Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

³⁷¹ Kildare Street, 'Joint Oireachtas Committee on Education and Skills: Ireland Prison Education Strategy 2019–2022' www.kildarestreet.com/committees/?id=2022-07-05a.307 accessed 5 April 2023.

³⁷² Kildare Street, 'Prison Service' (15 November 2022) www.kildarestreet.com/wrans/?id=2022-11-15a.1115 accessed 4 April 2023.

³⁷³ *Ibid.*

Key Action



- The Irish Prison Service should systemise the collection and publication of data on the extent to which the general prison population has access to out-of-cell time, including outdoor exercise and meaningful human contact, as part of the *Census of Restricted Regimes*.

Assessment of Standard 14: Insufficient data

The vision of this standard is still far from being achieved and more data are required to enable thorough analysis. While the number of people on restricted regimes has decreased from pandemic highs, it remains higher than it was pre-pandemic, which – as IPRT noted at the time – was already at concerning levels.³⁷⁴

³⁷⁴ Irish Penal Reform Trust, *Progress in the Penal System: A framework for penal reform (2019)* (IPRT 2019) <https://pips.iprt.ie/site/assets/files/Progress-in-the-Penal-System-2019.pdf> accessed 5 April 2023.

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.

Education is a vital aspect of human development and is a basic human right. The prison population is often characterised as having a low level of educational attainment; therefore, efforts should be made to maximise the positive role education can play in this context. Prison education needs to be comprehensive and reflect the diverse needs and interests of the prison population.

Education in prison is an important service delivered in partnership between the Irish Prison Service (IPS) and Education and Training Boards Ireland (ETBI). During 2022, the Department of Education allocated 220 whole-time teacher equivalents to the IPS through the Education and Training Boards (ETBs).³⁷⁵ Service delivery has been guided by the Joint IPS and ETBI *Prison Education Strategy 2019–2022*³⁷⁶ and it is intended that the successor to this strategy will be developed and implemented from 2023.³⁷⁷

It is worth noting that, each year, approximately two-thirds of all people committed to prison are committed for less than 12 months. These people are more than likely unemployed and approximately 14% are homeless.³⁷⁸ This high proportion of short-term committals with complex needs makes it difficult for the IPS to deliver meaningful educational services to those in custody.

In 2022, 32.45% of the total prison population attended education classes,³⁷⁹ compared to the

28% attendance rate reported for 2021.³⁸⁰ Following the non-publication of data for several years, IPRT welcomes that prison education and training data were published in the *IPS Annual Report 2021*.

The continued impact of staffing shortfalls on access to education was highlighted by both the Director General of the IPS³⁸¹ and the Minister for Justice in 2022.³⁸² The number of full-day closures and partial-day closures in 2022 (covering January to September) – specifically due to redeployments or absences – was higher than in 2020 and 2021, despite the shorter time period.³⁸³ Further information on education in prisons – such as closure data for the full 2022 calendar year and examples of progressive practice in the delivery of education either nationally or in specific prisons – were not available for analysis.³⁸⁴

In 2022, 11 prisoners completed the Junior Certificate, 64 prisoners completed the Leaving Certificate, a small number of prisoners were registered in higher education institutes and, in October 2022, 84 prisoners were registered with the Open University.³⁸⁵ As of early 2023, 70 prisoners had access to a laptop for educational purposes.³⁸⁶ While IPRT acknowledges that formal certification is not the only measure of success under this standard, it is positive that this is being facilitated by the IPS.

The IPS is working with Dublin City University (DCU) to conduct an audit of literacy and numeracy across the prisoner population. While this was delayed due to COVID-19, as of late 2022 work was underway to commence the audit, with a view to informing the development of services in this area.³⁸⁷ This is welcome but long overdue, with the last comprehensive prison literacy study published two decades ago.³⁸⁸ Relatedly, a report of a peer-to-peer prison literacy case study, conducted by the National Adult Literacy Agency (NALA), was published in 2022.³⁸⁹

³⁷⁵ Kildare Street, 'Prison Service' (15 November 2022) www.kildarestreet.com/wrans/?id=2022-11-15a.1115 accessed 4 April 2023.

³⁷⁶ Irish Prison Service and Education and Training Boards Ireland, *Prison Education Strategy 2019–2022* (IPS 2019) www.irishprisons.ie/wp-content/uploads/documents_pdf/Irish-Prison-Service-Joint-Education-Strategy_PRINT-final.pdf accessed 6 April 2023.

³⁷⁷ Kildare Street, 'Prison Service' (17 February 2022) www.kildarestreet.com/wrans/?id=2022-02-17a.667 accessed 6 April 2023.

³⁷⁸ Kildare Street, 'Joint Oireachtas Committee on Education and Skills: Ireland Prison Education Strategy 2019–2022' (5 July 2022) www.kildarestreet.com/committees/?id=2022-07-05a.307 accessed 4 April 2023.

³⁷⁹ Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

³⁸⁰ Irish Prison Service, *Annual Report 2021* (IPS 2022), 10 www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-21_Final.pdf accessed 6 April 2023.

³⁸¹ Kildare Street, 'Joint Oireachtas Committee on Education and Skills: Ireland Prison Education Strategy 2019–2022' (5 July 2022) www.kildarestreet.com/committees/?id=2022-07-05a.307 accessed 4 April 2023.

³⁸² Kildare Street, 'Prison Service' (15 November 2022) www.kildarestreet.com/wrans/?id=2022-11-15a.1115 accessed 4 April 2023.

³⁸³ Ibid.

³⁸⁴ IPRT requested this information from the Irish Prison Service, but as of late April 2023, it was not available.

³⁸⁵ Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

³⁸⁶ Ibid.

³⁸⁷ Department of Justice, *Review of Policy Options for Prison and Penal Reform 2022–2024* (DoJ 2022), 66 [www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf](https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf) accessed 8 February 2023.

³⁸⁸ Mark Morgan and Mary Kett, *The Prison Adult Literacy Survey Results and Implications* (IPS 2003) www.drugsandalcohol.ie/27366/1/adult_literacy_survey.pdf accessed 13 February 2023.

³⁸⁹ National Adult Literacy Agency, *Here to help* (NALA 2022) www.nala.ie/wp-content/uploads/2022/03/Case-study-Peer-to-peer-prison-literacy-project-NALA.pdf accessed 5 April 2023.

The in-cell information TV channel was expanded in 2022 to enable education courses and learning to take place during weekends and school holidays in Dublin prisons.³⁹⁰ While IPRT believes that in-person participation in education cannot be replaced by online learning, the provision of such in-cell technology is very progressive.

PIPS previously recommended a review of prison education by the Inspectorate of the Department of Education.³⁹¹ In 2022, the Office of the Inspector of Prisons (OIP) signed a Memorandum of Agreement with the Inspectorate of the Department of Education, enabling the OIP to benefit from its expertise when carrying out any relevant evaluations.³⁹² They have also worked together on a thematic review of education and training in prisons, which is not yet published.³⁹³

Work and training activities in prisons are delivered separately from education. Nevertheless, a 2021 internal review found that scope exists for greater integration of the work and training function delivered by the IPS and the education function delivered by ETBs to provide a programme of education and skills that is flexible to labour market demand.³⁹⁴ It also noted that the inclusion of a work and training indicator in prison reoffending data published by the Central Statistics Office would allow for exploration of the potential impact of engagement in work and training on recidivism.³⁹⁵

While engagement with education in prison can be transformative for learners, support structures to help them with progression after release – where desired – are necessary. In early 2022, with the support of the IPS, the Probation Service announced a €100,000 KickStart Scholarship Fund that will provide funding opportunities for people with criminal convictions who are experiencing socio-economic disadvantage to enable them to access higher education.³⁹⁶

The Minister for Justice stated in early 2023 that he hopes to establish a 'prison and education task force'.³⁹⁷ Given the gaps in understanding of the educational needs of the prison population, and the transformative power of education in rehabilitation, this would be a very welcome initiative. IPRT will

continue to closely follow updates in this area.

Key Actions

- The Irish Prison Service should review staff rosters and staff leave practices to facilitate greater access to education and other activities for the prison population.
- The Irish Prison Service, through strategic partnerships, should conduct a longitudinal analysis of outcomes for people who engage in prison education and/or training activities.

Assessment of Standard 19: Mixed

IPRT welcomes efforts to expand the delivery of education through technology and commends the ongoing commitment of staff to reach learners. External oversight of the provision of prison education is a welcome advancement. However, shortfalls in staffing continue to have detrimental impacts on access to meaningful education and undermine the positive work being done across the prison estate.

³⁹⁰ Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

³⁹¹ Irish Penal Reform Trust, *Progress in the Penal System: A framework for penal reform* (2019) (IPRT 2019), 75 <https://pips.iprt.ie/site/assets/files/Progress-in-the-Penal-System-2019.pdf> accessed 5 April 2023.

³⁹² Office of the Inspector of Prisons, *Memorandum of understanding between Inspectorate Division, Department of Education and The Office of the Inspector of Prisons* (OIP 2022) www.oip.ie/wp-content/uploads/2022/09/MoU-OIP-DE-Inspectorate-March-2022.pdf accessed 5 April 2023.

³⁹³ Office of the Inspector of Prisons, 'Today the @OIP_Ireland and @SSEinspectorate commenced an inspection of Wheatfield Prison...' (Twitter, 7 April 2022) https://twitter.com/OIP_Ireland/status/1512007322838646787 accessed 6 April 2023.

³⁹⁴ Caroline Finn, *Spending Review 2021: Review of the Programme of Work and Training in the Irish Prison Service* (IPS 2021) www.gov.ie/pdf/?file=https://assets.gov.ie/205493/b0cabab7-17f9-4231-ad48-4827eee4c9f2.pdf accessed 6 April 2023.

³⁹⁵ Ibid.

³⁹⁶ The Probation Service, 'Probation Service Launches new scholarship fund aimed at supporting people with criminal convictions to access higher education' (Probation Service, 13 January 2023) www.probaton.ie/en/PB/Pages/WP22000001 accessed 6 April 2023.

³⁹⁷ Kildare Street, 'Select Committee on Justice and Equality: Estimates for Public Services 2023' (14 February 2023) www.kildarestreet.com/committees/?id=2023-02-14a.1154 accessed 18 April 2023.



D:

Complaints, accountability, and inspection mechanisms

Standard 22: Complaints system

Standard 22:
Prisoners have access to a robust and effective complaints mechanism. All complaints are dealt with in a timely manner with the outcome of decisions clearly communicated to the prisoner and with a satisfactory resolution if the complaint is upheld.

Having access to a robust and effective complaints mechanism is of particular importance for people detained in closed institutions in order to protect against potential human rights violations.

The introduction of a revised prison complaints system is overdue. Ireland's current complaints system has been subject to criticism both domestically and internationally. Most recently, the UN Human Rights Committee stated in 2022 that Ireland should 'ensure that all persons deprived of their liberty have access to an independent and effective complaints mechanism to investigate allegations of torture and ill-treatment'.³⁹⁸ The Office of the Inspector of Prisons (OIP) labelled the system as not fit for purpose in its three most recent annual reports.³⁹⁹

As of early 2023, drafting of the Regulations necessary to embed the revised complaints system is at 'an advanced stage'.⁴⁰⁰ Once finalised, it is estimated that work to implement the new Regulations will take roughly 16-18 weeks to complete.⁴⁰¹ However, IPRT remains concerned about the rollout, given that deadlines have shifted on numerous occasions.⁴⁰² The former Inspector of Prisons noted that 'failure to replace the current system is indicative of the priority it is receiving'.⁴⁰³

In recent Irish research, interviewed prisoners spoke of a lack of faith in the system working for prisoners.⁴⁰⁴ Some referred to a lack of response when a complaint was submitted, while others felt that they were actively discouraged by staff from submitting complaints. Some participants felt that putting in a complaint could potentially worsen their situation in prison.⁴⁰⁵ Other Irish research found that, among 508 prisoner participants, the complaints system was largely viewed negatively (receiving an average score of 2.41, on a scale of 1 to 5, with higher scores indicating more positive views).⁴⁰⁶

Category A complaints⁴⁰⁷ are the most serious form of complaint and, unless determined as vexatious, are investigated outside the Irish Prison Service (IPS).⁴⁰⁸ The OIP also has oversight of all Category A investigations.⁴⁰⁹ As of early 2023, over 96% of the investigations into the 84 Category A complaints

398 UN Human Rights Committee, 'Concluding observations on the fifth periodic report of Ireland' (UN OHCHR 2003) <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPFPRICAqhKb7yhsieXFSudRZs%2FX1ZaMqUuos%2BbcAGuuCi6l4l7uiVhbuLp%2F2IGSD7bncJtrRhGdU%2Buuibeg7sXz%2F5gGDvOE3%2BT1lgNlx3fUqWN8gmOpFITlqn> accessed 11 April 2023.

399 See *Annual Report 2021, Annual Report 2020 and Annual Report 2019*. Office of the Inspector of Prisons, 'Annual Reports' (*Oip.ie*, 2023) www.oip.ie/publications/annual-reports/ accessed 7 April 2023.

400 Kildare Street, 'Prison Service' (15 February 2023) www.kildarestreet.com/wrans/?id=2023-02-15a.280 accessed 7 April 2023.

401 Ibid.

402 Previous timelines have included Q3 2019 and the end of 2020. For example, see Kildare Street, 'Inspector of Prisons' (30 January 2019) www.kildarestreet.com/wrans/?id=2019-01-30a.320; and Kildare Street, 'Prisoner Complaints Procedures' (14 July 2020) www.kildarestreet.com/wrans/?id=2020-07-14a.2494 both accessed 14 April 2023.

403 Office of the Inspector of Prisons, *Annual Report 2021* (OIP 2022) www.oip.ie/wp-content/uploads/2022/09/Office-of-the-Inspector-of-Prisons-Annual-Report-English.pdf accessed 14 April 2023.

404 Sophie van der Valk and Mary Rogan, 'Complaining in Prison: "I suppose it's a good idea but is there any point in it?"' (2023) 264 *Prison Service Journal* www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/PSJ%20264%20January%202023_0.pdf accessed 22 March 2023.

405 Ibid.

406 Sophie van der Valk et al., '[Y]ou are better off talking to a f***** wall': The perceptions and experiences of grievance procedures among incarcerated people in Ireland' (2022) 56(2) *Law & Society Review* 261 <https://onlinelibrary.wiley.com/doi/pdf/10.1111/lasr.12603> accessed 11 April 2023.

407 'Category A' is defined in Rule 57B (1) of the Prison Rules 2007–2020 as: 'Assault or use of excessive force against a prisoner or ill treatment, racial abuse, discrimination, intimidation, threats or other conduct against a prisoner of a nature and gravity likely to bring discredit on the Irish Prison Service'.

408 Irish Prison Service, *Prisoner Complaints Policy* (IPS 2021) www.irishprisons.ie/wp-content/uploads/documents_pdf/11-011-Prisoner-Complaints-Policy.pdf accessed 13 April 2023.

409 Office of the Inspector of Prisons, 'What we do – Oversight of the Irish Prison Service Prisoner Complaints Procedure' (*Oip.ie*, 2023) www.oip.ie/what-we-do/ accessed 13 April 2023.

submitted in 2021 had been completed. Of these, none were upheld and only three (3.57%) were partially upheld. While only 25% of Category A complaints submitted in 2022 had been completed by early 2023, one had been upheld and there was a significant increase in the proportion of these complaints that were partially upheld (16.18%).⁴¹⁰

Table 22.1: Outcome of Category A complaints, 2021 and 2022⁴¹¹

Outcome	2021		2022	
	Number	%	Number	%
Withdrawn	7	8.33	2	2.94
Outside scope	8	9.52	3	4.41
Upheld	0	0.00	1	1.47
Part upheld	3	3.57	11	16.18
Not upheld	58	69.05	0	0.00
Unable to determine	5	5.95	0	0.00
Incomplete	3	3.57	51	75.00
Total	84	100.00	68	100.00

Outside of the ‘formal’ complaints system, Prison Visiting Committees also have a role in hearing individual complaints from prisoners.⁴¹² However, there is no available information about the operation of this function during 2022.

Any new complaints system cannot be effective without conditions in place that support it, including the promotion of a positive culture (see *Standard 30*). Prisoners are largely reliant on staff in order to access their rights and, as such, relationships play a crucial role in the prison environment.⁴¹³ A robust complaints system in which staff and prisoners have confidence would support better management of prisons and better outcomes for everyone.

Key Action 

- The Irish Prison Service and the Department of Justice should work with the Office of the Parliamentary Counsel to introduce the new internal complaints system as a matter of urgency.

Assessment of Standard 22: No change

Despite long-promised reform in this area, advancement has been slow. For another year, the new internal complaints system has not been rolled out. Some concerning findings from new research in this area should add further impetus for swift reform.

410 Kildare Street, ‘Prison Service’ (15 February 2023) www.kildarestreet.com/wrans/?id=2023-02-15a.280 accessed 7 April 2023.

411 Ibid.

412 Rule 56, Prison Rules 2007, 252/2007.

413 Crewe et al., ‘Staff-Prisoner Relationships, Staff Professionalism, and the Use of Authority in Public- and Private-Sector Prisons’ 40(2) *Law & Social Inquiry* 309 <https://onlinelibrary.wiley.com/doi/epdf/10.1111/lsi.12093> accessed 13 April 2023.

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.

As prisoners are detained in a closed environment, they are at increased risk of human rights violations. Having access to an independent external appeal mechanism acts as an important safeguard against any potential violation of the human rights of those detained in prison.

In recent Irish research with 508 prisoner participants, when surveyed about the characteristics of a good complaints system, access to independent reviews was among the top three attributes identified.⁴¹⁴ However, prisoners still have no access to a fully independent complaints and appeals mechanism, despite commitments in 2016 that the Ombudsman would fulfil this role.⁴¹⁵ In an opening statement to a Joint Oireachtas Committee in late 2021, the former Ombudsman stated that bringing prison complaints under the jurisdiction of the Office of the Ombudsman has been ‘painfully slow’ and ‘needs to be concluded as soon as possible’.⁴¹⁶

Following consultation with the Ombudsman, it was agreed that under the revised complaints system, the role of the Ombudsman would become operational once the new system has been introduced and bedded down.⁴¹⁷ It was indicated that this would be 12 months following the establishment of the new system.⁴¹⁸ This approach would allow for issues that arise with the general operation of the complaints system to be accounted for in the implementation of the Ombudsman’s role.⁴¹⁹ However, given the delays in the rollout of the new complaints system, IPRT urges that consideration be given to whether an interim arrangement for prisoners’ access to the Ombudsman be commenced at an earlier stage. Continued delays put the rights of people in custody at risk.

Access to an appeal to the Office of the

Ombudsman will ensure that complaints within the prison system are treated similarly to complaints by people who feel they have been unfairly treated by wider public services.

Key Action 

- The State must ensure, as a matter of urgency, that the Office of the Ombudsman is adequately resourced to accept prisoner complaints. Consideration should also be given to developing an interim arrangement for the Ombudsman to accept prisoner complaints pending the introduction of the new prison complaints system.

Assessment of Standard 23: No change

Despite numerous recommendations over many decades for prisoners to have access to an external independent complaints mechanism and long-promised reform, there remains no recourse for prisoners to directly make or appeal a complaint to an external body. This standard remains unmet for another year.

414 Sophie van der Valk et al., ‘[Y]ou are better off talking to a f***** wall’: The perceptions and experiences of grievance procedures among incarcerated people in Ireland’ (2022) 56(2) *Law & Society Review* 261 <https://onlinelibrary.wiley.com/doi/pdf/10.1111/lasr.12603> accessed 11 April 2023.

415 Department of Justice, ‘Tánaiste accepts recommendation to give Ombudsman a role in prison complaints’ (DoJ, 8 June 2016) <http://ipo.gov.ie/en/JELR/Pages/PR16000125> accessed 14 April 2023.

416 Office of the Ombudsman, *Statement by Mr Peter Tyndall, Ombudsman, to the Joint Committee on Public Petitions* (Houses of the Oireachtas 2021) https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/committee_on_public_petitions/submissions/2021/2021-09-30_opening-statement-peter-tyndall-et-al-ombudsman-the-office-of-the-ombudsman_en.pdf accessed 14 April 2023.

417 Kildare Street, ‘Inspector of Prisons’ (30 January 2019) www.kildarestreet.com/wrans/?id=2019-01-30a.320 accessed 14 April 2023.

418 Maresa Fagan, ‘No prisoner Ombudsman until late 2021’ *Irish Examiner* (6 November 2020) www.irishexaminer.com/news/courtandcrime/arid-40077377.html accessed 14 April 2023.

419 Kildare Street, ‘Prison Service’ (15 February 2023) www.kildarestreet.com/wrans/?id=2023-02-15a.280 accessed 14 April 2023.

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.

Independent monitoring and inspection of places of detention are central to preventing human rights abuses from occurring in prisons and increasing the levels of accountability and transparency within the prison system.

Recent revisions to the European Prison Rules have highlighted the increasing importance of inspection and monitoring for the purposes of ensuring the dignity of people in custody.⁴²⁰ In recent research on prison oversight in Ireland, prison managers appreciated and acknowledged that without external scrutiny prison ‘could become a dark place very quick’.⁴²¹

One of the dominant issues in prison inspection during 2022 was the non-publication of the long-awaited Office of the Inspector of Prisons (OIP) section 31(2) investigation report into issues arising in the Dóchas Centre. The Minister is withholding publication of the report, as well as a three-day monitoring report and a supplementary report produced at the Minister’s request following the section 31(2) investigation, a decision based on ‘legal advice’.⁴²² The non-publication of these reports, and failure to communicate in detail the reasons why, tie into bigger issues with accountability, transparency, and trust in the penal system. Comments made by the outgoing Chief

Inspector of Prisons were of further concern to IPRT in 2022.⁴²³

The final COVID-19 thematic inspection reports were published in early 2022, as well as a summary document providing an overview of the findings from all COVID-related inspections carried out in 2021. The OIP made this summary available in ten different languages.⁴²⁴ An additional welcome development in 2022 was the commencement of the first general inspection of a prison in many years.⁴²⁵ In early 2023, the Inspectorate further completed a thematic inspection of mental health services in seven prisons.⁴²⁶ Given the comments and recommendations of the European Committee for the Prevention of Torture (CPT) in the area of mental health following its last visit to Ireland in 2019,⁴²⁷ this inspection is particularly timely.

The OIP also published its *Policy on Monitoring Recommendations*⁴²⁸ and launched a new online database which allows the public to track the status of the implementation of recommendations.⁴²⁹ This progressive system increases transparency and builds trust in the system of oversight.

However, while there has been an increase in the outputs of the OIP, the Chief Commissioner of the Irish Human Rights and Equality Commission (IHREC) has raised concerns that the current OIP is not ‘independent in the way it should be to effectively do its job’.⁴³⁰

Ireland has again failed to deliver on its Programme for Government commitment to ratify and implement the Optional Protocol to the Convention Against Torture (OPCAT).⁴³¹ This is despite the UN Human Rights Committee, in its July 2022 Concluding Observations following Ireland’s fifth periodic review under the International Covenant on Civil and Political Rights (ICCPR),

420 Council of Europe, ‘Recommendation Rec (2006)2-rev of the Committee of Ministers to member States on the European Prison Rules’ (CoE 2020), 93 https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809ee581 accessed 27 January 2023.

421 Sarah Currigan and Mary Rogan, ‘When an Inspector Calls: Perceptions of oversight among prison management’ (2022) 263 *Prison Service Journal* www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/PSJ%20263%20November%202022.pdf accessed 3 February 2023.

422 Kildare Street, ‘Departmental Reports’ (29 November 2022) www.kildarestreet.com/wrans/?id=2022-11-29a.1492 accessed 24 March 2023.

423 Mick Clifford, ‘Prison inspector left position “due to attempts to undermine her office”’ *Irish Examiner* (23 February 2022) www.irishexaminer.com/news/arid-40814280.html accessed 14 April 2023.

424 Office of the Inspector of Prisons, *Summary of inspection reports: Prison conditions during the COVID-19 pandemic* (OIP 2022) www.oip.ie/wp-content/uploads/2022/06/OIP-COVID19-Booklet-Final.pdf accessed 16 February 2023.

425 Office of the Inspector of Prisons, ‘Inspectorate of prisons carries out unannounced full inspection of Mountjoy Prison, Dublin’ (Oip.ie, 15 December 2022) www.oip.ie/inspectorate-of-prisons-carries-out-unannounced-full-inspection-of-mountjoy-prison-dublin/ accessed 21 March 2023.

426 Office of the Inspector of Prisons, ‘Watchdog focuses on mental health in prisons’ (Oip.ie, 24 March 2023) www.oip.ie/inspectorate-of-prisons-carries-out-unannounced-full-inspection-of-mountjoy-prison-dublin/ accessed 24 March 2023.

427 CPT, *Report to the Government of Ireland on the Visit to Ireland Carried out by the CPT from 23 September to 4 October 2019* (CoE 2020), 37 <https://rm.coe.int/1680a078cf> accessed 8 February 2023.

428 Office of the Inspector of Prisons, *Policy on Monitoring Recommendations* (OIP 2022) www.oip.ie/wp-content/uploads/2022/02/OIP-Recommendations-Monitoring-Policy-2021.pdf accessed 7 February 2023.

429 Office of the Inspector of Prisons, ‘Inspection Recommendation Monitoring’ (Oip.ie, 2022) www.oip.ie/inspections-recommendation-monitoring/ accessed 24 March 2023.

430 Houses of the Oireachtas, ‘Joint Committee on Autism debate’ (14 February 2023) www.oireachtas.ie/en/debates/debate/joint_committee_on_autism/2023-02-14/3/ accessed 17 February 2023.

431 Government of Ireland, *Programme for Government: Our Shared Future* (Gov.ie 2020), 86 www.gov.ie/pdf/?file=https://assets.gov.ie/130911/fe93e24e-dfe0-40ff-9934-def2b44b7b52.pdf#page=86 accessed 21 March 2023.

recommending such ratification.⁴³² That said, the General Scheme of the Inspection of Places of Detention Bill, intended to ultimately ratify OPCAT, was published in 2022 with the Bill receiving welcome parliamentary oversight during pre-legislative scrutiny conducted in October 2022.⁴³³ While publication of this Bill is a significant positive development, IPRT retains concerns about the provisions of the General Scheme and the Bill’s ability to meet the objectives of OPCAT in its current form.⁴³⁴

The Department of Justice undertook a public consultation on the reform of Prison Visiting Committees (PVCs) in 2022 to inform its review of the functions and powers of PVCs, which is due for completion in Q1 2023.⁴³⁵ This review marks an opportunity to address longstanding problems with the operation of PVCs, including a lack of transparency in recruitment, membership, function and operation; issues with the PVCs’ reporting processes; and a lack of awareness of, and trust in, PVCs by people in prison.⁴³⁶ IPRT will accordingly be tracking the outcome of this review with interest and strongly urges the Department of Justice to take account of the feedback received when updating the General Scheme of the Inspection of Places of Detention Bill (which will also make the necessary legislative amendments to the PVCs).

Key Actions

- Ireland must ratify the Optional Protocol to the Convention Against Torture without further delay. The legislation ratifying it must guarantee the functional, operational, and financial independence of all relevant National Preventive Mechanism bodies.
- The Department of Justice should ensure that proposed legislative amendments to the Prison Visiting Committees incorporate feedback received from the public consultation and properly address current weaknesses within their structure.

Assessment of Standard 24: Progress

While there is considerable progress still to be made, there have been significant strides under this standard in 2022. This included the publication of COVID-19 reports, the commencement of general inspections, public consultation on the reform of Prison Visiting Committees, and the publication and scrutiny of the General Scheme of the Bill intended to ratify OPCAT. However, previous weaknesses in oversight functions – including the State’s withholding of reports – leave the human rights of people in our prison system exposed and may impact the effectiveness of Ireland’s oversight measures. Progress under this standard will accordingly need to be sustained and accelerated in order to have long-term progressive impacts.

432 Human Rights Committee, ‘Concluding observations on the fifth periodic report of Ireland’ (UN OHCHR, 2022) <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRICAqk7b7yhsieXFSudRZs%2FX1ZaMqUuos%2BbcAGuuCi6l47uiVhbuLp%2F2IGSD7bncJtZrRhGdU%2Buuibeg7sXz%2F5gGDvOE3%2BT1lgNlx3fUqWN8gmOpFITIqn> accessed 15 February 2023.

433 Houses of the Oireachtas, ‘Joint Committee on Justice: General Scheme of the Inspection of Places of Detention Bill 2022’ (18 October 2022) www.oireachtas.ie/en/debates/debate/joint_committee_on_justice/2022-10-18/3/ accessed 24 March 2023.

434 Irish Penal Reform Trust, *IPRT Submission to the Joint Committee on Justice on the General Scheme of the Inspection of Places of Detention Bill 2022* (IPRT 2022) www.iprt.ie/site/assets/files/7114/iprt_submission_on_general_scheme_of_the_inspection_of_places_of_detention_bill_5_august_2022.pdf accessed 22 March 2023.

435 Kildare Street, ‘Departmental Projects’ (23 February 2023) www.kildarestreet.com/wrans/?id=2023-02-23a.672 accessed 15 March 2023.

436 Irish Penal Reform Trust, *IPRT Submission to the Department of Justice on the Review of the Prison Visiting Committees* (IPRT 2022) www.iprt.ie/site/assets/files/7118/iprt_submission_to_the_department_of_justice_on_the_review_of_the_pvcs_220822.pdf accessed 22 March 2023.

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.

The State has a duty of care to all persons in its care.⁴³⁷ States bear a heightened responsibility for people in prison because when they deprive someone of their liberty, they assume a duty of care, in particular to protect the right to life and other human rights.⁴³⁸ This duty is all the more important given that mortality rates are up to 50% higher for people in prison than for people in the wider community.⁴³⁹

The publication of death in custody investigation reports remained a matter for the Minister for Justice in 2022. There were 20 deaths in prison custody in 2022, compared with just eight in 2020 and eight in 2021.⁴⁴⁰ Of the 17 investigation reports published in 2022 (relating to deaths occurring between 2019 and 2022), the timeline between the submission of reports and publication of the reports by the Minister stood at an average of 87 days.⁴⁴¹ This compares to 70 days in 2021 and 75 days in 2020.⁴⁴² This brings into focus the delays that can occur as a result of the Office of the Inspector of Prisons (OIP) limited powers of publication.

Of further concern is the length of time between the death occurring and submission of the report

to the Minister. This has increased from an average of 519 days for reports published in 2020, to 781 days in 2021 and 760 days in 2022.⁴⁴³ There were two instances where the time period between death and submission to the Minister exceeded 1,000 days.⁴⁴⁴ The reasons for delays of this length, including the time taken for the Irish Prison Service (IPS) to review final drafts of reports, need to be fully understood and ultimately such delays must be minimised. The prompt publication of death in custody reports was also recommended by the UN Human Rights Committee following Ireland's fifth periodic review under the International Covenant on Civil and Political Rights (ICCPR).⁴⁴⁵

Since 2020, action plans that make recommendations for change have been published alongside any death in custody investigation reports (as recommended by IPRT in previous editions of PIPS). In these plans, the IPS outlines progress towards implementation of the OIP's recommendation(s), including assigning responsibility to specific actors and a timeline for completion. Once-off action plans with no follow-up information on implementation are not wholly sufficient as it is not always clear whether the recommendation has been actioned by the timeline given. With welcome increased transparency on the IPS's implementation of recommendations made in OIP inspection reports (see *Standard 24*), a similar process would be welcome in respect of death in custody recommendations.

While the investigations into many of the deaths that occurred during 2022 have yet to be published, the reports published in 2022 relating to deaths in previous years raised some shared concerns around, for example, recommendations for a review of hospital escort procedures⁴⁴⁶ and the accuracy

437 European Court of Human Rights European Convention on Human Rights, *European Convention on Human Rights* (ECTHR and Coe 2021) 6 www.echr.coe.int/Documents/Convention_ENG.pdf accessed 16 February 2023.

438 Penal Reform International and University of Nottingham, *Deaths in prison: Examining causes, responses, and prevention of deaths in prison worldwide* (PRI 2022) <https://cdn.penalreform.org/wp-content/uploads/2022/12/Deaths-in-prison-briefing.pdf> accessed 15 February 2023.

439 UN Human Rights Council, *Human rights in the administration of justice: Report of the United Nations High Commissioner for Human Rights, A/HRC/42/20* (UN OHCHR 2019) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/247/98/PDF/G1924798.pdf?OpenElement> accessed 17 February 2023.

440 Houses of the Oireachtas, 'Prison Service' (1 February 2023) www.oireachtas.ie/en/debates/question/2023-02-01/196/ accessed 1 March 2023.

441 Calculated using the length of time between 'Submitted to Minister' and 'Publication Date' of all reports published in 2022. Office of the Inspector of Prisons, 'Death in Custody – Report by Year of Publication' (Oip.ie, 2023) www.oip.ie/publications/investigation-reports/death-in-custody-investigation-reports/death-in-custody-report-by-year-of-publication/ accessed 1 March 2023.

442 Calculated using the length of time between 'Submitted to Minister' and 'Publication Date' of all reports published in 2021 and 2022. Ibid.

443 Calculated using the length of time between 'Death Occurred' and 'Submitted to Minister' of all reports published in 2020, 2021 and 2022. Ibid. This timeline includes the time taken for the IPS to review the final drafts of OIP reports. The average time taken for the OIP to submit reports to the IPS was 411 days in 2020, 709 days in 2021 and 652 days in 2022. This information was provided directly to IPRT by the OIP.

444 See Mr B 2019 and Mr M 2019, Office of the Inspector of Prisons, 'Death in Custody – Report by Year of Death' (Oip.ie, 2023) www.oip.ie/publications/investigation-reports/death-in-custody-investigation-reports/death-in-custody-report-by-year-of-death/ accessed 1 March 2023.

445 UN Human Rights Committee, 'Concluding observations on the fifth periodic report of Ireland' (UN OHCHR, 26 January 2003) <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsieXFSudRZs%2FX1ZaMqUUOS%2BbcAGuuCi6l4l7uiVhbuLp%2F2lGSD7bncJtrRhGdU%2Buuibeg7sXz%2F5gGDvOE3%2BT1gNlx3fUqWN8gmOpFITlqn> accessed 1 March 2023.

446 For example, see recommendations in MR T 2019 and Mr Q 2019, Office of the Inspector of Prisons, 'Death in Custody – Report by Year of Publication' (Oip.ie, 2023) www.oip.ie/publications/investigation-reports/death-in-custody-investigation-reports/death-in-custody-report-by-year-of-publication/ accessed 1 March 2023.

of prison journal records.⁴⁴⁷ While only one report published in 2022 made recommendations on the need for expedited decisions on compassionate release,⁴⁴⁸ this followed similar recommendations in investigation reports in recent years.

Other updates in this area during 2022 include the publication of the OIP's *Policy on Monitoring of Recommendations*, which summarises the OIP's approach to monitoring the IPS's implementation of its recommendations.⁴⁴⁹ The OIP also published an information booklet for families on its role in investigating deaths in custody.⁴⁵⁰

The UK charity INQUEST has argued that even though some deaths in custody may be classed as naturally occurring, they are often premature and avoidable deaths stemming from a lapse in care.⁴⁵¹ Recent research on 'avoidable natural deaths' by the Independent Advisory Panel on Deaths in Custody (IAPDC) in England and Wales has made recommendations in this regard, some of which merit consideration in an Irish context, including the development of a joint health and justice 'older persons strategy for the criminal justice system' (see *Standard 32*) and an overhaul of the process of compassionate release.⁴⁵²

While the recommendations of the High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector are welcome, they overlook the need to respond to substance-related deaths in the prison environment, including by gathering data on substance misuse-related deaths and expanding the use of naloxone in prison, as recommended by the IAPDC in the UK in 2022.⁴⁵³ Similar recommendations on implementation of evidence-based harm reduction services in order to prevent deaths in custody have been made by Penal Reform International.⁴⁵⁴

Recent research in the UK has also recommended that the Prisons and Probation Ombudsman, who has the responsibility of investigating deaths in custody, should not only examine and make recommendations on policy and procedural compliance, but also highlight 'systemic hazards' that are key contributors to self-inflicted deaths.⁴⁵⁵ This includes, for example, the detention of severely mentally ill people in old and unsafe prisons. IPRT recommends that a similar approach be considered in Ireland.

Key Action

- A system should be developed so that updates on the implementation of death in custody investigation recommendations by the Irish Prison Service are publicly available. This could function similarly to the new public database for monitoring implementation of inspection recommendations (see *Standard 24*).

Assessment of Standard 25: No change

While there have been some changes under this standard in 2022, on the whole IPRT remains concerned about the independence of the Office of the Inspector of Prisons in regards publication, as well as more general delays in publication and implementation of recommendations relating to deaths in custody.

447 For example, see recommendations in Mrs X 2019 and Mr M 2019, Office of the Inspector of Prisons, 'Death in Custody – Report by Year of Publication' (Oip.ie, 2023) www.oip.ie/publications/investigation-reports/death-in-custody-investigation-reports/death-in-custody-report-by-year-of-publication/ accessed 1 March 2023.

448 Office of the Inspector of Prisons, *Death in Custody Investigation Report Mr A 2020* (OIP 2022) www.oip.ie/wp-content/uploads/2022/06/OIoP-DiCI-Report-MrA2020.pdf accessed 1 March 2023.

449 Office of the Inspector of Prisons, *Policy on Monitoring of Recommendations* (OIP 2022) www.oip.ie/wp-content/uploads/2022/02/OIP-Recommendations-Monitoring-Policy-2021.pdf accessed 16 February 2023.

450 Office of the Inspector of Prisons, *Death in Custody Information Booklet* (OIP 2022) www.oip.ie/wp-content/uploads/2022/02/Family-Pamphlet.pdf accessed 1 March 2023.

451 INQUEST, 'INQUEST responds to 'disturbing' statistics on deaths of people in prison and after release' (INQUEST, 31 October 2019) www.inquest.org.uk/moj-stats-oct2019 accessed 16 February 2023.

452 Independent Advisory Panel on Deaths in Custody, *Avoidable Natural Deaths In Prison Custody: Putting Things Right* (IAPDC 2020) <https://bit.ly/3lfMbcE> accessed 16 February 2023.

453 Independent Advisory Panel on Deaths in Custody, *Protecting Lives: A Cross-System Approach To Addressing Alcohol And Drug-Related Deaths Within The Criminal Justice System* (IAPDC 2022) <https://static1.squarespace.com/static/5c5ae65ed86cc93b6c1e19a3/t/61e13ccb290c4e646791d4ee/164215116596/IAPDC+RCGP+-+substance+misuse+related+deaths+in+the+criminal+justice+system+-+final.pdf> accessed 16 February 2023.

454 Penal Reform International and University of Nottingham, *Deaths in prison: Examining causes, responses, and prevention of deaths worldwide* (PRI 2022), 9 <https://cdn.penalreform.org/wp-content/uploads/2022/12/Deaths-in-prison-briefing.pdf> accessed 15 February 2023.

455 Sharon Shalev and Philippa Tomczak, *Improving prisoner death Investigations and promoting change in prisons: A findings and recommendations report* (University of Nottingham 2023) www.safesoc.co.uk/wp-content/uploads/2023/02/2023-improving-prisoner-death-investigations-and-promoting-change-in-prisons_a-findings-and-recommendations-report.pdf accessed 20 February 2023.



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 are recorded.

While there is no one universally agreed definition of solitary confinement, it is commonly understood in international prisoner rights frameworks to be the physical isolation of individuals who are confined to their cells for 22 or more hours a day and allowed only minimal meaningful interaction with others.⁴⁵⁶ It is difficult to meet human right standards when solitary confinement is used. The use of solitary confinement therefore needs to be closely monitored, with recorded data including the reason for a person's confinement and the length of time they are isolated.

The Irish Prison Service (IPS) *Census of Restricted Regime Prisoners* clearly demonstrates an increase in the use of solitary confinement in recent years. This is despite the amendment of the *Prison Rules 2007* to guarantee all prisoners a 'minimum period of 2 hours out of his or her cell or room with an opportunity during that time for meaningful human contact',⁴⁵⁷ and the introduction of a policy in 2017 to eliminate solitary confinement across the

prison estate.⁴⁵⁸ From the commencement of data publication in 2013, snapshot numbers of prisoners in solitary confinement have increased by 77%, from 211 in July 2013⁴⁵⁹ to 373 in October 2022.⁴⁶⁰

There has also been a slight increase in the number of individuals in solitary confinement between 2021 and 2022.⁴⁶¹ Within this, there was an increase in the number of people held in their cells for 24 hours for reasons not relating to COVID-19, from zero in October 2021 to six in October 2022. It is difficult to complete a more thorough analysis of whether there were significant changes in the number of people in solitary confinement for protection reasons,⁴⁶² as the IPS only started including a breakdown of the hours in confinement by rule in 2022. However, this level of added detail is welcome and will allow for a more thorough analysis in future years.

There was welcome recognition in the *Review of Policy Options for Prison and Penal Reform 2022–2024* that the *Prison Rules 2007* will need to be updated and amended to reflect the revised European Prison Rules.⁴⁶³ The European Rules include a greater number of provisions on the use of solitary confinement, including requiring states to set the maximum period for which solitary confinement may be imposed in national legislation.⁴⁶⁴

IPRT remains particularly concerned about the length of time that individuals are held in solitary confinement, given the harm that can be caused to an individual's mental health due to prolonged

456 For examples, see Rule 44, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and Rule 60.6.a, European Prison Rules (Revised).

457 Prison (Amendment) Rules 2017, SI 276/2017.

458 Irish Prison Service, *Elimination of solitary confinement* (IPS 2017) www.irishprisons.ie/wp-content/uploads/documents_pdf/Elimination-of-solitary-confinement-Policy.pdf accessed 14 March 2023.

459 Irish Prison Service, *Census of Prisoners on Restricted Regime – July 2013* (IPS 2013) www.irishprisons.ie/images/monthlyinfonote/jul_restrict_2013.pdf accessed 9 March 2023.

460 Irish Prison Service, *Census of Restricted Regime Prisoners October 2022* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2022-Restriction.pdf accessed 9 March 2023.

461 From 351 in October 2021 to 373 in October 2022. Irish Prison Service, *Census of Restricted Regime Prisoners October 2021* (IPS 2021) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2021-Restriction.pdf; and Irish Prison Service, *Census of Restricted Regime Prisoners October 2022* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2022-Restriction.pdf both accessed 9 March 2023.

462 'Protection of vulnerable prisoners', as defined by Rule 63, Prison Rules 2007, 252/2007, allows for a prisoner to be kept separate from other prisoners who are reasonably likely to cause significant harm to him or her. It can occur at a person's request or when the Governor considers it necessary.

463 Department of Justice, *Review of Policy Options for Prison and Penal Reform 2022–2024* (DoJ 2022), 67 www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf accessed 14 March 2023.

464 Council of Europe, 'Recommendation Rec(2006)2-rev of the Committee of Ministers to member States on the European Prison Rules' (CoE 2020), 60.6.a – 60.6.f https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809ee581 accessed 14 March 2023.

periods of isolation.⁴⁶⁵ In addition to this, while snapshot census data have enabled NGOs, academics, media and others to analyse some of the trends on the use of solitary confinement and other restricted regimes in Ireland, we have no oversight of the total number of people subjected to solitary confinement across any given period.

The restriction of a prison regime can occur for various reasons ranging from medical to protective purposes, but solitary confinement and other restricted regimes (19+ hours confinement) are most commonly used in Ireland for the purpose of protecting a person from others.⁴⁶⁶ In the absence of data on lengths of time, it is difficult to assess how long people are choosing to be held in these environments rather than accessing less restrictive regimes. However, there are plenty of promising international examples of step-down and other programmes to encourage and support people with transitioning from solitary confinement and other restrictive settings to the general prison environment.⁴⁶⁷ These should be explored in Ireland.

Key Actions

- In line with the revised European Prison Rules, the maximum period for which solitary confinement may be permitted should be set out in law and should be no longer than 15 days. This could be achieved through the review of the *Prison Rules 2007*.
- The Irish Prison Service should routinely collect and publish data on the lengths of time that prisoners are spending in solitary confinement.

Assessment of Standard 26: Regress

The snapshot number of people in solitary confinement in Irish prisons increased in 2022. Information on the lengths of time people are being held in solitary confinement is still not available. The absence of this information frustrates proper prison monitoring and raises concerns about the upholding of rights. Urgent action is still required in this area.

465 Agnieszka Martynowicz and Linda Moore, 'Behind the Door': Solitary Confinement in the Irish Penal System (IPRT 2018) www.iprt.ie/site/assets/files/6439/solitary_confinement_web.pdf accessed 15 March 2023.

466 Rule 63, Prison Rules 2007, 252/2007. As of October 2022, of 733 people on restricted regimes, 668 were 'on protection' (Rule 63). Of these people on Rule 63, 650 were there at their own request. Irish Prison Service, *Census of Restricted Regime Prisoners October 2022* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2022-Restriction.pdf accessed 9 March 2023.

467 Elena Vanko, *Step-down Programs and Transitional Units: A Strategy to End Long-term Restrictive Housing* (Vera Institute 2019) www.vera.org/downloads/publications/step-down-programs-and-transitional-units-strategy-to-end-long-term-restrictive-housing-policy-brief.pdf accessed 9 March 2023.

Standard 29: Staff training and support

Standard 29:
All staff receive relevant ongoing training and supports in order to effectively carry out their duties to a high standard.

The challenges inherent in the role of the prison officer cannot be underestimated, and the diverse skillsets required to navigate multi-faceted roles should be acknowledged.⁴⁶⁸ As well as the careful selection of prison staff,⁴⁶⁹ international guidance emphasises the continuous provision of training courses to prison staff in order to maintain and improve knowledge and professional capacity.⁴⁷⁰

Work has been undertaken by the Irish Prison Service (IPS) in recent years to expand the training provided to prison officers, including work to embed restorative justice principles and practices in staff and recruit training.⁴⁷¹ Staff also receive training on issues such as disability awareness and LGBTI+ matters,⁴⁷² as well as social psychology and human rights.⁴⁷³ Training on personal and interpersonal skills, such as resilience, is included as a core element of Recruit Prison Officer (RPO) training.⁴⁷⁴

The European Prison Rules require that prisons operate at consistently high standards and that prisons be adequately staffed at all times.⁴⁷⁵ During 2022, the average number of whole-time equivalent prison officers stood at 3,236.⁴⁷⁶ This is an increase of approximately 3.8% compared to the average in

2020.⁴⁷⁷ However, the average prison population increased by over 7.1% during the same period. While this is a crude metric – workloads of officers will also depend on prisoner turnover, levels of need among the prison population and various other factors – this increasing ratio of prisoners to officers could have impacts on the quality of prison life for prisoners and could lead to increased workloads for officers. Issues with staffing levels remain, including the loss of a large number of staff to support prisoner escorts, which continued to have a negative impact on the opening of schools during 2022.⁴⁷⁸ While the IPS secured funding for 100 additional officers in Budget 2023, the first increase to base staffing levels in some years, IPRT remains concerned that this will be insufficient to address identified staffing deficits.⁴⁷⁹

In addition to these staffing concerns, sick leave among prison staff is continuing to rise.⁴⁸⁰ The reasons for this should be further examined and addressed given the impact high levels of leave can have on prison operations and overall staff workloads.

Alongside training to ensure staff can effectively perform their duties, supports to bolster staff wellbeing and personal development are also vital. The IPS Employee Assistance Service operates at a national level and officers can also avail of a free confidential counselling service to support with a range of personal and work-related issues. The IPS has also introduced a free and anonymous text helpline funded by the Health Service Executive (HSE).⁴⁸¹ Procedures for debriefing staff following a death in custody appear to have improved in recent years.⁴⁸² Such measures are welcome.

468 Penal Reform International and Office for Democratic Institutions and Human Rights, *Guidance Document on the Nelson Mandela Rules* (PRI and ODIHR 2018) https://cdn.penalreform.org/wp-content/uploads/2018/07/MR_Guidance_Doc.pdf accessed 13 March 2023.

469 UN General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) A/RES/70/175* (UN 2015), 74.1 <https://cdn.penalreform.org/wp-content/uploads/1957/06/ENG.pdf> accessed 13 March 2023.

470 Ibid 75.3.

471 Restorative Justice: Strategies for Change, 'Irish Prison Service College – Training and Internal Use Of RP' (RJS4C 2023) <https://restorativejustice.ie/irish-prison-service-college-training-and-internal-use/> accessed 10 March 2023.

472 Irish Prison Service, *Annual Report 2021* (IPS 2022), 19 www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-21_Final.pdf accessed 13 March 2023.

473 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

474 Irish Prison Service, *Annual Report 2021* (IPS 2022), 48 www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-21_Final.pdf accessed 13 March 2023.

475 Council of Europe, 'Recommendation Rec(2006)2-rev of the Committee of Ministers to member States on the European Prison Rules' (CoE 2020), 83(a) https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809ee581 accessed 13 March 2023.

476 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

477 This stood at 3,119 officers. Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

478 Kildare Street, 'Joint Oireachtas Committee on Education and Skills: Ireland Prison Education Strategy 2019–2022' (5 July 2022) www.kildarestreet.com/committees/?id=2022-07-05a.307 accessed 29 March 2023.

479 Department of Justice, 'Stronger, safer communities prioritised in Justice Budget 2023' (Gov.ie, 27 September 2022) www.gov.ie/en/press-release/0d5ef-stronger-safer-communities-priorities-in-justice-budget-2023/ accessed 23 March 2023.

480 Ken Foxe, 'Sick days on rise as prison officers clock up €16.3m bill over two years' *The Independent* (1 May 2022) www.independent.ie/irish-news/sick-days-on-rise-as-prison-officers-clock-up-163m-bill-over-two-years-41604292.html <http://www.thesun.ie/news/9352500/prison-officers-17000-sick-days-two-years-mental-health/> accessed 23 March 2023.

481 Houses of the Oireachtas, 'Prison Service' (1 February 2022) www.oireachtas.ie/en/debates/question/2022-02-01/603/ accessed 23 March 2023.

482 Office of the Inspector of Prisons, *Investigation Report into the Circumstances Surrounding the Death of Mr B* (2019) (OIP 2022), 19 www.oip.ie/wp-content/uploads/2022/09/OIP-DIC-Report-Mr-B-2019.pdf accessed 13 March 2023.

In a staff survey published by the Office of the Inspector of Prisons in late 2021, almost two-thirds of staff who had contracted COVID-19 reported that they felt moderate-to-high levels of organisational support and the majority of respondents stated that they felt safe at work during COVID-19.⁴⁸³ However, the portion of those who reported a ‘high stress level’ at work rose from 24% to 59% during the pandemic.⁴⁸⁴ The impact of the pandemic – particularly on an environment like prison – must be considered in the years ahead when developing the programme of supports for staff, especially when one considers that high levels of stress in staff can ‘exacerbate the tension inherent in any prison environment’.⁴⁸⁵

The Justice Committee in England and Wales recently announced an inquiry into the state of the prison operational workforce, exploring issues such as recruitment, retention, and training of staff, as well as how to diversify the workforce and offer greater support for staff.⁴⁸⁶ A similar focus by the Oireachtas Joint Committee on Justice on this issue would be welcome.

Key Action

- An examination of prison staffing levels should be conducted, in order to understand and address the impact of apparent staff shortages on the prison regime.

Assessment of Standard 29: Mixed

While recognising the challenges that still exist, efforts to provide a wide range of training to prison officers, in line with the changing needs of the organisation and the prison population, have improved. However, concern remains around staffing levels, particularly in light of the increasing prison population. Actions aimed at reducing the prison population (see *Standard 2*) will go some way towards addressing this.

Standard 30: Developing positive relationships and work culture

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.

Creating good working relationships helps ensure a positive prison environment.

Appearing before the UN Committee against Torture in 2017, the Irish Prison Service (IPS) stated that it had conducted a benchmarking Measuring Quality of Prison Life (MQPL+) survey in seven prisons, with the intention to carry out repeat surveys in three to four years to measure the effects of changes in policy on the attitudes of prisoners and staff in prisons.⁴⁸⁷ There is no public information to indicate whether or not this has happened.

The involvement of prison staff in decision-making processes is a key element in supporting good communication. In staff surveys completed by the Office of the Inspector of Prisons (OIP), the majority of respondents stated that they did not feel involved in COVID-19 decision-making.⁴⁸⁸ While this is a narrow metric with which to assess whether staff in Irish prisons feel involved in decision-making, in the absence of more detailed information, it could indicate that prison staff do not feel heard in IPS decision-making processes.

In December 2021, the IPS introduced a new Code of Ethics for staff, which sets expectations as to how all staff work together, with prisoners, with their families and with other stakeholders, to create a professional and healthy working environment.⁴⁸⁹ While welcome, it is not clear whether the conduct of staff under the Code will form part of any performance assessments. The IPS Protected Disclosures Policy was also updated on 1 January 2023⁴⁹⁰ and considerable efforts appear to have been made to promote access to protected disclosures, including assigning a dedicated

483 Office of the Inspector of Prisons, *COVID-19 Prison Staff Survey* (OIP 2021), 19-20 www.oip.ie/wp-content/uploads/2021/12/COVID-19-Prison-Staff-Survey-30-April-to-6-May-2021.pdf accessed 22 March 2023.

484 Ibid 21.

485 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, *CPT Standards CPT/Inf/E (2002) 1 - Rev. 2010* (CPT 2010), 21 www.refworld.org/pdfid/4d7882092.pdf accessed 9 March 2023.

486 Justice Committee (UK), ‘The prison operational workforce: Inquiry’ (UK Parliament, 2023) <https://committees.parliament.uk/work/7099/> accessed 22 March 2023.

487 UN Web Tv, ‘Consideration of Ireland (Cont’d) – 1551st Meeting 61st Session Committee Against Torture’ (28 July 2017), 00:24:42 <https://media.un.org/en/asset/k1x/k1xjaqg18m> accessed 10 March 2023.

488 Office of the Inspector of Prisons, *COVID-19 Prison Staff Survey* (OIP 2021) www.oip.ie/wp-content/uploads/2021/12/COVID-19-Prison-Staff-Survey-30-April-to-6-May-2021.pdf accessed 2 March 2023.

489 Irish Prison Service, *Irish Prison Service Code of Ethics* (IPS 2021) www.irishprisons.ie/wp-content/uploads/documents_pdf/Irish-Prison-Service-Code-of-Ethics-2021-FINAL-DECEMBER-2021.pdf accessed 8 March 2023.

490 Irish Prison Service, *Protected Disclosures Policy* (IPS 2023) www.irishprisons.ie/wp-content/uploads/documents_pdf/041-043-Irish-Prison-Service-Protected-Disclosure-Policy-2023-FINAL-.pdf accessed 13 March 2023.

protected disclosures manager, a dedicated portal on the staff intranet, information notices and training.⁴⁹¹

While prison oversight is often primarily considered a tool for protecting the rights of people detained, oversight also offers benefits to the prison management and prison staff by promoting best practice and contributing to the creation of better prison conditions.⁴⁹² However, recent Irish research exploring perceptions of oversight among prison management posited that negative perceptions of oversight appeared to stem from the wider organisational culture, which participants described as a ‘blame game culture’. Although participants acknowledged that this culture was improving, the research suggested that, at present, the IPS organisational culture has not developed strong cultural norms towards oversight and accountability.⁴⁹³

The research highlighted the need for the IPS to explore where oversight obligations sit within the wider organisational culture by exploring the potential benefits of oversight for the organisation, fostering positive attitudes toward oversight, and potentially addressing perceived blame cultures.⁴⁹⁴

In June 2022, the Government gave approval to draft the General Scheme of a Bill to place the IPS on a full statutory footing, which is intended to ‘strengthen its capacity to implement penal reform and maintain the highest standards of governance and performance’.⁴⁹⁵ Previous commitments by the former Minister for Justice to establish a culture committee should be progressed as part of these reforms.⁴⁹⁶

Key Actions

- Independent Measuring Quality of Prison Life surveys (or similar) should be periodically conducted across the prison estate in order to assess relationships between prisoners, staff, and management.
- Work to place the Irish Prison Service on a statutory footing should include the establishment of a culture committee, which should be equipped to consider in detail the pervasive cultures in the Irish Prison Service that have been identified by recent research.

Assessment of Standard 30: Mixed

While the promotion of the Protected Disclosures Policy and the introduction of a Code of Ethics are welcome, concerns remain about the pervasive cultures in the Irish Prison Service. The dearth of information on prisoner and staff attitudes is a particular challenge to accurately assessing progress under this standard.

491 Irish Prison Service, *Annual Report 2021* (IPS 2022), 16 www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-21_Final.pdf accessed 9 March 2023.

492 Andrew Coyle, ‘Professionalism in corrections and the need for external security: An international overview’ (2010) 30(5) *Pace Law Review* <https://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1751&context=plr> accessed 8 March 2023.

493 Sarah Curristan and Mary Rogan, ‘When an Inspector Calls: Perceptions of Oversight among Prison Management’ (2022) 263 *Prison Service Journal* www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/PSJ%20263%20November%202022.pdf accessed 3 February 2023.

494 Ibid.

495 Houses of the Oireachtas, ‘Prison Service’ (21 March 2023) www.oireachtas.ie/en/debates/question/2023-03-21/1069/ accessed 28 March 2023.

496 Department of Justice, ‘Statement by Minister for Justice and Equality, Charlie Flanagan TD, 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’ (Gov.ie, 28 July 2019) www.gov.ie/en/press-release/70f9fo-statement-by-minister-for-justice-and-equality-mr-charlie-flanagan-t/?referrer=http://www.justice.ie/en/JELR/Pages/PR19000206 accessed 24 March 2023.

Standard 32: Cohorts of people at risk of discrimination

Standard 32: Management in the criminal justice system takes a proactive approach towards protecting anyone who is at risk of discrimination due to their age, gender, ethnicity (including Traveller status), sexuality, disability or other.

Some cohorts are at increased risk of discrimination due to their status. With this in mind, criminal justice agencies should proactively act against any form of discrimination towards prisoners or prison staff.

The Public Sector Equality and Human Rights Duty places a legal obligation on public bodies to promote equality, prevent discrimination and protect the human rights of employees and service users. While the Irish Prison Service (IPS) has published annual action plans on efforts under the Duty, at the time of writing, no such plan was published for 2022.⁴⁹⁷ The Probation Service published its *Public Sector Duty Action Plan 2022 – 2023* in 2022, which contains a wide range of commitments to eliminate discrimination, promote equality, and protect human rights. Particular activities welcomed by IPRT include: the development of a mechanism through which all new policies, guidelines, reports, and strategies are reviewed to ensure they are fully inclusive; the inclusion of minority groups in the development and delivery of training; and the establishment of at least one Access Officer for the Probation Service.⁴⁹⁸ Also in 2022, the Department of Justice

published its first *Equality, Diversity and Inclusion Strategy*. One of the areas of impact detailed in the Strategy is ‘achieving better policy outcomes and improving accessibility’.⁴⁹⁹

Older people: An ageing prison population creates challenges for the prison system as older prisoners have distinct needs compared to their younger peers. The proportion of prisoners under sentence aged 50+ has increased in recent years, from 11.5% at the end of 2014, to 14.4% at the end of 2018, rising further to 17.5% by the end of 2022.⁵⁰⁰ While a dedicated unit for older people was opened in the former Training Unit in July 2022,⁵⁰¹ provision for older prisoners remains variable across the prison estate and there is no published strategy for this cohort. In response to a growing number of older people in prison in England and Wales, there have been two Justice Committee inquiries into the issue, with the most recent concluding in 2020.⁵⁰² In response to the inquiry, the UK government committed to the development of a national strategy for older offenders.⁵⁰³ IPRT would welcome a similar review in Ireland.

Young people: There is no published strategy for young adults in prison, although in late 2022 the Department of Justice launched a public consultation on diversion options for the 18-24 cohort.⁵⁰⁴ Given that the 18-24 age group amounts to almost 18% of total committals to prison annually, effective diversion strategies for this cohort could have a welcome impact on imprisonment rates.⁵⁰⁵

People with disabilities:⁵⁰⁶ Recent research from IPRT identified various barriers facing prisoners with disabilities.⁵⁰⁷ Despite this, there remains no published strategy for people with disabilities in prison (though disability training is included in recruitment training and continuous professional development).⁵⁰⁸ While a disability assessment, if

appropriate, is carried out on committal to prison, the system on which this is completed does not generate an analysis of data at present. It is expected that reporting on this will be enhanced in the future.⁵⁰⁹ While there are accommodations available – such as adaptations to cells⁵¹⁰ and access to an Irish Sign Language interpreter⁵¹¹ – the absence of robust data limits adequate future planning and the ability to consider intersectional discrimination.

LGBTI+ people: While no policy on transgender people has been published at the time of writing, the IPS has affirmed its commitment to developing a policy that the Minister for Justice has stated will be ‘will be informed by best international practice’.⁵¹² Additionally, the Transgender Equality Network Ireland (TENI) has delivered a presentation to a number of IPS staff on vocabulary, definitions, statistics, relevant legislation and supportive actions that are useful in the context of daily life.⁵¹³

Travellers: The work of the Traveller Justice Initiative (TJI) continued in prison during 2022.⁵¹⁴ In 2022, the Probation Service delivered ethnic identifier training to all Probation Officers, which focused on supporting staff to consistently and sensitively gather accurate ethnicity data. The aim of this training is to enable the routine collection and publication of ethnic data to inform policy and practice.⁵¹⁵ The Probation Service also worked with TJI to deliver customised training programmes relating to the Traveller and Roma community: rollout of these programmes is ongoing.⁵¹⁶

Foreign nationals and other ethnic minorities: IPRT published first-of-its-kind research on foreign national and minority ethnic groups in 2022,⁵¹⁷ with the Minister confirming that government department officials would examine the recommendations to inform future practice.⁵¹⁸ Responding to a recommendation made by the Office of the Inspector of Prisons (OIP), the IPS has also stated it would develop an enhanced anti-racism and discrimination awareness programme to

be developed locally and nationally.⁵¹⁹ It is unclear whether this has been completed. Developments in technology to allow for the provision of information on the IPS television channel have afforded new opportunities to make content available in a range of languages, which aligns with recommendations of the OIP.⁵²⁰

Key Action

- All State services should ensure they give full expression to their legal obligation to implement the Public Sector Equality and Human Rights Duty (for example, by devising discrete strategies for each group at risk of discrimination) and take an evidence-based approach to their equality and human rights assessment and action plans, as recommended by the guidance on the Duty.

Assessment of Standard 32: Mixed

Progress has been made relating to the implementation of the Public Sector Duty across the relevant Department of Justice agencies. However, further work needs to be done to ensure that there is a co-ordinated strategic approach to the intersectional needs of specific cohorts at risk of discrimination across the system.

497 Irish Prison Service, ‘Equality, Diversity & Inclusion Unit’ (IPS, 2023) www.irishprisons.ie/information-centre/equality-diversity-inclusion-unit/ accessed 24 March 2023.

498 Probation Service, *Public Sector Duty Action Plan 2022–2023* (Probation Service 2022) [www.probation.ie/EN/PB/O/EDCAOB27D8A6326D802588B5003E2A44/\\$File/Probation%20Service%20Public%20Sector%20Duty%20-%20Action%20Plan%202022-23.pdf](http://www.probation.ie/EN/PB/O/EDCAOB27D8A6326D802588B5003E2A44/$File/Probation%20Service%20Public%20Sector%20Duty%20-%20Action%20Plan%202022-23.pdf) accessed 24 March 2023.

499 Department of Justice, *Equality, Diversity and Inclusion Strategy* (Gov.ie 2022) www.gov.ie/pdf/?file=https://assets.gov.ie/218835/fc26e535-5caf-45f5-9edb-0d0989345d05.pdf accessed 9 March 2023.

500 See December 2014, December 2018, and December 2022. Irish Prison Service, ‘Monthly Information Note’ (IPS, 2023) www.irishprisons.ie/information-centre/statistics-information/monthly-information-note/ accessed 24 March 2023.

501 Kildare Street, ‘Departmental Data’ (25 October 2022) www.kildarestreet.com/wrans/?id=2022-10-25a.1405 accessed 24 March 2023.

502 Justice Committee, *Ageing prison population* (Houses of Commons 2020) <https://committees.parliament.uk/publications/2149/documents/19996/default/> accessed 28 March 2023.

503 Justice Committee, *Ageing prison population: Government Response to the Committee’s Fifth Report* (House of Commons 2020) <https://committees.parliament.uk/publications/3459/documents/33165/default/> accessed 28 March 2023.

504 Department of Justice, ‘Public Consultation on diversion paths for young adults aged 18-24’ (Gov.ie, 9 November 2023) www.gov.ie/en/consultation/bd086-consultation-on-diversion-paths-for-young-adults-aged-18-24/ accessed 29 March 2023.

505 Irish Prison Service, *Persons Committed to Prison – Year 2007 to Year 2021* (IPS 2022) www.irishprisons.ie/wp-content/uploads/documents_pdf/01-PERSONS-COMMITTED-by-Age-and-Gender-Year-2007-to-2021.pdf accessed 29 March 2023.

506 IPRT uses a broad definition of disability, including people who have long-term physical, mental, intellectual, or sensory impairments which (in interaction with various barriers) may hinder their full and effective participation on an equal basis with others.

507 Eilíonóir Flynn et al., *Making Rights Real for People with Disabilities in Prison* (IPRT 2020) www.iprt.ie/site/assets/files/6565/people_with_disabilities_in_detention_-_single-pages.pdf accessed 24 March 2023.

508 Irish Prison Service, *Annual Report 2021* (IPS 2022), 19 www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-21_Final.pdf accessed 24 March 2023.

509 Information provided directly to IPRT by the Irish Prison Service on 30 March 2023.

510 Eilíonóir Flynn et al., *Making Rights Real for People with Disabilities in Prison* (IPRT 2020), 27 www.iprt.ie/site/assets/files/6565/people_with_disabilities_in_detention_-_single-pages.pdf accessed 24 March 2023.

511 Kildare Street, ‘Irish Sign Language’ (21 March 2023) www.kildarestreet.com/wrans/?id=2023-03-21a.2934 28 March 2023.

512 Lauren Boland, ‘Minister says policy on transgender prisoners ‘will be informed by best international practice’ *TheJournal.ie* (22 March 2023) www.thejournal.ie/transgender-prisoners-ireland-simon-harris-6025666-Mar2023/ accessed 24 March 2023.

513 Irish Prison Service, *Annual Report 2021* (IPS 2022), 19 www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-21_Final.pdf accessed 9 March 2023.

514 Kildare Street, ‘Prison Service’ (29 March 2022) www.kildarestreet.com/wrans/?id=2022-03-29a.184 accessed 9 March 2023.

515 Information provided directly to IPRT by the Probation Service on 14 March 2023. Final data pending publication of the Probation Service Annual Report 2022 in mid-2023.

516 Ibid.

517 David Doyle et al., ‘Sometimes I’m missing the words’: *The rights, needs and experiences of foreign national and minority ethnic groups in the Irish penal system* (IPRT 2022) https://iprt.ie/site/assets/files/7076/iprt_the_rights_needs_and_experiences_of_foreign_national_and_minority_ethnic_groups.pdf accessed 9 March 2023.

518 Kildare Street, ‘Prison Service’ (30 June 2022) www.kildarestreet.com/wrans/?id=2022-06-30a.727 accessed 9 March 2023.

519 See status update 1 September 2022, CKCT6 Cork Prison. Office of the Inspector of Prisons, ‘Inspections Recommendation Monitoring’ (Oip.ie, 2023) www.oip.ie/inspections-recommendation-monitoring/ accessed 30 March 2023.

520 See WFCT2 Wheatfield Prison, PLCT1 Portlaoise Prison, DOCT3 Dóchas Centre, LMCT2 Limerick Prison. Ibid.



F:

Reintegration

Standard 33:
Parole system

Standard 33:
The parole system is fair, transparent,
and removed from political control.

Parole plays an important role in supporting a proper balance between the protection of the public and the rights of a sentenced person to a fair and balanced system of release.

In July 2019, the *Parole Act 2019* ('the Act') was signed into law.⁵²¹ The Act places the Parole Board on an independent statutory footing with the power to make final decisions on the release of eligible prisoners. The Act also increases the number of years before a life-sentenced prisoner can become eligible for their first parole review to 12 years and introduces access to legal representation for parole candidates and victims. It further requires the Parole Board to provide information to prisoners, victims, and the general public about its functions.

The Act commenced on 30 July 2021, with the Parole Board established on 11 August 2021.⁵²² At present, the provisions of the Act apply only to those serving a life sentence although the Act provides that the Minister for Justice can make Regulations under section 24(3) to extend parole eligibility to those serving a sentence of eight years or more. This has not yet happened. People serving long sentences (eight years or more) are currently being managed on an administrative basis by the

Irish Prison Service.⁵²³ The *Review of Policy Options for Prison and Penal Reform 2022–2024* states that the policy base for this should be examined 'with a view to the introduction of Regulations under Section 24 as soon as possible'.⁵²⁴ The timeframe for commencement of this review, however, is Q4 2023 and the Minister for Justice has more recently confirmed that there are no plans to prescribe such Regulations as of early 2023.⁵²⁵

Parole, sentence planning, and access to reintegrative measures need to be given particular consideration given the proportion of people serving life sentences. In 2020, the percentage of life-sentenced prisoners in Ireland was the highest in the WHO European Region, at 9.9% compared with a European average of 3.2%.⁵²⁶ While a more recent comparison with our European peers is not available, the percentage of life-sentenced prisoners in custody stood at 8.6% at the end of 2022.⁵²⁷ Any development of the parole process in the years ahead will also need to be considered in line with other potential future changes to the law in relation to life sentences, including the imposition of minimum tariffs.⁵²⁸

As of December 2022, approximately 250 prisoners were eligible to apply for parole,⁵²⁹ 221 had applied, and 11 decisions had been made.⁵³⁰ The CEO of the Parole Board has stated that when the Board reaches the end of the two-year transition period, 'there should not be any significant delays', with the goal being to be 'caught up' by the end of 2023.⁵³¹ Given that the new Parole Board is still in a period of transition, it remains to be seen whether

521 Parole Act 2019.

522 Department of Justice, 'Minister Humphreys establishes new Parole Board and increases time life prisoners must serve before being considered for parole' (Gov.ie, 11 August 2021) www.gov.ie/en/press-release/d8f3f-minister-humphreys-establishes-new-parole-board-and-increases-time-life-prisoners-must-serve-before-being-considered-for-parole/ accessed 14 March 2023.

523 Houses of the Oireachtas, 'Parole Boards' (14 February 2023) www.oireachtas.ie/en/debates/question/2023-02-14/529/ 24 February 2023.

524 Department of Justice, *Review of Policy Options for Prison and Penal Reform 2022–2024* (DoJ 2022), 66 www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf accessed 8 February 2023.

525 Houses of the Oireachtas, 'Parole Boards' (14 February 2023) www.oireachtas.ie/en/debates/question/2023-02-14/529/ 24 February 2023.

526 World Health Organization, *Status report on prison health in the WHO European Region 2022* (WHO 2023), 17 <https://apps.who.int/iris/bitstream/handle/10665/365977/9789289058674-eng.pdf> accessed 17 February 2023.

527 Calculated using the total number of life-sentenced prisoners (male and female) and the average number of people in custody. Irish Prison Service, *Monthly Information Note – December 2022* (IPS 2023) www.irishprisons.ie/wp-content/uploads/documents_pdf/December-2022-Website.pdf accessed 22 March 2023.

528 Department of Justice, *Review of Policy Options for Prison and Penal Reform 2022–2024* (DoJ 2022), 22 www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf accessed 22 March 2023.

529 Liz Dunphy, 'Parole Board CEO: "What keeps me from my sleep is not being able to contact a victim"' *Irish Examiner* (20 February 2023) www.irishexaminer.com/news/spotlight/arid-41074544.html accessed 13 March 2023.

530 Kildare Street, 'Parole Boards' (6 December 2022) www.kildarestreet.com/debates/?id=2022-12-06a.275 accessed 13 March 2023.

531 Liz Dunphy, 'Parole Board CEO: "What keeps me from my sleep is not being able to contact a victim"' *Irish Examiner* (20 February 2023) www.irishexaminer.com/news/spotlight/arid-41074544.html accessed 13 March 2023.

hearings are taking place in a timely manner and/or whether the levels and speed of communications with candidates have been sufficient. However, IPRT welcomes the developments that have been made by the Board, including the development of its *Customer Service Action Plan 2022–2025*⁵³² and a new legal aid scheme for those looking for representation before the Board.⁵³³ In order to get a more thorough assessment of experiences, IPRT would welcome research to record the views of both victims and applicants engaging with the system, as supported by the Parole Board's CEO and as allowed for under the Act.⁵³⁴

The most recently published annual report for the Parole Board covers up to June 2021 and a more up-to-date report is not required to be submitted to the Minister until mid-2023, with the publication to come thereafter.⁵³⁵ In the absence of more detailed information, it is difficult to assess the operation of the new parole system and IPRT will continue to closely monitor progress in this space. In the meantime, it is hoped that the new Parole Board continues to make recommendations other than for release, as the previous Parole Board did.⁵³⁶ These recommendations – such as a move to an open prison, neutral venue visits and temporary release for socialisation – played an important part in sentence management and preparation for release.

Key Action

- The Minister for Justice should introduce the Regulations necessary to extend eligibility for parole to those serving long-term fixed sentences.

Assessment of Standard 33: Mixed

While the removal of parole decisions from political control and a greater focus on the rights of victims are welcome, uncertainties remain about how the new parole system is operating. IPRT further remains concerned by the apparent lack of impetus to introduce the Regulations necessary to extend eligibility to those serving long-term fixed sentences.

532 Parole Board, 'Customer Service Action Plan 2022–2025' (Gov.ie, 31 December 2021) www.gov.ie/en/organisation-information/be73c-customer-service-action-plan-2022-2025/ accessed 24 March 2023.

533 Parole Board, 'Parole Board Legal Aid Scheme' (Gov.ie, 1 October 2021) www.gov.ie/en/publication/cccf5-parole-board-legal-aid-scheme/ accessed 30 March 2023.

534 Parole Act 2019, s 9(c); Liz Dunphy, 'Parole Board CEO: "What keeps me from my sleep is not being able to contact a victim"' *Irish Examiner* (20 February 2023) www.irishexaminer.com/news/spotlight/arid-41074544.html accessed 13 March 2023.

535 Parole Act 2019, s 23(2).

536 Parole Board, *The Parole Board Annual Report January–June 2021* (Drugs and Alcohol 2022), 10 www.drugsandalcohol.ie/37069/1/Parole%20Board%20Annual%20Report%202021%20FINAL%20ENGLISH.pdf accessed 22 March 2023.

Standards 34 & 35: Effective reintegration of prisoners

Standard 34:
All prisoners have comprehensive preparation and structured plans for release. National policy and legislation provide for a structured release system.

Standard 35:
Protocols are in place for interagency co-ordination in order to ensure the successful reintegration of prisoners on release.

Leaving prison can be a particularly vulnerable period. Lack of appropriate support upon release can result in poor outcomes. Successful reintegration means that an individual is reintegrated into all aspects of society, including employment, education, and community involvement.

There was welcome recognition in 2022 that, while the justice system acts as punishment for those who commit crime, the rehabilitation and reintegration of offenders is 'at the core' of the penal system.⁵³⁷ While much of the process of reintegration happens beyond prison, the Irish Prison Service (IPS) supports a prisoner in planning for release. The planned legislation to place the IPS on a statutory footing will define the functions of the IPS in law, including their role in supporting the rehabilitation of prisoners with a focus on reducing post-release recidivism.⁵³⁸

The vital role of interagency co-ordination in reintegration was recognised by the *Strategic Review of Penal Policy* (SRPP) in 2014, which recommended a greater emphasis, if necessary through legislation, on promoting interagency cooperation in the rehabilitation of offenders.⁵³⁹ Improving interagency working was an action area identified in the 2022 *Review of Policy Options for Prison and Penal Reform* ('the Review'), which

includes commitments to: facilitate knowledge-sharing across key stakeholders to promote cooperation in supporting reintegration; consider joint commissioning of services such as Housing First with other government departments and agencies; and complete implementation of the *Working to Change: Social Enterprise and Employment Strategy 2021–2023*.⁵⁴⁰ We would urge that interagency working either be embedded in a dedicated reintegration policy, insofar as this is possible, or, as recommended in the SRPP, be underpinned by legislation.

While the evidence base of the Department of Justice grew further in 2022, with publication of its research on reoffending,⁵⁴¹ IPRT would welcome action on the suggestion that the Department of Justice commission a study of best international practice in relation to the recording, reporting and tracking of the social, educational, economic and other relevant characteristics of offenders (as detailed in the 2021 annual report of the Interagency Group for a Fairer and Safer Ireland).⁵⁴² Such a study might also draw attention to the cross-governmental nature of responding to crime and recidivism.⁵⁴³

Recent Irish research found that the anticipation of having to access 'outside' State services while in prison created feelings ranging from anxiety to distress in people in custody.⁵⁴⁴ This finding should be given particular consideration for people who are preparing for release and efforts taken, where possible, to minimise the barriers identified in the research. While a Resettlement Service, provided by the Irish Association for Social Inclusion Opportunities (IASIO), is available to many sentenced prisoners to assist with essential supports around housing and welfare issues before release, prisoners' direct access to services should also be supported.

Further protective factors, such as work, training, and positive relationships, can only be actively pursued once basic needs are met. In the first five months of 2022 alone, 113 people presented to emergency homeless services on the day of their

537 Department of Justice, *High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector: Final Report* (Department of Justice and Department of Health 2022), 42 www.gov.ie/pdf/?file=https://assets.gov.ie/236035/0de04b4d-817a-41cf-9779-771ab57703ac.pdf accessed 3 April 2023.

538 Kildare Street, 'Prison Service' (21 March 2023) www.kildarestreet.com/wrants/?id=2023-03-21a.2875 accessed 30 March 2023.

539 Department of Justice, *Strategic Review of Penal Policy: Final Report* (DoJ 2014), 31 www.gov.ie/pdf/?file=https://assets.gov.ie/137203/a2f65a3d-9402-490e-98d7-3d154661acae.pdf accessed 24 March 2023.

540 Department of Justice, *Review of Policy Options for Prison and Penal Reform 2022–2024* (DoJ 2022), 24 www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf accessed 24 March 2023.

541 Dennis Gough and Megan Coghlan, *Understanding Reoffending: Push factors and preventative responses* (DoJ 2022) www.gov.ie/pdf/?file=https://assets.gov.ie/239978/75a21996-0062-405b-8a45-366ac01e8306.pdf accessed 17 February 2023.

542 Department of Justice, *Annual Report of the Interagency Group for a Fairer and Safer Ireland 2021* (DoJ 2023) www.gov.ie/pdf/?file=https://assets.gov.ie/245361/4ae2ae65-832c-4590-83ad-eeef8cf62905f.pdf accessed 23 March 2023.

543 Ibid.

544 South Leinster Citizens Information Service, *Equality of Access to Information and Services Enhances Personal Power* (Citizens Information 2022) www.everywhereplus.com/wp-content/uploads/2022/11/SLCIS_PRR2022_DIGITAL-COPY-1-20221107.pdf accessed 26 January 2023.

release from prison.⁵⁴⁵ Ireland signed the Lisbon Declaration on Combating Homelessness in June 2021, which aims to ensure that by 2030 no person is discharged from an institution, such as a prison, without an offer of appropriate housing.⁵⁴⁶ There is significant work to be done in order to meet this goal in Ireland.

Having a criminal record can act as a barrier to reintegration. There has been consensus that the current legislation underpinning access to spent convictions is too limited,⁵⁴⁷ with the Programme for Government committing to its expansion⁵⁴⁸ and the Review reaffirming this commitment.⁵⁴⁹ However, progress with the rollout of a broader scheme has been slow, despite the introduction of the *Criminal Justice (Rehabilitative Periods) Bill 2018* five years ago. The findings of a public consultation on spent convictions, carried out in late 2020, have also not yet been published.

Assessment of Standards 34 and 35: No change

While there have been some developments in this area, these largely relate to commitments or to ongoing work. Growing issues of concern in the community, such as the housing crisis and waiting lists for public services, have clear relevance to this standard. While these issues impact society at large, issues with housing and waiting lists for services are felt particularly harshly by people with criminal convictions. 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 support.

Key Actions

- The Interagency Group for a Fairer and Safer Ireland should examine ways in which interagency co-ordination can be improved in order to support access to housing, social welfare, healthcare, employment, education, and family support for people on release from prison. This could be through a dedicated strategy or through proposals for legislative change.
- Legislators should progress the *Criminal Justice (Rehabilitative Periods) Bill 2018*, which was introduced almost five years ago, without further delay. The legislation should take the broadest possible approach to support the reintegration of people with old convictions.

545 Houses of the Oireachtas, 'Departmental Data' (14 June 2022) www.oireachtas.ie/en/debates/question/2022-06-14/1362/ accessed 24 March 2023.

546 Department of Housing, Local Government and Heritage, 'Minister O'Brien to sign European declaration on combatting homelessness' (Gov.ie, 15 June 2021) www.gov.ie/en/press-release/fof45-minister-obrien-to-sign-european-declaration-on-combatting-homelessness/ accessed 24 March 2023.

547 Houses of the Oireachtas, *Joint Committee on Justice and Equality: Report on Penal Reform and Sentencing* (Houses of the Oireachtas 2018) https://opac.oireachtas.ie/AWData/Library3/Penal_reform_report_final_092026.pdf; Houses of the Oireachtas, *Joint Committee on Justice and Equality: Report on Spent Convictions* (Houses of the Oireachtas 2019) https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2019/2019-10-22_report-on-spent-convictions_en.pdf both accessed 24 March 2023.

548 Government of Ireland, *Programme for Government: Our Shared Future* (Gov.ie 2020), 86 www.gov.ie/pdf/?file=https://assets.gov.ie/130911/fe93e24e-dfe0-40ff-9934-def2b44b7b52.pdf accessed 21 March 2023.

549 Department of Justice, *Review of Policy Options for Prison and Penal Reform 2022–2024* (DoJ 2022), 48 www.gov.ie/pdf/?file=https://assets.gov.ie/233015/1dd9e5a8-796e-4eda-a2d7-4a1b4c160cea.pdf accessed 24 March 2023.



