
**WORKING GROUP ON CHILDREN'S RIGHTS STANDARDS
FOR THE
NATIONAL CHILDREN DETENTION SERVICE
AT OBERSTOWN, LUSK, Co. DUBLIN**



EXECUTIVE SUMMARY

In April 2006 a cross-departmental Expert Group was established by the Minister for Children and tasked to plan for the necessary redevelopment of children detention facilities and services. In December 2007, the Expert Group presented the final report to the Minister for Children recommending its preferred option i.e. *“all development of the new detention school service should take place on the Oberstown Campus, Lusk, Co. Dublin.”* On the 4th March 2008 these recommendations were brought to Cabinet and the preferred option approved. The National Youth Justice Strategy (2008-2018) will ensure delivery of the Government’s decision.

In order to progress the Government’s decision IYJS consulted with a range of stakeholders within and outside the youth justice system throughout 2008. IYJS wanted to ensure that all physical design aspects of the new development were given appropriate consideration, at an early stage and reflected principles in legislation and international standards, related to children’s rights.

The consultation process included:

1. Staff and Management from the four children’s detention schools.
2. Children accommodated in the four detention schools and St. Patrick’s Institution
3. Experts in the field of youth justice and children’s rights

In November 2008 the Office of Public Works (OPW) was appointed to deliver the full design and this process is currently underway. The OPW design team has incorporated the work of all consultations to develop the design concept for the new children detention facilities.

This report outlines the recommendations of the working group evidencing how the final design specification incorporated principles and international standards related to children’s rights.

The Irish Youth Justice Service looks forward to further collaboration with experts on standards and other stakeholders as the development progresses.

The IYJS would like to take this opportunity to sincerely thank the members of the working group for their time and expertise.

Mary Geaney

National Manager/Detention School Services

February, 2009

TERMS OF REFERENCE OF WORKING GROUP

Introduction

IYJS convened a working group on international standards/children's rights in May 2008 to look at the proposed draft design specification. A paper on children's rights was presented to the first meeting of the working group by Dr. Ursula Kilkelly, and this helped inform the subsequent discussions.

The purpose of the working group agreed at the initial meeting was to:

“Establish a focused working group which will ensure principles and provisions enshrined in law and policy and national/international standards related to children's rights, inform/are incorporated into the design specification of the new detention school service on the Lusk campus. This work is further contextualised within the National Children's Strategy (2000) and National Youth Justice Strategy (2008-2010).

This group may reconvene when discussions are taking place regarding the services which will be provided to children remanded or committed by the courts. This will ensure that the principles and provisions enshrined in policy, legislation and national/international standards inform service design or redesign and delivery.”

The full terms of reference and membership of the group are reproduced at *Appendix A*.

GENERAL CHILDREN'S RIGHTS PRINCIPLES/STANDARDS

Dr. Kilkelly provided/presented a paper to the group in relation to children's rights relevant to the detention of children at the first meeting of the workgroup on 19th May, 2008 (refer to *Appendix B*). This paper was accepted by the group as a sound basis for informing discussions with the designers of the new facility. The document highlighted guidance available from international instruments, both binding and non binding; Irish Law and Policy in this area; and four relevant general children's rights principles under the UN Convention on the Rights of the Child (CRC). The general principles of youth justice per the CRC were also outlined.

The issues discussed by the group can broadly be classified as

1. High level minimum standards and beyond (per Dr. Kilkelly's paper) and
2. Practical design pointers based on the expertise and experience of the group members.

It was recognised by the group that there were a number of minimum standards and rights of children which were absolute (e.g. the child’s right to protection, to health care and to education). These must be reflected in the design of a new facility so that it can be innovative and go beyond the minimum required. In other respects, the principal of proportionality was accepted as a means of striking a fair balance between the rights of the child (e.g. to privacy, protection) and that of other concerns, including public safety. It was agreed that making the design team aware of the relevant national/international instruments and making these available to the design team would assist and inform the planning for a progressive and innovative facility. IYJS has ensured that the design team is fully briefed on the principles and standards related to children’s rights so that the IYJS policy objectives can be achieved.

ISSUES RELEVANT TO DESIGN

A draft specification to appoint a design team was circulated to all members of the group and given detailed consideration. Suggestions from the group arising during the meetings and other suggestions sent by email by group members were collated and incorporated into the final design specification (see www.iyjs.ie). The following tables reflect the key observations/recommendations of the group and how they have been incorporated into the final design specification. It is noted however that some of the matters raised are considered by IYJS as policy issues rather than matters relating to the design team. Where this occurs IYJS has commented accordingly, throughout this document.

Comparison between RFT¹ and Standards Group Suggestions

Table 1

Some issues raised by Dr. Kilkelly’s Paper/Correspondence

Issue	RFT/Irish Youth Justice Comment
That the design team should be made aware of all relevant instruments reflecting standards nationally and internationally.	The design team will have access to this document and all relevant instruments.
The right to maintain contact with family through correspondence and visits	IYJS strongly supports and facilitates ongoing family contacts as a policy. This will also be reflected in discussions with the design team.
The physical environment and accommodation should be in keeping with the rehabilitative aims of residential	See table 2 for specific instances. This is reflected throughout the RFT. This will also be reflected in discussions with the design team.

¹ RFT – Request for Tender is an invitation for proposals from contractors to bid for services/works described in a prescribed tender document either written or available electronically on the EU etenders system.

placement with due regard to the child's needs for privacy, stimuli, opportunities for association with peers and participation in sport, arts and leisure activities.	
The right to health/health care, right to medical examination upon admission and to medical care throughout the child's stay	Already policy and practice – will continue to be provided and enhanced.
Promotion of contacts with the wider community including the child's family, friends and community groups	Already policy and practice subject to individual child care plan and any security/welfare concerns.
Use of force or restraint only when the child poses an imminent threat or injury to himself or others and as a last resort and right to dignity in punishment, excluding solitary confinement or any treatment that would compromise the child's health or well-being	Only best international standards used with restraint as last resort. Training provided, and ongoing. Child removed from peer group only as last resort in exceptional circumstances, and for as short a period as possible.
Importance of professional and qualified staff	The importance of such staff and the development and training of existing staff is recognised by IYJS. From 2009+ a training budget will be administered centrally for staff in the schools to assist in providing a uniform degree of professionalism.
Right to make request and complaints and to be aware of such mechanisms and remedies	This is a detention school complaints policy issue. HIQA inspections will be useful in this regard if any changes needed to current system in place. Visiting Panel to be appointed by Minister for Children and Youth Affairs. Access to the Office of the Ombudsman for Children is also possible.
Provision of independent and qualified inspection systems	HIQA inspections will be carried out under the Children Act 2001, (as amended). Other national/international obligations in this regard will be complied with and cooperation provided (e.g. CPT, Ombudsman for Children etc.).
Priority should be high security around the perimeter with emphasis on an individualised approach within the site and within the units.	This is reflected throughout the tender document RFT. This will also be reflected in discussions with the design team. Security and Safety are key principles underpinning all development and service delivery across the detention school service. Visiting rooms and living rooms must allow for a range of low to high risk security situation e.g. segregated and non-contact visit. All rooms should be capable of being monitored electronically and/or physically by means of viewing panels.

<p>Need to provide for physical monitoring as well as electronic.</p>	<p>Security will operate both physically and operationally i.e. through the architectural design of buildings, the use of technology and staff practices.</p>
<p>Details on who the population is likely to be and the purpose of the facility</p>	<p>The detention facility will provide accommodation to a wide range of juvenile offenders both in terms of age, gender, sentence status, offence gravity and offending history. The age group and those children aged 10-13 years of age are likely to make up only a very small proportion of detained children at any time. Trends over the last few years indicate that approx 70% of children in detention at any one time are aged between 15 and 17 years of age.</p> <p>IYJS collates data on all children remanded and committed.</p>
<p>Facilities for work on offending behaviour</p>	<p>The key policy objective for the development of the new detention school facilities are to provide for a full range of services required. The education and training facilities should be designed to accommodate the flexibility needed by the school. The school not only provides education but plays a large part in the rehabilitation and reintegration process. Currently Offending Behaviour work is being reviewed</p>
<p>Greater detail on visiting facilities and rooms for legal consultations.</p>	<p>Facilities provided for visitors to the site should include parking, play area for younger children, refreshment area, secure lockers and visiting rooms. The visiting rooms must allow for a range of low to high risk security situations e.g. segregated and non-contact visits in addition to visits on each unit when appropriate. All room should be capable of being monitored electronically and or physically by means of viewing panels and/or two way mirrors. Visiting rooms must also be available to legal consultations, Garda interviews and other necessary professional visits.</p>

Table 2**Design pointers from minutes, emails etc. from members of the working group**

Issue	Relevant Tender (RFT) Extract
(a) Scale of buildings/rooms to be child friendly. Height of ceiling not to be too high as this could reinforce the institutional feel of the school. Acoustics need to be given special consideration	Living units should be a good proportion. Bedrooms should promote right to privacy and dignity eliminating unnecessary visibility from inside or outside of units. The buildings should have high ceilings, wide corridors, to reduce the image/feel of an institution. Acoustic issues to be addressed in the living units/bedrooms
(b) Atrium-like reception area to be encouraged	Reception area should present a bright welcoming appearance
(c) Non Linear Design considered desirable	The design of living units should incorporate flexible operation of combination of bedrooms with ability to access shared space such as dining, kitchen and multi purpose rooms. The existing facilities which will continue to operate must be integrated into the new campus design.
(d) Green issues to be considered e.g. recycling	Alternative energy sources to be explored to ensure efficient, environmentally friendly sustainable campus.
(e) Natural ventilation to be emphasised and lighting not to be too harsh.	Appropriate lighting across the full site to promote security and safety to the campus. Natural lighting and ventilation to be used in living units to reduce the fell of an institution.
(f) Separate entrance and egress routes. Ensure visitors and children do not meet at such flashpoints, where possible, or that conflict situations between children etc. are minimised.	Separate driveways and access routes should be provided for different categories of persons requiring access to the campus. Separate access/egress routes to ensure children been admitted do not meet children being discharged.
(g) No blind spots in design e.g. valleys in roofs where children can hide.	The design aspect of the buildings and site development should ensure clear lines of sight within the facilities to support the physical monitoring of movement as well as electronic monitoring via CCTV.
(h) Semi-independent (step down) and recreation/adventure areas to be incorporated in design and explained in specs.	Living units should incorporate communal living/dining areas, kitchens, washer-dryer rooms and multi-purpose rooms. The living units should have garden/patio area for recreation. Existing facilities to be incorporated into new design of campus which includes these buildings used as step down units.

(i) Facilities to humanely separate children from units may be needed, but not to create a regime of this happening on a regular basis (e.g. to manage occasional aggressive behaviour).	Residential units to operate at an appropriate security level with design enabling effective separation of young people if necessary.
(j) Staff dining areas to be small - carers to mix with children as much as possible.	Living units designed to access shared living space for living, dining, kitchen and multi purpose rooms

CONCLUSION

The expected output of this consultation process was to produce a brief report capturing the discussions and key views of the working group and to explain how the recommendations were given careful consideration in the context of the design team specification. The IYJS believes the objective has been successfully achieved. Many of the recommendations of the group have been directly incorporated in the request for tender document. Others had been previously noted by IYJS having been raised at service development days by staff in the detention schools. It is important to state that there will be an ongoing process for consulting with various stakeholders in relation to the new development. In order to contextualise this *Appendix C* outlines proposed service development groups which will continue to inform the design team on all aspects of the new facility.

The Irish Youth Justice Service has placed this report on its website and it is recommended that it be read in conjunction with the other consultation reports particularly the report on the staff/stakeholders consultation (Service Development Days) held in April/May 2008. The final Tender document (Section 3) is also available on the website – www.iyjs.ie

Terms of Reference

International Standards & Design Specification Working Group

Purpose

Establish a focused working group which will ensure principles and provisions enshrined in law and policy and national/international standards related to children's rights, inform/are incorporated into the design specification of the new detention school service on the Lusk campus. This work is further contextualised within the National Children's Strategy (2000) and Irish Youth Justice Strategy (2008).

This group may reconvene when discussions are taking place regarding the services which will be provided to children remanded or committed by the courts. This will ensure that the principles and provisions enshrined in policy, legislation and national/international standards inform service design or redesign and delivery.

Membership

- Mary Geaney, Chair, IYJS National Manager Detention School Services
- Tony O'Donovan, IYJS, Special Childcare Advisor
- Brian Hogan, Director, Oberstown Boys School
- Deidre Seery, Director, Trinity House School
- Dr Ursula Kilkelly, Faculty of Law University College Cork, Senior Lecturer
- Fr. Tony O' Riordan S.J. Director of Jesuit Centre for Faith & Justice
- Jim Mc Guirk, CAAB, Advisory Officer
- Michael McNamara SSI Inspector / HIQA,
- Freida Delaney, IYJS, Assistant Principal
- Rachel Sheehan, IYJS, Assistant Principal
- Joseph Murphy, IYJS, Higher Executive Officer

Timescale

- There will be a maximum of four meetings held in the IYJS office/Dublin
- Frequency of meetings to be agreed by members

Outputs

These are the following expected outputs:

- The IYJS will produce a report capturing the discussions and key recommendations of the group related to international principles and provisions on the rights of the child, into the design specification. Application of standards will be noted / explained e.g. range of visiting facilities to balance safety/security/right to family visits, where necessary.
- The design specification will incorporate the key international principles / provisions – this design specification which will be used to tender for, and appoint the design team.

Outcome

- The design specification for the new detention school service will incorporate best practice, and result in a safe and secure environment for children, staff and the local community.

International Children's Rights Standards on Detention for Children

Ursula Kilkelly, Faculty of Law, UCC

Introduction

This brief document is intended to assist the work of the International Standards & Design Specification Working Group which is charged with ensuring that the principles enshrined in legislation and international standards related to children's rights inform/are incorporated into the design specification of the new Children Detention School. In particular, it aims to set out the general principles, recognised in the international standards on children's rights, relevant to the design of the new School.

International Instruments

International instruments on children's rights relevant to the detention of children and young people include both international treaties, which create binding obligations on Ireland and those which represent international consensus on best practice in the areas of youth justice and the detention of children specifically. The most important instrument is the UN Convention on the Rights of the Child (CRC) ratified by Ireland in 1992 (although the relevance of the European Convention on Human Rights is also clear). Related to the CRC is the General Comment (No 10) on Juvenile Justice adopted by the Committee on the Rights of the Child in 2007.

The non-binding instruments are numerous and include:

- The United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990 (the Havana Rules);²
- The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules);³
- The United Nations Guidelines for the Prevention of Juvenile Delinquency, 1990 (the Riyadh Guidelines),⁴ and
- The Council of Europe Prison Rules, 2006.⁵

² UN Doc 45/113. See also the Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment, UN Doc A/43/49.

³ UN Doc A Res 40/33.

⁴ UN Doc 45/112.

⁵ Recommendation Rec (2006) 2 of the Committee of Ministers to Member States on the European Prison Rules.

Together, these instruments set out both general principles relevant to children's rights, and those specific to youth justice and to children in detention. Many of them share principles, provisions and common approaches which will be familiar, as best practice, to most people working in detention services.

Irish Law and Policy

Irish law contains few explicit standards specific to the design of a detention facility for children. However, it is evident that the principles of the Children Act 2001 as amended (notably s 96) and other legislation like the Guardianship of Infants Act 1964 and the Child Care Act 1991 (which recognise the welfare of the child as the first and paramount consideration) should be taken into account to the extent that they offer guidance on established best practice relating to the treatment of children. The National Children's Strategy (2000) and the Youth Justice Strategy (2008) should also inform the approach taken to ensure best practice is observed and also to ensure consistency in government law and policy. Of particular note in the former case is the whole-child perspective, the need to put quality services and supports in place for children and to ensure that children's views are heard. In relation to the latter, one of the Strategy's high level goals is to provide a safe and secure environment for detained children that will assist their early re-integration into the community. Documents like the Standards and Criteria for Children Detention Schools, other relevant HIQA standards and the current policies and practices of the Children Detention Schools offer extremely useful guidance also.

General Children's Rights Principles

According to the CRC, four general principles inform the implementation of all CRC provisions and the Committee on the Rights of the Child has made it clear that they are relevant to youth justice and detention also. They are:

- Article 2 CRC provides that every child has a right to enjoy Convention rights without discrimination. This is a general duty of equal treatment for all children regardless of circumstances. Similarly, Rule 4 of the Havana Rules requires the equal application of the Rules to all children,
- Article 3 CRC, which provides that in all actions concerning children, the best interests of the child shall be a primary consideration. The importance of implementing this principle in the criminal justice system is clear from other international standards. For example, Rule 4 of the Havana provides that the youth justice system should uphold the

rights and promote the physical and mental well-being of children; Rules 1.1, 1.3 and 5.1 of the Beijing Rules, provide for the promotion of the child's welfare as a general principle and aim, and Paragraphs 4 and 52 of the Riyadh Guidelines attach clear priority to the need to protect the best interests of all children.

- Article 6 CRC recognises the right of the child to life, survival and development and the Committee on the Rights of the Child has made the clear link between this provision and the need to take measures to ensure the child's harmonious development and integration into society following detention (CRG GC No 10 paragraph 4).
- Article 12 CRC provides for the right of the child to express his/her views freely in all matters affecting the child. The Committee has made it clear that this right should be recognised at all stages in the youth justice process and during the process of reform.

Principles of Youth Justice

According to the Committee on the Rights of the Child, Article 40 CRC provides a set of fundamental principles for the treatment of children in conflict with the law. Many of these are relevant specifically to children in detention. These include:

- Treatment consistent with the child's sense of dignity and worth;
- Treatment that reinforces the child's respect for the rights and freedoms of others;
- Treatment that takes into account the child's age and promotes the child's reintegration and the child's assuming a constructive role in society;
- Respect for the child's dignity requires that all forms of violence must be prohibited and prevented (See UN Study on Violence against Children, 2006 and General Comment No 9, 2006).

According to the Committee on the Rights of the Child, public safety is a legitimate aim of the youth justice system which is best served by full respect for and implementation of the leading and overarching principles of youth justice as enshrined in the CRC (GC No 10, paragraph 4). It is relevant in this context that in accordance with ECHR obligations, notably under Article 8 (respect for private and family life and correspondence), the principle of proportionality – where a fair balance is struck between the right being infringed and the aim being pursued in doing so – must inform any limits placed on the exercise of the rights of the child in detention. Some rights, like the right to protection from harm, are absolute however.

Principles relevant to Detention

The principles relevant to the detention of children include:

- Separation of children from adults;
- Detention of children in dedicated facilities, with personnel, policies and practices that are distinct and child-centred;
- Reasonable accommodation of those who reach 18 in children's facilities.

Principles and Issues relevant to Design

Those standards that raise issues for the design of the building include (with likely issues/points for discussion in brackets):

- Individual and/or dormitory rooms with potential for personalised space (sanitation/hygiene; privacy; security, welfare);
- The right to maintain contact with family through correspondence and visits (family overnight accommodation/group visiting spaces with appropriate supervision; significant provision to ensure regular visits/provision for easy and quick access);
- The physical environment and accommodation should be in keeping with the rehabilitative aims of residential placement with due regard to the child's needs for privacy, stimuli, opportunities for association with peers and participation in sport, arts and leisure activities (range of resources required to realise the child's rights here including bright social spaces, sports and leisure facilities; facilities for learning life-skills. Standards also refer to the need for semi-institutional arrangements, such as step-down or less secure facilities designed to prepare the child for release);
- The right to education suited to the child's needs and abilities and designed to prepare him/her for return to society. Importance of vocational training is noted (scale and format of education and vocational training facilities, provision for one-to-one and group teaching; library, IT space, vocational and life-skill workshops);
- The right to practise religion (appropriate facilities/areas);
- The right to protection from harm (appropriate supervision – visibility, monitoring - to ensure protection from bullying, self-harm etc);
- The right to health/health care: right to medical examination upon admission and to medical care throughout the child's stay (adequate medical facilities, secure storage of medicines/equipment and in-house patient care);
- Promotion of contacts with the wider community including the child's family, friends and community groups (e.g. theatre/stage/group space);

- Use of force or restraint only when the child poses an imminent threat or injury to himself or others and as a last resort and right to dignity in punishment, excluding solitary confinement or any treatment that would compromise the child's health or well-being (provision for time-out/chill space);
- Importance of professional and qualified staff (offices and communal space for staff, meeting rooms, social and training areas);
- Right to make request and complaints and to be aware of such mechanisms and remedies (information area);
- Provision of independent and qualified inspection systems (facilities for non-intrusive observation in line with privacy rights).

Conclusion

This brief document highlights some of the guidance available from International Standards and identifies some useful areas for discussion regarding the design of the new Detention School. The Standards set out the rights to which children in detention are entitled, while also making it clear that in certain areas a balance will need to be struck between the rights of the child and aims of security/protection of the public. The principle of proportionality is a very useful guide here and will also help to ensure compliance with ECHR obligations. Overall, the Standards promote a child-centred and child-specific approach to secure accommodation recognising that where detention is required every effort has to be made to put its potential to good use in securing the child's future development.

Service Development Groups from Service Development Events Report.

- **I Staff Services:** Medical, Health & Welfare, Education and Training, ICT.
- **II Services for Children:** Child Protection, Psychological, Medical, Dental & Optical, Faith/Cultural Awareness, Translation & Interpretation Services, Video Links, Legal & Advocacy.
- **III Administration:** ICT & Human Resources.
- **IV Development of Children:** Education, Training, Life Skills, Employment Preparation
- **V Support Services:** Food & Catering, Domestic Service, Maintenance, Gardening & Landscaping, Health & Safety, Drivers /Escorts.
- **VI Visiting Services:** Families, Carers, Professionals, Probation, Legal, Academic.
- **VII Programmes For Children :** External & Internal Assessments, Child Programmes & Key Working, Offending Behaviour, Substance Misuse, Recreation/Leisure, Victim Awareness, Reintegration, Links With Other External Programmes.
- **VIII Security:** Building, Cordon Sanataire, Staff, Children, Visitors.

