

CPT/Inf (2003) 37

**Response of the Government of Ireland
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to Ireland**

from 20 to 28 May 2002

The Government of Ireland has requested the publication of the CPT's report on the visit to Ireland in May 2002 (see CPT/Inf (2003) 36) and of its response. The Government's response is set out in this document.

Strasbourg, 18 September 2003

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INTRODUCTION

Background

The Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) made its third visit to Ireland from 20 to 28 May, 2002 pursuant to article 7 of the European Convention which established the CPT. As is normal practice in the case of a periodic visit, the CPT wrote to the Irish authorities on 27 November, 2001 announcing that a delegation of the CPT would visit Ireland sometime in 2002. On 6 May, 2002, the CPT indicated that the visit would start on 20 May, 2002 and last for about nine days. On 16 May, 2002, the CPT made known the preliminary list of places it wished to visit.

The details of the visit, including the composition of the delegation, places visited and the CPT's recommendations, comments and requests for information are contained in its report to the Irish Government. This report was adopted by the CPT on 8 November, 2002 and sent to Ireland on 20 December, 2002.

The response of the Irish Government to the recommendations, comments and requests for information contained in the report of the CPT on its visit to Ireland from 20 to 28 May, 2002 is set out in this document. This response follows the format of the CPT's recommendations, comments and requests contained in its report of 8 November, 2002 apart from a few instances where it was deemed necessary to quote from the main body of the CPT report rather than from the summary of recommendations for the sake of completeness.

Publication

The information gathered by the CPT in relation to its visit, its report and its consultations with the authorities concerned are confidential. However, whenever requested to do so by the Government concerned, the Committee is required to publish its report, together with any comments of the Government. In the interests of transparency and accountability, the Irish Government has decided to ask the CPT to publish its report and the Government's response to it.

Immediate observation under article 8, paragraph 5, of the Convention

At the end of the visit, the CPT's delegation invoked Article 8, paragraph 5, of the Convention as regards the use in Cork and Mountjoy Prisons of padded cells to hold prisoners in need of psychiatric care and, more particularly, of in-patient hospital treatment. The delegation called upon the Irish authorities to take immediate steps to discontinue this practice (cf. paragraphs 38 and 39).

By letter of 6 August 2002, the Irish authorities provided information on measures being taken in the light of the delegation's immediate observation.

RESPONSE TO RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION ARISING FROM VISIT

A. Police (Garda Síochána) establishments

1. *Preliminary remarks:*

In the course of their preliminary remarks on their findings following their 2002 visit to a number of Police establishments in Cork and Dublin, and their interviewing of persons who had recently been in Garda custody, the Committee emphasised their view that, on the basis of the information gathered during their visit, there was a need for the introduction of an independent police inspection and complaints system. (paragraph 10)

Response

The Irish Government will very shortly publish legislative proposals for an independent Garda Inspectorate which will have the power to investigate complaints and which will also have the powers of an ombudsman.

2. *Allegations of ill-treatment:*

Comment

Many of the persons interviewed by the CPT's delegation about their experience while in police custody stated that they had been correctly treated by the police. However, a not inconsiderable number of persons claimed that they had been physically ill-treated by police officers (Gardaí). (paragraph 11)

The number and consistency of the allegations of ill-treatment heard by the delegation lend them credibility. Moreover, in some cases, the delegation's doctors gathered medical evidence consistent with the allegations received..... It should also be noted that, in certain of the cases examined during the visit, other evidence gathered by the CPT's delegation (e.g. from custody records, information provided by police officers) tended to support the allegations of ill-treatment received. (paragraph 12)

Response

While in no way wishing to detract from the serious issues raised by the CPT delegation, the Government is encouraged by the experience of the delegation in that many persons with whom they spoke indicated that they had been correctly treated while in Garda custody.

While it is not possible for the Irish Government to respond to the particular instances of abuse alleged in the absence of specific information, the Government wishes to reiterate its absolute commitment to preventing and, where they occur, detecting any abuses of the rights of persons in Garda custody. Those rights are extensively set out in the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Stations) Regulations, 1987. In addition, the Garda Síochána Code

obliges all Gardaí to maintain the highest professional standards in relation to the care of detainees, on pain of disciplinary action.

In addition to the proposed establishment of an independent Garda Inspectorate, and as a further and substantial safeguard, a national system for the audio-video recording of interviews of persons in Garda custody, following earlier pilot projects, has been progressively installed since July, 2001. The installation of the system is now almost complete, with over 220 rooms in up to 130 stations now fitted out and fully operational.

As to the three cases the Committee have highlighted, by way of example, of alleged abuse of arrested persons viz. one at Anglesea Street Garda station, and two at Store Street Garda station, and the findings of the delegation's medical personnel in each case, the Government is, of course, concerned to learn of these cases and accepts that, if the injuries were received as alleged, then the police officers concerned acted in an improper manner. However, the Committee will appreciate that, without sufficient evidence of the alleged behaviour being put forward in support of a complaint about that behaviour, the Government is precluded from commenting in a substantive way on these alleged cases.

Request for information

The attention of the CPT's Delegation was drawn to allegations of use of excessive force by the police during a demonstration in Dublin on 6th May, 2002 and, more particularly to claims, apparently supported by video footage, that persons who had already been brought under control were repeatedly struck with batons in a potentially dangerous manner (e.g. on the head and side of the neck). The CPT was subsequently informed that, following investigations by the Garda Síochána, the Director of Public Prosecutions had directed that seven officers face charges in relation to assault. Further, the Committee understands that the Garda Síochána Complaints Board is considering disciplinary charges against more than thirty officers as part of their investigation.

The CPT would like to be informed in due course of the results of the criminal and disciplinary proceedings related to the policing of the demonstration on the 6th May and of the out come of any individual complaints of ill-treatment. (paragraph 13)

Response

On the 6th May, 2002 a "Reclaim the Streets" demonstration took place in Dublin City Centre. The demonstration caused complaints to be made to the Garda Síochána Complaints Board of alleged police brutality. Two investigations took place – a Garda investigation lead by an Assistant Garda Commissioner, and an investigation by the Garda Síochána Complaints Board, carried out on their behalf under a retired Assistant Garda Commissioner. A total of forty-six people made complaints in relation to the conduct of An Garda Síochána – twenty were made at Garda Stations, eighteen to the Garda Síochána Complaints Board and eight came to light in the course of inquiries by the investigation team established by the Commissioner.

Seven members of An Garda Síochána have now been charged with breaches of Sections 2 and 3 of the Non Fatal Offences Against the Person Act, 1997. Criminal proceedings in the charges against six of these Gardaí are still before the Courts. Summary charges against the seventh Garda were dismissed by the District Court on 25 June, 2003. The Committee will be advised of the outcome of the criminal proceedings and of the outcome of the complaints under investigation by the Garda Complaints Board in due course.

Recommendation

After the 1993 visit, the CPT was led to conclude, in the light of all the information at its disposal, that persons held in certain police establishments in Ireland ran a not inconsiderable risk of being physically ill-treated. In 1998, the CPT also gathered considerable evidence of police ill-treatment. The information gathered by the CPT's delegation during the 2002 visit highlights the need for the Irish authorities to intensify their efforts to prevent ill-treatment by the police.

The CPT recommends that the message that the ill-treatment of detained persons is not acceptable - and will be severely sanctioned - be vigorously recalled to police officers in an appropriate manner at regular intervals.

Furthermore, once arrested persons have been brought under control, there can be no justification for striking them. Police officers should be unequivocally reminded of these precepts. (paragraph 14)

Response

Members of An Garda Síochána are constantly reminded of the legal and other precepts regarding the use of force. The rights of persons in custody are enshrined in legislation under the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987. Training in this area continues to be a major module of instruction on the Garda Síochána Student/Probationer Education/Training programme. Members of the Garda Síochána are also exposed to the risk of criminal prosecution and/or a civil action for damages where they resort to the unlawful use of force in order to effect or maintain an arrest.

The re-enforcement of the Regulations relating to the treatment of persons in custody is continuous and is included in Legal and Policing courses under the Garda Síochána Education/Training Programmes.

Conflict Resolution Training has been included in the core In-Service Training course for Sergeants and Gardaí. It commenced in 2002 and is seen as an ongoing, integral part of Garda policy in this area. The decision to include Conflict Resolution training as part of the In-Service "Core" programme resulted from successful pilots at Store Street and Tallaght Garda stations, an evaluation of which showed a significant decline in interpersonal conflict type complaints in those areas.

Conflict Resolution Training has also been included as an integral part of Communications Studies on Phase III of the Garda Síochána Student/Probationer Education Training Programme.

Recommendation

The CPT recommends that the Irish authorities seek to integrate human rights concepts into practical professional training for high-risk situations, such as the arrest and interrogation of suspects. (paragraph 15)

Response

The Garda authorities employ a number of strategies in the area of protecting the human rights of all those they come into contact with in the course of their duties. Garda management strive to ensure that the core values which underpin the policing policies they implement are of the highest internationally accepted standards. The following strategies are currently being pursued:-

(a) Professional values and ethical standards

A declaration of Professional values and ethical standards, which is human rights based, has been distributed to all members of An Garda Síochána. It is available to the public on the Garda website (www.garda.ie); an implementation plan has been prepared as part of the Change Management process within the Garda Síochána, and this document will be distributed in the near future to the Force. A copy will also be sent to the CPT.

(b) Garda Human Rights Advisory Committee

There are a number of initiatives being progressed in the areas of Human Rights, Quality Service, and Community Policing, including a public attitudes survey. An Implementation Committee is also to be established to ensure the promotion of, compliance with and oversight, on behalf of the Commissioner, of the Declaration of Professional Values and Ethical Standards throughout the organisation. The proposals put forward to establish a Garda Human Rights Advisory Committee will take account of these initiatives. It is hoped to establish a Garda Human Rights Advisory Committee at the earliest opportunity.

(c) Human rights audit

Professional Management Consultants are currently conducting a human rights compliance audit of Garda core values inherent to Garda policies and strategies. This audit will be based on the **Council of Europe's** auditing guide and will outline how this guide can be augmented so as to provide a comprehensive auditing instrument for evaluating compliance by an Garda Síochána. In particular the audit will:

- (i) Identify the current compliance status of policies and strategies in An Garda Síochána with values enshrined in international human rights standards and values inherent in best international policing practice. (A central aim is to establish the degree to which Garda policies, strategies and ethos reflect a desire to protect and respect fundamental human rights);

- (ii) Identify gaps, if any, in values compliance by An Garda Síochána in its policies and strategies;
- (iii) Make recommendations for future compliance;
- (iv) Draft a comprehensive bibliography on values led policing practice and policy.

(d) **Generic human rights training course for Garda teachers/trainers**

A generic human rights training course for Garda teachers/trainers is to be provided for Garda College Training staff and Divisional Training staff throughout the country.

The aim of the course is to facilitate the integration of human rights concerns, norms, principles and ethics into all relevant aspects of training courses.

The course will be delivered in two modules, each lasting 2.5 days, by internal and external experts, including staff from the Garda Human Rights Office, Garda Racial and Intercultural Office, Amnesty International and University of Ulster. The intention of the Garda authorities is that the course will be delivered before the end of this year.

(e) **A strategy for human rights, ethics and diversity training for Garda students during phase I, II and III of their training programme**

Human rights, ethics and diversity training has been integrated into the student/probationer education/training programme with training being provided on Phase I, II and III programmes.

Reference to and discussion of the role of the CPT is included in the Human rights training for student/probationers, teacher/trainers, and in promotion development courses for Sergeants and Inspectors.

Recommendation

The CPT recommends that whenever criminal suspects brought before a judge allege ill-treatment by the police, the competent authority present during these proceedings record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the competent authority should request a forensic medical examination whenever there are other grounds to believe that the person brought before a judge could have been the victim of ill-treatment. (paragraph 16)

Response / Request for information

Insofar as ‘competent authority’, in the context as set out by the Committee, might be understood to mean a Court official, working under the direction of the presiding Judge, who is present in Court in an official capacity to record the proceedings, it must be pointed out that under the Constitution and the law, the Irish judiciary are independent in the exercise of their judicial functions and it is not open to the Government to direct them in the exercise of their functions.

Recommendation

The CPT recommends that police officers be firmly reminded of their duties under Regulation 20, paragraph 3 to 7, and Regulation 21, paragraph 1, of the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulation, 1987. The Committee would like to be informed of the criminal and/or disciplinary consequences of a failure to comply with the above mentioned provisions. (paragraph 17)

Response

Paragraphs 3 to 7 of Regulation 20 set out the procedures to be adopted should a Member use force which causes injury to a person in custody (paragraph 2 states that no member shall use force against a person in custody except such reasonable force as is necessary and it defines the circumstances when such reasonable force may be necessary). Regulation 21 specifies the circumstances and procedures to be followed for the member-in-charge to summon a doctor.

As outlined earlier, the Government would like to emphasise that the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Stations) Regulations, 1987 is a major module in the existing Garda Síochána Student/Probationer Education/Training Programme and members of An Garda Síochána in general are regularly reminded that the use of force should be no more than is strictly necessary in the particular and prevailing circumstances. The question of reminding members of An Garda Síochána in the operational area of their obligations under this legislation is addressed by local Garda Management at Divisional/District Inspections, during the course of briefings for major events and through opportunities at In-service Training.

Members of An Garda Síochána are subject to the Criminal Law in the same way as other persons in society. Members who deviate from the provisions contained in the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987 do so at the risk of being prosecuted before the Criminal Courts.

Members of An Garda Síochána are also subject to the Garda Síochána (Discipline) Regulations, 1989 and the range of penalties include:- advice, admonition, caution, warning, reprimand, monetary penalty up to four weeks pay, reduction in rank, requirement to retire or resign and dismissal.

Recommendation

The introduction of an independent inspection and complaints system continues to be on the Irish Government's agenda. *The Committee can only encourage the Irish authorities to continue to give a very high priority to establishing an inspection and complaints mechanism which is, and is seen to be, independent and impartial.* (paragraph 18)

Response

As already stated, the Irish Government will very shortly publish legislative proposals for an independent Garda Inspectorate. The Irish Government would also like to point out that, while the Inspectorate will have an important role in the independent investigation of complaints against the Gardai, it believes that the emphasis given by the Garda Síochána through its training programmes (see above) to respect human rights will also play an important part in continuing to promote the highest standards of policing, and will reinforce the Garda image and reputation for impartial, fair and just policing.

3. *Conditions of detention*

Comment

The material conditions of detention observed by the CPT's delegation were on the whole acceptable. The detention facilities at Cobh and Store Street Garda Stations were of a particularly good standard.

However, the cells at the *Dublin Bridewell* (and the holding facilities at the Municipal Courts) were dirty and in a poor state of repair. The Irish authorities have subsequently informed the CPT that these shortcomings have been remedied. Further, *the lighting and ventilation in certain of the cells at Cork Bridewell left something to be desired.* (paragraph 19)

Response

With regard to the Bridewell Garda Station, Dublin, the Committee will be aware that, at the time of the delegation visit, there was construction work ongoing in respect of the fitting out and installation of electronic recording equipment in interview rooms, which resulted in the spread of dust around the detention area. Construction work was completed shortly after the Committee's visit.

The detention area of the station continues to be served by three cleaners on a daily basis. The cells in the detention area are cleaned three times daily and the main concourses twice daily. The entire station was repainted in 2001.

The Committee can be assured that the issue of ventilation and lighting in certain cells at the Bridewell Garda Station, Cork is being examined and any remedies required will be effected.

4. *Safeguards against the ill-treatment of detained persons*

Notification of custody/Access to a lawyer

Request for information

As had been the case during previous visits, the three fundamental safeguards advocated by the CPT, namely the rights of detained persons to inform a close relative or another third party of their choice of their situation, to have access to a lawyer and to have access to a doctor, on the whole operated in a satisfactory manner (cf. For example, CPT/Inf (99) 15, paragraphs 20 and 21).

The delegation heard no complaints about notification of custody (and many persons recognised that they had themselves been able to call their relative to inform them of their situation), access to a lawyer appeared to function well in practice, and very few complaints were heard about access to a doctor. Further, the persons interviewed by the delegation confirmed that they had been promptly informed of their rights including, in most cases, in writing. (paragraph 20)

As regards more particularly the right of access to a lawyer, the CPT welcomes the fact that legal aid is now in principle available as from the outset of custody. *The CPT would like to be informed of the legal/administrative basis for this extension of the right to legal aid to include persons detained in police stations.*

Notwithstanding the above, formal arrangements are not yet in place for the choice/appointment of solicitors for detained persons who do not have their own lawyer (cf. CPT/Inf (95) 19, paragraph 50, and CPT/Inf (99) 15, paragraph 23); this continues to be organised informally by the police. Some persons told the delegation that they had chosen to waive their right to legal assistance because they felt the solicitors proposed to them were not independent from the police.

Further steps are required to ensure that detained persons who do not have their own lawyer feel that they can trust the solicitor proposed to them; this may well require creating panels of solicitors prepared to attend police stations, as proposed by the Law Society (cf. CPT/Inf (99) 15, paragraph 23). (paragraph 21)

In the CPT's opinion, the right of access to a lawyer should include the right to have the lawyer present during police interrogations. While the Irish authorities do not dispute the merits of the approach advocated by the CPT, they consider that audio-video recording of police interviews, which was being tested at the time of the visit, is a preferable alternative (cf. CPT/Inf (99) 16, paragraphs 47 and 48).

The CPT considers that the introduction of audio-video recording of interviews as an *additional* safeguard is a most welcome development; however, it remains persuaded of the importance, in the interests of the prevention of ill-treatment, of the possibility for lawyers to be present during interviews. In this context, the Committee has noted the information provided by the Irish authorities that the Irish courts have not so far held that there is a right to have a lawyer present during questioning. *The Irish authorities are invited to give further consideration to this issue, including as regards the legislative measures which may be required in order to establish this right.* (paragraph 22)

Response

As the CPT acknowledge, access to a lawyer is now in principle guaranteed for persons detained in Garda custody and works well in practice. This arises from the extension of the Free Legal Aid system in February 2001 to persons detained under the relevant statutory provisions where they have a legal entitlement to consult with a solicitor but have insufficient means to afford the consultation. So far over 2,500 claims under this scheme have been processed at a cost of over 400,000. The Irish Government believes this to be a significant development in further safeguarding the rights of detained persons. Moreover, under the relevant regulations, the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987 an arrested person shall have reasonable access to a solicitor of his or her choice and be enabled to communicate with him or her privately. Consultation may take place in the sight of but out of the hearing of a member of the Garda Síochána.

The Irish Government would also recall, as outlined above, that the audio-video recording of interviews of persons in Garda custody has advanced to virtual completion, with over 220 interview rooms in up to 130 stations fitted out and fully operational. This is a substantial safeguard against the potential for abuse which the Committee, quite rightly, highlight and which the Irish Government and the Garda authorities are equally anxious to address and eradicate where it may occur.

As regards the presence of lawyers during questioning, persons in Garda custody have, of course, a right to consultations with a lawyer, a right supplemented and reinforced by the already-mentioned extension of free legal aid to such persons, but the Irish courts have not so far held that there is a right to have a lawyer present during questioning. Nevertheless, the Irish Government recognises the importance attached to this issue by the CPT, and will keep the matter under review.

Recommendation

Access to a doctor

The delegation received a few allegations to the effect that the police had not granted access to a doctor to detained persons who attempted to exercise that right and of the police's failure to arrange for a medical examination of detained persons who alleged ill-treatment or who bore injuries. The CPT has already recommended that police officers be firmly reminded of their duties in this connection (cf. Paragraph 17).

The CPT also wishes to recall that the results of every medical examination, as well as any relevant statements by the detainee and the doctor's conclusions, should be recorded in writing by the doctor and made available to the detainee and his lawyer (cf. CPT/Inf (95) 14, paragraph 47). Having regard to the information gathered during the 2002 visit, *the CPT recommends that steps be taken to ensure that these requirements are met.* (paragraph 23)

Response

Access to medical attention is a fundamental right and, when requested by a person in Garda custody, must be adhered to in accordance with Garda Regulations. Any injuries sustained by a person while in custody, whether by accident or otherwise, obliges the Member-in-Charge to seek medical attention. Any deviation from the Regulations exposes the Member-in-Charge to criminal investigation and breach of discipline investigation.

When a request for medical attention is made by a person in custody, this must be recorded in the custody record. An examination of custody records by the Gardaí indicates that there is no inordinate delay between the time of request for medical attention by a prisoner and the time of telephoning the doctor, although the Garda authorities acknowledge that delays in relation to medical treatment can sometimes be caused by the lapse of time between initial contact and the doctor arriving at the Garda Station.

With regard to the specific recommendation of the Committee that doctors be always required to record their findings and observations in writing following a visit to a person in custody, and that these findings be made available to the detainee and his/her lawyer, the Committee will appreciate that this is an issue that will require to be addressed with the medical profession. The Government has noted the interest of the Committee in this matter.

5. Other safeguards

Comment

In general, custody sheets, i.e. a single and comprehensive custody record for each detained person (cf. CPT/Inf (95) 14 paragraph 53), were being kept accurately. However, *at Cobh Garda Station, records were being kept incomplete* (e.g. Entries concerning information on rights and required signatures had been omitted from many records). (paragraph 24)

Response

The Regional Commissioner for the area has taken up the issue regarding the keeping of incomplete records at Cobh Garda Station with the Divisional Officer, Cork North to ensure that practice and procedure in this area is examined and, where necessary, brought up to standard.

Request for information

As already indicated, electronic (audio-video) recording of interrogation was being tested, at least for more serious offences, and major police establishments had already been fitted with the necessary equipment. Preference was apparently given to taking persons detained in respect of serious criminal offences to facilities where such equipment was available. The Irish authorities have subsequently informed the CPT that the system is now almost complete and that 117 police stations have been fitted out and are fully operational. The CPT welcomes these developments; however, it has received somewhat contradictory information concerning the range of offences to which the new recording requirements will apply and the circumstances when recording might be omitted because it 'is not possible or desirable' to record an interrogation (cf. CPY/Inf (99) 15, paragraph 48). *The CPT would like to receive clarification concerning these issues. (paragraph 25)*

Response

The provisions of the Criminal Justice Act, 1984 (Electronic Recording of Interviews) Regulations, 1997 apply to Garda stations where Audio/Video has been provided and installed. The Government would point out that the fit out of interview rooms in Garda stations for Audio/Video recording of interviews with detained persons is now virtually complete. As stated above, over 220 interview rooms have been so equipped in up to 130 Garda stations and these are fully operational. The Committee may wish to know that the electronic recording of interviews is now well established and, in this regard, recorded interviews have been viewed by a Court in at least one high profile murder case.

The above Regulations apply to interviews, including the taking and reading back of statements, that take place in these stations with persons who have been detained under -

- (a) Section 4 of the Criminal Justice Act, 1984,
- (b) Section 30 of the Offences Against the State Act, 1939,
- (c) Section 2 of The Criminal Justice(Drug Trafficking) Act, 1996
- (d) Section 2 of (c) above as modified by Section 4(3) of that Act.

Under Regulation 4 of these Regulations, an interview is not required to be electronically recorded where the equipment is unavailable due to fault, or already in use when the interview is to commence. However, the member in charge must consider on reasonable grounds that the interview should not be delayed until the fault is rectified or the equipment becomes available. Also an interview may not be recorded where it is not practicable to do so (e.g. if the interviewee simply refused to cooperate). In any such event, the member in charge must ensure that an appropriate note appears in the custody record of the person concerned stating that the interview was not electronically recorded and the reason why.

The Government would also wish to inform the Committee that these Regulations are currently under review and new Regulations are likely to be made this year. A copy will be provided to the CPT when available.

B. Prisons

1. Preliminary remarks

Recommendation

The Irish authorities to persevere in their efforts to adopt new Prison Rules at the earliest opportunity. (paragraph 26).

Response

Legislation governing the operation of the prison system in Ireland comprises a variety of Prison Acts dating from 1800 with the principal Acts being the Prisons (Ireland) Act, 1826, Prisons (Ireland) Act, 1856 and the General Prisons (Ireland) Act, 1877, the Prisons (Visiting Committees) Act, 1925, the Criminal Justice Act, 1960 and the various statutory Rules and Regulations, the most important of which are the Rules for Government of Prisons, 1947 (S.I. No. 320 of 1947). The latter Rules are extremely extensive. They provide a very detailed regulatory framework for every operational aspect of prison life and set out in considerable detail the full range of rights, duties and obligations for prisoners and prison staff.

Draft new Prison Rules aimed at consolidating and updating the rules for the Government of Prisons, 1947 were prepared by the Prisons Policy Division of the Department of Justice, Equality and Law Reform. A copy of these draft rules were furnished to CPT at the commencement of their visit in May, 2002. These draft Rules were then transmitted to the Attorney General for legal drafting. The Parliamentary Counsel subsequently provided the Department and the Irish Prison Service, in August 2002, with a draft set of the new Rules in legal form.

These draft Rules have since been the subject of a very detailed and extensive consultation with senior staff in the Department and the Prison Service. The length of the consultation period and the degree of scrutiny of the new Rules reflects the considerable importance which is attached to them.

The Rules will come into force, as a Statutory Instrument, as soon as possible after the text is finalised. The 1947 Rules will continue in operation until that process is completed which will be as soon as possible.

2. Allegations of ill-treatment

Recommendation

The Irish Authorities are encouraged to reiterate at regular intervals the message that all forms of ill-treatment including verbal abuse are not acceptable. (paragraph 34)

Response

In general, staff in all prisons maintain a good rapport with prisoners. They are also constantly reminded that incidents of verbal and physical abuse will not be tolerated and are aware that that ill-treatment of any kind is not acceptable. The Irish Prison Service is fully committed to the ongoing reinforcement of this message and all allegations of ill treatment are thoroughly investigated.

Recommendation

Prison officers be reminded that no more force than is strictly necessary should be used when controlling violent and/or recalcitrant prisoners and that, once they have been brought under control, there can be no justification for striking them. (paragraph 35)

Response

The Irish Prison Service fully subscribes to the CPT recommendation. This message is continuously reinforced to staff in the ongoing management of the prisons and in the training programmes for recruits and other staff. The CPT has referenced the key role played by control and restraint training in the Irish Prison Service and acknowledged the fact that this training is widely available.

Recommendation

The Irish Authorities to redouble their efforts to ensure that their decision to develop training in interpersonal communication skills is effectively translated into practice. (paragraph 35)

Response

The Irish Prison Service is conscious of the need to continue to provide its staff with appropriate high quality training. It has accordingly undertaken in its Strategy Statement to carry out a training needs analysis for its staff in 2003. The issue of training in interpersonal communication skills will be addressed as part of that review process.

As the committee has noted, issues remain regarding the arrangements for and cost of releasing staff for training and this has blocked progress in the area of interpersonal skills development. While efforts have been made to resolve the issue, it is now more likely that the solution will lie within the overall Staffing and Operations Review Team (SORT) change process which has been underway for some time in the Irish Prison Service. Detailed prison by prison recommendations on more efficient staffing were presented in 2001 and a package of proposals for the implementation of these recommendations was presented to the Staff Side for discussion recently. The thrust of this process is to eliminate the dependency which the Prisons have on overtime working.

Recommendation

Complaints procedures should offer appropriate guarantees of independence and impartiality; and persons who may have been ill-treated should not be discouraged from pursuing a complaint. (paragraph 36).

Response

The Irish Prison Service welcomes the comments of the Committee to the effect that senior management were determined to take appropriate action where allegations of ill-treatment of inmates by staff came to their attention. This is very much the case. Where allegations of assault or ill-treatment are made, the Garda Síochána are called to investigate. A prisoner may also make a complaint to the Prison Visiting Committee, to the prison chaplain, to the prison doctor, to the Minister and he or she also has access to the Courts. They may also complain to the European Court of Human Rights and to the CPT. There is free access by prisoners to these avenues of complaint.

The Committee has also noted the low level of complaints filed. It is suggested that, given the variety of avenues open to the prisoner to raise such matters and the proven commitment of Prison management to pursue any allegations made, this low level of complaints should be seen in a positive light as reflecting well on the management and staff of the prisons rather than necessarily being a symptom of any deficiency in the complaints procedures.

In the absence of a complaint being made, or where the complaint has been withdrawn, it is very difficult to proceed to investigation. It must also be borne in mind that complaints can be made without foundation. Staff are clearly entitled to fair procedure in defending their good name in relation to allegations made and this principle must be adhered to in any investigation or other proceedings.

A further development which should provide additional confidence in this area is the appointment of an Inspector of Prisons and Places of Detention. The Inspector's terms of reference include: as he considers appropriate, inspecting and reporting on prisons and other places of detention under the aegis of the Department of Justice, Equality and Law Reform. Issues that he will have regard to include, the attitude of staff and inmates; health, safety and well-being of prisoners, the conditions of the buildings, questions of humanity and propriety, and any general pattern which may indicate possible inadequacies in the management of the prison. The Inspector's First Annual Report to the Minister for Justice, Equality and Law Reform on his activities and copies of his reports on visits to individual prisons were recently published by the Minister.

As the Report has noted, the complaints procedures are due to be updated in the new Prison Rules.

Request for information

For 2001 and 2002

The number of complaints lodged concerning ill-treatment by prison officers and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints.

An account of those complaints and the outcome of the proceedings (allegations, brief description of the findings of the relevant court or body, verdict, sentence/sanction imposed). (paragraph 37)

Response

The attached table details the number of formal complaints of ill treatment by prison officers made in the years 2001 and 2002.

Year	Ill-treatment complaints	Referrals to Garda Síochána	Withdrawals / not pursued
2001	27	6	4
2002	20	6	2

The alleged ill treatment referred to included general harassment, bullying, verbal abuse, physical assault, discrimination and sexual assault. All of the allegations were fully investigated. Of the 47 cases occurring in this period, 43 have been concluded and a further 4 remain ongoing.

In no case was there sufficient evidence to sustain a charge of ill-treatment. In some cases the complainant did not pursue the complaint. In the great majority of other cases, the investigation carried out found that the allegation was not substantiated and that a disciplinary hearing was not warranted.

In respect of those cases referred to the Garda Síochána, no prosecutions followed. In a small number of these instances the complaint was found to be a deliberate fabrication leaving the complainant open to the possibility of further criminal charges. **The outcome of the disciplinary action taken in connection with the case referred to in paragraph 33. (paragraph 37)**

Response

This matter was delayed pending the outcome of the criminal proceedings referred to in the report. The disciplinary process which was initiated has been further delayed by legal action and, pending a decision in the case, the matter cannot be completed. However, it is confirmed that a report on the outcome will be supplied to the Committee when the process has been completed.

Request for information

Further developments concerning the management of prisoners in need of psychiatric care and, more particularly, of in-patient hospital treatment. (paragraph 39)

Response

A study to assess the mental health needs of prisoners is being independently conducted by personnel from the Central Mental Hospital and is being facilitated by the Irish Prison Service. The focus of the study is on establishing the current and projected psychiatric treatment and rehabilitation needs of those currently in prison who should, more appropriately, be treated in hospital at the Central Mental Hospital or in other psychiatric hospitals, including security needs and any identified treatment needs.

In relation to the use of padded cells, the Irish Government is committed to replacing, as soon as possible, all traditional padded cells with new safety observation cells which, while soft surfaced so as to protect the prisoner from self-harm, will fully meet the needs and respect the dignity of prisoners in every way consistent with their safety.

New guidelines for the use of the special cells will be issued to ensure that they are used under strict supervision and then only as a last resort. In this context, an implementation group was set up in the Irish Prison Service to determine the most appropriate design for these cells and other related matters and to draft revised guidelines for the future use of these cells. This group has recently reported to the Minister for Justice Equality & Law Reform. The Minister has accepted the report and requested the Prison Service to replace padded cells in all prison institutions by June, 2004.

Request for information

Strategies developed with a view to addressing the problem on inter-prisoner violence in the Irish Prison System. (paragraph 40).

Response

Every reasonable effort is made to ensure that prisoners are kept in safe and secure custody including:

- Supervision by staff. Staff vigilance plays a key role in preventing assaults. Prison intelligence is used to pre-empt incidents.
- Location of prisoners within the prison system. Prisoners deemed to be most at risk from other prisoners are segregated from the general population for their own protection.
- Prisoners and their effects are searched to prevent them having in their possession weapons or instruments that could be used for offensive purposes.

In addition, a range of programmes are in existence aimed at tackling offending behaviour. These programmes, of which anger management is an example, are considered not just to benefit the wider community in terms of reduction of the risk of re-offending but also to have a beneficial effect on the prisoners behaviour while in Prison and on his or her ability to relate to fellow prisoners in a non aggressive manner.

The Irish Prison Service has also set up a working group on inter-prisoner assaults to refine its approach to this issue. Part of the Group's remit is to agree a standard clearly understandable system of classification and recording of assaults across the prison estate. The group's work is well advanced and will, following implementation of its recommendations, allow for annual audits to be conducted of all inter prisoner assaults. This in turn will assist the Irish Prison Service in keeping the numbers of such assaults as low as possible.

A related aspect is the bullying of prisoners by other inmates. A working Group has been set up to enquire into this. The group which is due to report shortly will examine how widespread bullying is at present in the Prisons and how it is dealt with. Reference to the practice in other jurisdictions will also be made. The group will recommend an anti bullying policy for launch in the Prison Service.

The current procedure for handling inter-prisoner assaults is as follows:

- (1) The prisoners involved are separated. The first response to an incident in which a prisoner is assaulted by another prisoner is to separate the prisoners involved. Depending on the seriousness of the incident, the prisoners could be confined to their cell or other place of safety. In some cases prisoners may ultimately be transferred to another institution.
- (2) Injured prisoner is treated. Appropriate medical attention is given to the injured party. Depending on the injuries involved, treatment could range from first aid by a medical orderly/nurse or medical officer up to removal to hospital.
- (3) Weapon retrieved. If a weapon is used, every effort will be made to ensure that it is retrieved.
- (4) Disciplinary reports. A prisoner who assaults a fellow prisoner can be dealt with under the disciplinary procedures. In order for a prisoner to be put on report, it will normally require that the incident be witnessed by a Prison Officer. The Officer puts the prisoner on report by submitting a disciplinary report. The prisoner is then brought before the Governor. The report describing the disciplinary breach is read out and the offender is invited to respond. The Governor is obliged to adjudicate fairly, and to impose a penalty where appropriate.

3. *Conditions of detention*

Request for information

Measures taken to ensure that all prisoners at the Dóchas centre are provided with appropriate accommodation. (paragraph 41).

Response

The favourable comments made by the Committee in respect of the material conditions of detention for the vast majority of prisoners in the Dóchas centre are appreciated.

However, the position is that the number of female prisoners being committed to prison is continuing to increase and this has created the situation of overcrowding referred to in the Committee's report. It is accepted that there is an urgent need to provide additional spaces within the Dóchas centre. This is particularly so in the case of remand prisoners. However, this requirement is in competition with a number of other similarly compelling demands on the financial resources of the Prison Service.

Comment

Efforts should be made to limit the occupancy of the larger cells at Cloverhill Prison (measuring approximately 11m²) to two prisoners. (paragraph 42)

Response

The Governor has confirmed that, when numbers in custody allow, the practice is for 3 person cells to be occupied by 2 prisoners. Inevitably, this will not always be possible if there is no other accommodation available.

Recommendation

The partitioning of in-cell lavatories at Cloverhill Prison to be improved. (paragraph 42)

Response

The Governor is currently reviewing the partitioning of the cells with a view to providing more privacy. Also, when numbers allow, it is the practice to limit occupancy of such cells to 2 persons.

Recommendation

A decision concerning the future of Mountjoy (i.e. whether to refurbish and modernise the Prison for Men or to redevelop the Mountjoy complex as a whole) to be taken at the earliest opportunity. (Paragraph 43)

Response

The Irish Prison Service welcomes the CPT's acknowledgment that the situation has improved considerably at Mountjoy Prison since previous visits. However it is accepted that Mountjoy Prison is still in urgent need of refurbishment, key elements of which will include the provision of in cell sanitation and higher quality accommodation. As the CPT is also aware, there is a major policy decision to be taken in relation to the Mountjoy complex as to the best approach to deliver on the objective of providing better facilities for its population. Whatever option is eventually taken, it will, on the basis of professional estimates, require a very substantial investment.

Recommendations

At Cork Prison, the 7.5m² cells to cease to be used to accommodate more than one prisoner; the 21m² cells to accommodate no more than 4 persons. (paragraph 44)

Efforts should be made to avoid as far as possible placing two prisoners in the 9m² cells at Cork Prison. (paragraph 44)

Cork Prison to be kept in an appropriate state of repair. (paragraph 44)

Response

It is accepted that there is overcrowding at Cork Prison. The Prison has a design capacity of 150 but a population of 270, accommodated by multiple occupancy of cells. The only solution is provision of additional accommodation via a building programme. This programme is underway and when complete will make it possible to achieve the recommended occupancy levels set out in the CPT report. The development would be on a phased basis. Tenders are being prepared for the first phase which will include construction of new single occupancy cells. This in turn will relieve pressure on existing accommodation and allow for it to be refurbished. Pending redevelopment, maintenance of the existing accommodation will be ongoing.

The Irish Prison Service is committed to providing a high standard of accommodation in the prisons and in 2002 spent some 48m (14.5% of annual budget) on buildings, maintenance and equipment.

Recommendation

The Irish Authorities to pursue vigorously their efforts to provide prisoners to better access to proper sanitary facilities. (paragraph 45)

Response

It is accepted that difficulties exist in the oldest of the Irish Prisons with regard to in cell sanitation. It is the ultimate objective of the Irish Prison Service to provide this facility in all cells and thus to eliminate the need for slopping out in any prison where this practice remains.

On the basis of a engineering study carried out in respect of Mountjoy Prison, the provision of in cell sanitation could be expensive, given the age of the existing building. While this does not in any way negate the need for this facility to be provided, it further highlights the central issue in relation to the future of Mountjoy Prison, viz whether piecemeal refurbishment or full reconstruction represents the best option. Subject to availability of the necessary financial resources this issue will be addressed as a matter of urgency.

In the interim, every effort is made to provide the prisoners with access to lavatories during the hours of 8am to 10pm and, in general, staff are made available to facilitate this.

Comment

Either a toilet facility should be located within cellular accommodation (preferably in a sanitary annexe) or means should exist enabling prisoners who need to use a lavatory to be released from their cells without undue delay at all times (including at night) .(paragraph 45)

Response

It is the objective of the Irish Prison Service to provide in cell sanitation for all prisoners as a matter of urgency. In the meantime, as much access as possible is provided to out of cell facilities for those prisoners who need them. Staff are detailed from 8pm until 10pm to facilitate the unlocking of prisoners so as to allow them to access toilet facilities.

Comment

The Irish Authorities are encouraged to increase the number of places available on the “Connect Project”. (paragraph 48).

Response

The comments of the Committee in this area are welcome. It can be confirmed that it is the intention to extend the Connect Project to all institutions in the Irish Prison Service. This roll out process will commence shortly, with Limerick Prison due to join the scheme in the near future.

A development in which the Committee may be interested is the contribution made by the prisons to the Special Olympics in Ireland this summer. The Special Olympics project was established at Arbour Hill, the Midlands Prison, Wheatfield Place of Detention and Mountjoy Prison. As well as enabling prisoners to maintain and develop vocational skills, this project made a significant contribution to a high profile unique event that contributes to the social inclusion of people with learning disabilities.

170 prisoners participated in the project. The Irish Prison Service produced a range of products in time for the event in summer 2003 including all the podia required for all medal ceremonies, special equipment to stabilise wheelchairs in weight lifting competitions, bocce courts, 75,000 flags, 86,000 towels, welcome signs, score boards, equestrian gates, benches, flag poles and crowd control barriers.

Recommendation

Efforts to develop the programmes of activities for prisoners to be redoubled. The aim should be to ensure that all prisoners, whether on remand or sentenced, spend 8 hours or more outside their cells engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association). (Paragraph 50)

Response

As outlined in the report, the Irish Prison Service, along with the Department of Justice, Equality and Law Reform, are committed to making time spent in custody by an offender genuinely constructive and to making available to offenders training, education and other services in order to help to prepare offenders for their re-integration into society.

The elaboration of positive sentence management as a mechanism for effective integration and co-ordination of all services and programmes designed to meet the complex and diverse needs of offenders is a key task for the Prison Service. This will involve a new orientation in the delivery of services to prisoners and a new emphasis on prisoners taking greater personal responsibility for their own development through involvement in the process of deciding which programmes/treatments they should follow. The end result should be a prisoner-centred, multi-disciplinary approach to working with prisoners with provision for initial assessment, goal setting and periodic review to measure progress.

The appointment of a Director of Regimes in the Prison Service, in April 2002, has been an important step in this process and will provide an administrative driver for this task. It is intended to establish, in the very near future, a Working Group on Positive Sentence Management within the Prison Service comprising all the relevant agencies and bodies. This Working Group will be mindful of and take heed of best practice in other jurisdictions.

The prisoner's day is in large part determined by the staff day. In that respect the current Strategy Statement commits the Service to negotiating new staffing and employment arrangements and the programme of change to address the problem of staff working long hours in the context of delivering improved regimes for prisoners is continuing.

4. Health care services

Recommendation

Steps to be taken to ensure that all medical examinations of prisoners (whether on arrival or at a later stage) are conducted out of hearing and, unless the doctor concerned requests otherwise in a particular case, out of sight of prison officers. (paragraph 54)

Response

The CPT's comments are noted. It is believed that the reference to Prison Officers being in attendance refers to Medical Orderlies who, while recruited as prison officers, can volunteer to be assigned full time to the medical unit. Such staff receive appropriate specialised training. These orderlies are present during medical examinations and also maintain medical records for the prison. Prison officers, in the normal sense of representing those on security duties, are not present for medical examinations.

Recommendations

Mountjoy prison for men to benefit from the equivalent of a full time doctor.

Urgent action to be taken to significantly increase the presence of the doctor in Cork Prison. (paragraph 57)

Response

Under existing conditions of employment, the recruitment and retention of doctors to work in the prisons is quite problematic. The Irish Prison Service is presently engaged in an industrial relations process with the union representing prison doctors and it is hoped that the outcome of this process would be to have in place an employment structure which would be conducive to increasing overall medical input across the prison system.

The Governor of Mountjoy Prison also wishes to record his view that medical services in the male prison at Mountjoy have greatly improved.

Recommendation

At least 1 full time qualified nurse to be assigned to the Dóchas Centre, and the health care team at Cork Prison to be reinforced by qualified nursing staff (paragraph 57)

Response

It is Irish Prison Service policy to expand the presence of qualified professional nurses to all prisons, including Cork Prison. This is dependent on suitable structures being in place to both attract and retain qualified staff.

The CPT Report contains an error in relation to the nursing staff allocation to the Dóchas Centre. At the time of the visit there was an allocation of five nurses (and one medical orderly) to the Dóchas Centre, not one prison officer medical orderly as stated in the report. There is 24 hour nursing cover in the Dóchas Centre and a doctor attends on a daily basis.

Comment

The healthcare facilities at Mountjoy Prison for Men were rather cramped and their state of cleanliness left something to be desired (paragraph 58);

Response

The Irish Government accepts that the healthcare facility in Mountjoy Prison is less spacious than is desirable and that these facilities need to be updated. It is essentially a limitation imposed by the age of the infrastructure.

As the Committee will be aware, one of the main strategic options for Mountjoy is that of redevelopment. In this context it would be difficult to justify piecemeal measures in relation to individual parts of the complex. However, it can be confirmed that, in any redevelopment, provision of purpose built medical facilities will be a priority.

As regards the state of cleanliness, every effort is made, within the limits of available space, to maintain a suitable sanitary environment.

Recommendation

The authorities to take steps to reinforce dental care services in Irish prisons (paragraph 59)

Response

In relation to Cloverhill Prison, discussions are ongoing with the Dental Hospital in Dublin with a view to increasing the level of service available. In general, however, availability of dental services in the Irish Prison system is in line with similar provision to public patients in the general community. This includes waiting times for treatment.

Recommendation

The practice of making information leaflets on general health issues available to inmates (and staff) at Cloverhill to be extended to other Prisons (paragraph 60).

Response

Most prisons make this sort of information available to some extent. A multi-disciplinary working group within the Irish Prison Service and with the involvement of staff representatives is addressing this issue. Part of the Group's remit will be to update the format and content of the information media available. It will also make recommendations as to renewed information campaigns targeted at prisoners in relation to the risks posed by communicable diseases. The issue of refreshing the process of communication to staff in relation to these issues will be addressed also.

Recommendation

The psychiatric services in Cork Prison to be strengthened (paragraph 62)

Response

In consultation with the relevant Health authorities, the Irish Prison Service is currently reviewing the organisation and adequacy of psychiatric services in all prisons. This is with a view to achieving convergence with the level of service available to the community in general. The services in Cork Prison form part of that review.

Recommendation

The psychological services of the prisons visited to be developed (paragraph 63)

Response

Ongoing difficulties in relation to the recruitment of psychologists, and the considerable growth in the variety and complexity of tasks for which the Service has responsibility, have hampered the expansion of the Prison Psychology Service in recent years. A National Steering Group to oversee the Development of the Psychology Service was established in 2002 to address these issues and to formulate proposals for the expansion and development of the service. The work of this group is at an advanced stage.

Recommendation

Steps taken to ensure that practice in Ireland is brought into line with the considerations set out in paragraph 64 concerning the contents of the record drawn up following a medical examination of a newly-admitted prisoner. The result of the medical examination to be made available to the prisoner concerned. The same approach to be followed whenever a prisoner is medically examined following a violent episode in prison (paragraph 65).

Response

As part of a defined set of Irish Prison Service Health Care Standards currently in preparation, it is intended to specify criteria for initial nursing and medical examination of both new committals and individuals in the course of imprisonment. This would be intended to include assessment of any injuries complained of. In relation to the results of any medical examination being made available to the prisoner concerned, this is already the case both in terms of medical practice guidelines of the Irish Medical Council and also under the terms of the Freedom of Information Act whereby a prisoner is entitled to seek access to all personal information, including medical information.

Recommendation

A comprehensive policy for the provision of care to prisoners with drug related problems to be developed and implemented. In the context of implementing such a policy, substitution treatment to be introduced at the earliest opportunity in the prisons not currently providing it. (Paragraph 68)

Response

A national drugs policy in the Prison Service is in the process of being finalised. This policy will, inter alia, outline procedures in relation to the provision of a range of treatment, including substitution treatment, across the prison system. The implementation of this policy will require both the provision of adequate resources and the full co-operation of both prison management and relevant health authorities in all prisons.

A National Steering Group was established to oversee developments in this area. The progress made in their work includes: -

- a drug service co-ordinator from the Eastern Regional Health Authority is now in place;
- a Deputy Governor now has the position of Training Officer for Drug Treatment work by Prison grades. He has been in position since October 2001. He will deliver training programmes designed to enhance and further professionalise Prison Officers involved in interpersonal work with prisoners undergoing drug treatment;
- there is now extensive access to methadone maintenance for prisoners in the Dublin area which is a complete transformation of the situation which existed up to 2000;
- designated Drug Free Wings have already opened in St. Patrick's Institution in November 2000, in Wheatfield Prison in April 2002 and others are due to open at other prisons over the coming months. The Training Unit at Mountjoy Prison has been a drug-free unit since 1996;
- 70 qualified nurses are in place to administer methadone programmes in the prisons and to monitor for any breaches of the programmes, along with their general duties;
- additional Probation and Welfare Officers have also been authorised to work in this area. A senior Probation and Welfare Officer and two team members have been recently assigned to Drug Treatment work within the Mountjoy complex;
- a number of other appointments are planned by the Health Boards in the Eastern Region for positions, both full-time and part-time, in the prisons in the Dublin area. These include consultant psychiatrists and addiction counsellors. Interviews to recruit the latter staff have taken place within the past month;
- there are extensive links between Cork Prison and the Local Drugs Task Force and, through funding from the latter, two full-time Addiction Counsellors have been appointed to work in the prison;
- during 2001, at the request of the Director General, a special linkages group (the Prison and Community Drugs Liaison Group) was established between the Governors of the main Dublin prisons and voluntary sector services which work with drug dependent people in the community;
- over 400 offenders have completed Mountjoy Prison's Drug Treatment Programme. This is a 6 week course involving detoxification, where necessary, intensive counselling and psychological support for participants;
- the National Steering Group has recently established a multi-disciplinary working group, composed of the in-house services and a member of the Addiction Studies Department, Trinity College, to review the current drug treatment programme in the Mountjoy complex in terms of:

- (a) the extent of ownership of the programme across a range of local stakeholders and voluntary agencies,
 - (b) the extent to which the programme matches current best practice, and
 - (c) the making of relevant recommendations.
- The Irish Prison Service is committed to evaluating the effectiveness of all prison programmes, including those aimed at the reduction of drug misuse and, under the National Drugs Strategy 2001 to 2008, it has undertaken to commission and carry out an independent evaluation of the overall effectiveness of the Prison Strategy by mid 2004. This Review will cover all aspects of drug services in prisons including research on the levels and routes of supply of drugs in prisons.

Furthermore, a number of other measures have also been implemented in recent years in an attempt to curtail the smuggling into and use of illegal drugs in the prison system. These measures include video surveillance, improved visiting/searching facilities and increased vigilance by staff. The introduction of screened visits in Cloverhill and Midlands Prisons, accompanied by the erection of nets over the yards of Cork Prison and St. Patrick's Institution, has further strengthened this policy.

In addition to these security arrangements, new visiting procedures are being implemented in Mountjoy Prison. These procedures were recently introduced as a means of reducing the supply of illegal drugs. Each prisoner must now indicate in advance that he expects a visit and that that visitor is required to present photo identification confirming their identity. While these new procedures have met with some resistance, the Irish Prison Service is committed to eliminating the smuggling of drugs into the prison system. Measures to achieve this objective will be further developed in the context of the forthcoming drugs policy in the Prison Service.

Recommendation

The presence of a qualified psychiatric nurse during the day in the medical unit (D2) at Cloverhill Prison would be desirable (paragraph 62).

Response

The medical facilities in Cloverhill are under ongoing review. However, the nursing staff complement for the Prison as a whole includes nurses with training in psychiatric nursing.

Request for Information

The authorities intentions with respect to implementation of the recommendations of the group set up to review the structure and organisation of prison health care services as well as the timeframe therefor. (paragraph 52)

Response

The timeframe for implementation will be dependent on the allocation of significant resources and the active co-operation of relevant community health agencies will also be required. A working group consisting of prison and health service personnel was established to agree and implement the report recommendations and this task is ongoing. However, at this point it can be said that it would be intended to implement the recommendations in full.

5. Other issues.

Recommendations

Current arrangements for accommodating immigration detainees to be reviewed (paragraph 69)

Response

The view of the CPT is that prison is not a suitable place in which to detain someone who is neither convicted nor suspected of a criminal offence. All of the immigration detainees at Cloverhill were persons in respect of whom deportation orders had been made but who had failed to comply with the deportation process having been given an opportunity to do so. Prior to the making of the order the person in question would have been given an opportunity to make representations in writing to the Minister as to why a deportation order should not be made.

Failure to cooperate in the deportation process constitutes a criminal offence under section 8 of the Immigration Act, 1999. In that sense, therefore whilst the persons in question had not been convicted of criminal offences, they were persons who were suspected of a criminal offence. It is not the policy in this jurisdiction to prosecute persons in such cases - the policy is to enforce the deportation order.

In the wider context, it is true that prisons are used as places of detention for persons who have been refused leave to land under the Aliens Order, 1946. Cloverhill Prison is not one of the Prisons prescribed for that purpose. In circumstances, where it is not possible to return a person immediately on a flight later that day, and if the person has not made an application for asylum, then the person is detained pending the making of arrangements for his or her return. Typically a person will only be detained overnight until the next suitable flight. Consequently it is rarely the case that persons falling into this category are detained for an extended period.

It should be borne in mind also that since the purpose of such detention is to remove such persons from the State as soon as practicable it is necessary to ensure that persons are detained in a location which is as near as possible to the port of entry. In that context there are wide disparities in the number of persons refused leave to land at certain of the busier ports and airports and persons refused leave to land at more remote locations. The network of Prisons and Garda Stations which may be used at present is such that it facilitates the removal of persons at all of these locations.

Recommendation

The disciplinary system to be developed without further delay, having regard to recommendations already made by the CPT (paragraph 70).

Response

As indicated during the visit, the new Prison Rules will provide the updated legislative framework for disciplinary matters involving prisoners. The recommendations made during the CPT's 1999 visit have been taken into account in the drafting of the new Rules.

Recommendation

Pending the adoption of the new Prison Rules, Article 69 (1) (d) of the 1947 Prison Rules to cease to be applied (paragraph 71)

Response

Article 69 (1) (d) of the 1947 Prison Rules provides for suspension by the Governor of all privileges for a period of up to 2 months. It is agreed that this rule is applied on occasion. However, it is not accepted that use of this rule is widespread. Loss of all privileges is a sanction which is imposed in respect of a small number of prisoners and then only in the most serious cases of misconduct. In cases where it is imposed, the prisoner's behaviour is kept under review and, where it has improved, privileges may be restored to the prisoner well before the end of the period specified for the punishment.

The new prison rules are still under finalisation and it would be premature to discuss individual provisions at this stage. However it should be noted that the lack of a directly comparable "blanket" provision to Rule 69 (1) (d), should that be the case, would not remove the right of a Governor to withdraw privileges on an individual basis.

Maintaining good order in the prisons is a core objective and Governors must have available to them some form of sanctions to discourage misconduct. Withdrawal of certain privileges is a necessary part of that disciplinary framework.

Pending the coming into force of the new Rules, the CPT's comments have been brought to the attention of all Governors so that they can be taken into account in the application of disciplinary measures.

Recommendation

The limited access to natural light in the ground floor cells in D Block at Cork Prison to be remedied (paragraph 72)

Response

As the Committee has noted, the material conditions of cells in the D Block at Cork Prison have improved in line with previous recommendations. It is accepted that there is more work needed and that the provision of more natural light would be beneficial. The refurbishment of the cells in D Block forms part of the redevelopment plan for Cork Prison.

Request for information

Comments on the remarks in paragraph 74 concerning the confidentiality of prisoners correspondence with outside bodies and with their lawyers (paragraph 74)

Response

The Irish Government fully accepts the right of prisoners to correspond freely with the CPT without censorship. It is surprised that any correspondence should arrive at the CPT offices marked "censored". Since censorship of such correspondence is not the policy of the Irish Prison Service, it can only be assumed that any instances of this represent isolated cases of procedural error. These are regretted.

The procedures in relation to censorship of mail in prisons are set out under Article 63 and 212 of the Rules for the Government of Prisons, 1947. Only "objectionable" (word used by 1947 Rules) material is retained by the Governor and the prisoner is so informed. All incoming/outgoing mail to an offender, with the exception of mail to/from the CPT, the European Court of Human Rights and the Samaritans may be opened. The policy in regard to correspondence to legal advisors is that a Governor has the right to inspect such correspondence to the extent necessary to ensure that it relates to the prisoner's legal affairs. The standard practice is that letters to legal advisors are not delayed or copied, neither are any notes taken of their contents. Staff are expected to treat as confidential any information obtained as a result of such an inspection.

In general, prisoners' mail, incoming and outgoing, is liable to be censored in closed institutions. There is no censoring of mail in the open centres and the semi-open institution.

Recommendation

Steps to be taken to ensure that the Inspector of Prisons and Places of Detention is placed in a position to fulfil his functions in the most effective and independent manner (Paragraph 75)

Response

The Office of the Inspector of Prisons and Places of Detention has been operational for some time. The Inspector's First Annual Report to the Minister for Justice, Equality and Law Reform on his activities and copies of his reports on visits to individual prisons were recently published by the Minister.

Recommendation

Conditions in the visiting facilities at Cork Prison to be improved (paragraph 77)

Response

The next phase of the planned redevelopment of Cork Prison will incorporate a purpose built visitor facility. A tender for this phase of the development is currently in preparation.

Request for information

The current situation as regards the replacement of temporary visiting facilities at Mountjoy Prison for men with a modern purpose-designed unit (paragraph 77)

Response

It remains the intention to provide a purpose built visitor unit for Mountjoy. However this work could not be considered in isolation from the overall situation regarding the Mountjoy complex. That issue is still under active consideration with various options being explored. Any decision taken will address as part of a comprehensive solution the well accepted need to upgrade visitor facilities.

C. Mental health establishments

1. Central Mental Hospital, Dundrum

a. Preliminary remarks:

LEGISLATION:

The CPT has noted with interest that new legislation has been enacted, in particular the Mental Health Act, 2001.

Request for information

“The CPT would like to receive confirmation that an automatic independent review of every patient admitted on an involuntary basis to a psychiatric establishment, including the Central Mental Hospital, is now provided for by legislation.”(paragraph 79)

Response

The Mental Health Act, 2001 will, when commenced, provide the required protection for twenty of the seventy-five patients detained at the Central Mental Hospital, i.e. those detained under Section 207 and 208 of the Mental Treatment Act, 1945, which will be superseded by the Mental Health Act, 2001.

Twenty five patients detained under insanity and unfit to plead legislation, will gain the requisite protections if the Criminal Law (Insanity) Bill, 2002 is enacted and commenced in its present form.

However, thirty patients transferred from prison to the Central Mental Hospital under Ministerial orders do not, as yet, have any planned protections. The Minister for Justice, Equality and Law Reform is prepared to provide the necessary statutory changes deemed necessary to address the protection of these patients in the Criminal Law (Insanity) Bill, 2002.

b. Allegations of ill-treatment:

The delegation received no allegations of ill-treatment from the patients met during the visit to the Central Mental Hospital. However, the hospital’s management indicated that there were ongoing investigations, including by the police, into recent allegations of sexual abuse of female patients by a male care staff member and by a nurse, and into the death of a patient while being restrained by staff in 2001.

Requests for information / Comment

“The CPT would like to be informed in due course of the results of the investigations referred to above.”

“... the CPT wishes to make clear that, given the inherent vulnerability of persons deprived of their liberty, there is no scope for consent in sexual contact between staff and inmates; this is no less true where mental patients are concerned. Such conduct on the part of staff should always be regarded as an abuse of their authority.”(paragraphs 80 and 81)

“The Committee would like to receive information on any additional measures taken as regards procedures for the restraint of patients, in the light of the result of the above-mentioned investigation.”(paragraph 82)

Response

Allegations of sexual abuse

An investigation into allegations of sexual abuse was conducted by An Garda Síochána, and a file was sent to the Director of Public Prosecutions (DPP). The DPP decided not to progress this matter further.

An internal inquiry resulted in the dismissal of a staff member on grounds of gross misconduct.

Death of a Patient Following Restraint

An investigation into the death of a patient has been conducted by An Garda Síochána and a file is currently with the DPP.

An internal enquiry by the East Coast Area Health Board has resulted in a recommendation by the East Coast Area Health Board to the Minister for Health & Children that a staff member be dismissed on grounds of gross misconduct. The Minister will set up a Removals Committee in this regard, in accordance with Section 24 of the Health Act, 1970.

Control & Restraint Training

All new staff members working directly with patients receive appropriate training in Control & Restraint procedures. The majority of longer-serving staff have had refresher training in this regard and a number have been identified for training as Control & Restraint procedures instructors.

c. Patients' living conditions:

Comment

“...a Review Committee for the hospital, set up in December 2000 by the East Coast Area Health Board, recommended the complete renovation of that (i.e. main) building and the construction of a new accommodation wing.”

Recommendations

The CPT recommends that favourable consideration be given to the Review Committee's proposal."

"Certain measures can – and should – be taken to improve patients' living conditions without waiting for the complete renovation of the hospital's main building: e.g. rooms can be furnished with chairs; the shutters covering windows can be removed, and, if necessary, window panes replaced by other transparent material; sanitary facilities can be upgraded; and the patients' access to a lavatory at night can be improved. The CPT recommends that action be taken accordingly. Further, consideration should be given to installing a call system in patients' rooms".(paragraph 85)

Response

Significant capital expenditure is required to appropriately address issues of concern in respect of living conditions. The Department of Health & Children has recently appointed a Project Team for the re-development of the Central Mental Hospital.

Patients' access to lavatory facilities at night is restricted due to a limited number of staff on night duty.

d. Staff resources and treatment:

Comment

"... due to recruitment difficulties, five psychologists, five occupational therapists and twenty-five nursing posts were vacant, as were four social worker posts. Further, working relations between nurses and care staff apparently remained somewhat strained."

Recommendation

"The CPT recommends that the Irish authorities pursue their efforts to resolve staff-related problems at the Central Mental Hospital and to fill all vacant posts."(paragraph 86)

Response

1. Recruitment

A Principal Social Worker has been appointed and the recruitment process is underway for four additional social work, five psychology and five occupational therapy staff.

However, in common with health services nationwide, the Central Mental Hospital continues to experience difficulties in the recruitment of staff, despite extensive efforts in this regard.

2. Staff Relations

The hospital has commenced an organisational change and development programme. It is hoped this will address difficulties in communication, and provide a new more collaborative working

arrangement between different sectors of staff.

Comment

“...plans to develop therapeutic activities for patients had not yet matured, apparently due to a lack of staff.”

“...many patients spent their day unoccupied in the common rooms. A patient survey carried out in June 2001 indicated that many patients resent this state of enforced idleness.”

Recommendation

“The CPT recommends that further efforts be made to provide a larger number of patients with a structured daily programme of therapeutic and rehabilitative activities, based on their individual needs and capacities.”

(Paragraph 87)

Response

Some limited health promotion initiatives have been introduced to the hospital as part of activities during the daytime. However, the Central Mental Hospital continues to experience great difficulty in the recruitment of appropriately trained occupational therapists, which would enable development of appropriate programmes of therapeutic and rehabilitative activities for patients.

Comment

“...every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. (paragraph 88)

Recommendation/request for further information

“...psychiatrists met during the visit to the Central Mental Hospital stated that they did not need to seek patients’ consent to treatment, arguing that their admission to the hospital amounted in itself to an authorisation for involuntary treatment. The CPT would like to receive clarification from the Irish authorities on this point.”

Response

In relation to patients detained under Section 207 and 208 of the Mental Treatment Act, 1945, the legal position provides for a “status test” not a “competency test” for treatment. Consent is governed by status and competence.

Doctors at the Central Mental Hospital agree with the CPT that this is not satisfactory. The Mental Health Act, 2001, when commenced, provides for compulsory treatment for all detained for the first twenty-one days (S.15 – 1). A tribunal then reviews the detention. Where a patient is still not consenting, this is followed by the need to obtain a second opinion after three months (S.60), as to

the competency of the patient and the appropriateness of treatment. In the continued absence of consent, a second opinion must be obtained every three months.

For those currently detained under insanity and Unfit to Plead legislation, the Criminal Law (Insanity) Bill, if enacted, will carry the same protection as the Mental Health Act, 2001. Until then, it has always been the practice of the Central Mental Hospital to emulate the requirements of the Mental Health Act, 1945 for these patients. However, for ECT, Clozapine and other intrusive treatments, it is the practice to obtain second opinions.

For those transferred from prison as remanded or sentenced prisoners under Ministerial order, there are no statutory protections. The Minister for Justice, Equality and Law Reform is prepared to provide the necessary statutory changes deemed necessary to address the protection of these patients in the Criminal Law (Insanity) Bill, 2002.

e. Seclusion:

The report refers to a specific patient prone to aggression and self harm: “The psychiatrists responsible for her treatment recognised that seclusion in a padded cell had not improved significantly her condition and stated that, in their opinion, it was no way to manage her conduct in the longer term; however, they were at a loss as to an alternative solution.”(paragraphs 89 & 138)

Recommendation

“The CPT can only encourage the Irish authorities to continue exploring other means of managing such situations.” (paragraph 89)

Response

The introduction of Psychology and Occupational Therapy services and enhanced numbers of ward-based staff will make many appropriate alternative therapeutic interventions possible.

The Central Mental Hospital has developed a Seclusion Policy for the service.

Comment

“The delegation observed that, on occasion, seclusion registers did not contain clear information about the reasons for the measure. Further, on one occasion the reason noted for a placement in the padded cell was ‘inadequate staffing...making it difficult to maintain a safe environment.’ (paragraph 90)

Recommendation

“The CPT recommends that steps be taken to ensure that seclusion at the Central Mental Hospital is always properly recorded and only has to be resorted to because of medical considerations.”

Response

Seclusion registers are subject to systematic inspection by the Clinical Director and the Nursing Director. The registers are also inspected by the Inspector of Mental Hospitals on a twice yearly basis.

Comment

“...the padded cell in Unit 4, which the CPT had recommended be taken out of service, was still in use, unchanged.”(paragraph 91)

Recommendation

“The CPT reiterates its recommendations that the seclusion facilities in Unit 1 of the Central Mental Hospital be upgraded and that the padded cell in Unit 4 be taken out of service.”

Response

As is the case with the response to paragraphs 83-85, significant capital expenditure is required to appropriately address issues of concern in respect of Units 1 and 4. The Project Team for the re-development of the Central Mental Hospital will examine this issue as part of its brief.

2. *Establishments for mentally disabled persons*

a. **Intellectual disability services**

Response in respect of visits to St Joseph’s Services, St Ita’s, Portrane, St Raphael’s, Youghal and Grove House, Cork

General

The Department of Health and Children, the Northern Area Board and the Southern Health Board welcome the comments made by the Committee in relation to the professional and caring manner in which the staff working in the three services visited provided support for the residents and the efforts which are being made in relation to their current living environment. The Committee’s comments in relation to medication and medical records have also been noted and welcomed.

The Committee requested that it be provided with up-dated information in relation to the transfer of persons with an intellectual disability from psychiatric and other inappropriate placements. This has been included in the comments set out below.

Recommendation

The Committee recommended that considerations in Paragraph 99 as regards residents living conditions be borne in mind when formulating future policy in relation to services for persons with an intellectual disability. (paragraph 99)

Response

As outlined to the Committee, the Department of Health and Children has been working with the health boards, including the Southern Health Board and the Northern Area Health Board, to provide alternative care settings for persons with an intellectual disability or autism in psychiatric hospitals and other inappropriate care settings. Just under 38m was allocated between 1997 and 2002 to this programme, which is an integral part of the overall development of services.

The number of persons with an intellectual disability accommodated in psychiatric hospitals in October, 2002 was 452, down from 490 in April, 2002. The figure in 1996 was 970. There is specific mention of this programme in the National Health Strategy (2001) with a stated objective to complete the overall transfer of persons with an intellectual disability from psychiatric hospitals in all health board regions as soon as possible and not later than 2006.

The Committee was informed of the specific plans to provide new accommodation for both St Raphael's and St Joseph's Services. The tender process in relation to the new facilities for 60 persons on the campus of St Ita's is nearing completion. Approval was given in July, 2002 to the Board in relation to the initial planning and design of a further complex for 30 persons in North County Dublin. The Board is also in the process of acquiring two further houses in the community from the relevant Local Authority and will be working in partnership with the Authority to facilitate the acquisition of further properties.

The development in St Raphael's Youghal is also being progressed.

Recommendation

“The CPT has noted that it is intended to develop national standards for residential services for persons with disabilities. While welcoming this initiative, the Committee recommends that the legal situation of persons placed in mental disability facilities be reviewed as a matter of urgency and that action be taken with a view to providing a comprehensive legal framework for such institutions, offering an adequate range of safeguards to persons placed in them.” (paragraph 94)

Response

The preparation of national standards for residential services for adults is at an advanced stage. It is also intended that the remit of the Social Services Inspectorate will be extended to services for adults with disabilities. The Committee's comments in respect of a comprehensive legal framework for these services have been noted.

b. Staff resources and level of care

Recommendation

The Committee recommended that staffing levels in the three services be reviewed, in particular in relation to multi-disciplinary and psychiatric supports. (paragraph 104)

Response

In relation to existing staffing levels, the Committee were informed of some of the difficulties which the health services generally are encountering in recruiting certain categories of staff.

The Higher Education Authority, following a formal bidding process between third level educational institutions, has allocated an additional 175 training places to respond to the training needs identified in the manpower planning study commissioned by the Department of Health and Children in respect of current and future need for Speech and Language Therapists, Occupational Therapists and Physiotherapists. This initiative almost doubles the number of therapists training places available. The number of nurse training places has also been increased.

In addition the Northern Area Health Board has undertaken a concerted overseas recruitment drive on behalf of all Health Boards. Procedures are being streamlined to minimise the length of time taken to validate foreign qualifications consistent with the overreaching need to ensure that all therapists working in the health sector are appropriately trained and qualified.

The Report of the Expert Group on Various Health Professionals recommended the establishment of a therapy assistant grade, where appropriate to provide practical support to therapists in their work and also to address the issue of skills mix. This recommendation is being progressed in the context of the continuing implementation of the Expert Group Report

Staffing levels at St. Raphael's have been reviewed and the Department will work with the Southern Health Board in relation to the implementation of the recommendations made as a result of the review. The staffing structure at Grove House is under review and account is being taken of the number of domestic staff required at the centre to ensure that a safe, clean environment is maintained and that the catering areas conform to Hazard Analysis Critical Control Point (HACCP) regulations. The Southern Health Board is working toward securing multi-disciplinary teams at St. Raphael's and Grove House. It is hoped that the position of Psychologist will be filled at Grove House later this year.

The staffing levels in St Joseph's Service will be reviewed in the context of the development of the new facilities.

Recommendation

The Committee recommends that an individualised assessment of residents in establishments for mentally disabled persons be carried out, with a view to ensuring that they receive the treatment they require or are transferred to a more appropriate establishment. (paragraph 104)

Response

The need for individualised assessments and care plans as part of the overall planning and delivery of services is acknowledged throughout the services. Particular attention is being paid to this area in the context of best practice and quality initiatives. The Committee's recommendation in relation to this matter has been noted.

D. Detention centres for children

1. Preliminary remarks

Comment

Even if material conditions of detention are good, police cells are not appropriate places for holding children for an extended period of time (paragraph 107)

Every effort is made to avoid situations where children are held on inappropriate premises due to pressure on places in children detention schools at any given time. In general, a child in these circumstances is subsequently placed in the unit of preference or in an appropriate alternative facility within a twenty-four hour period.

Request for information

Further information on the opening of a detention unit for children aged 14 to 15 at St Patrick's Institution and the manner in which the standards of the Ministry of Education for establishments for children will be met (paragraph 107)

The Government has now decided not to open a detention unit for children aged 14 to 15 at St. Patrick's Institution.

2. Material conditions

Comment

It would be preferable to replace the masonry plinths in children's rooms at Trinity House School with proper beds (paragraph 111)

Trinity House School piloted the replacement of the masonry plinths with four proper beds in 2002 and this has proved very successful. Accordingly, the replacement of all the remaining plinths with proper beds is being pursued.

3. Regime

Request for information

Information on the development of the incentive scheme at Trinity House School (paragraph 114)

A working group within the School is considering the area of behaviour management and is preparing a new system and structure, which it is hoped to pilot in September, 2003. It is envisaged that the new system will involve an individual contract of behaviour based on the young person's strengths and weaknesses. Following a case conference on the young person involved, the contract of behaviour will be drawn up by the young person, his key workers, the tuition link teacher and the unit manager. The contract will address an agreed individual crisis management plan and will identify strategies to develop specific strengths and weaknesses. There will be regular feedback for the young person and it is expected that all strategies will be regularly reviewed and updated.

Confirmation that the padded rooms in Trinity House School have been withdrawn from service (paragraph 115)

Trinity House School has protection rooms, which it should be noted are not padded rooms. Following the independent inspection of the school in March, 2000 and concerns arising from the staff and boys at the school surrounding the use of the protection rooms, a working group was established within the School in 2001 to consider the matter. The Group identified the practice to use these rooms as part of a behavioural management programme, as a sanction for unacceptable behaviour. It found that the recorded use of the rooms would suggest that their use was frequent rather than exceptional. It was unanimously agreed that every alternative should be tried before the protection room and recommended that the regular structured programme of in-service Therapeutic Crisis Intervention training for all staff be continued.

The policy of the school is not to withdraw the use of protection rooms but rather to strive to reduce their use.

4. Health care

Recommendation

The absence of a psychologist attached to the health care team at Trinity House to be remedied (paragraph 117)

The School engages psychological and counselling services on a consultative basis as required.

5. *Complaints and inspection procedures*

Request for information

Developments concerning the putting in place of a system of external inspection of reformatory schools and other places of detention for children and copies of the draft standards and criteria for inspections (paragraph 120)

Standards and Criteria for Children Detention Schools were finalised and approved in November, 2002. The standards have issued to all the children detention schools and are available on the Department's website. An independent inspection on one of the schools was completed in July, 2002 and was conducted by reference to the draft Standards and Criteria. The issue of inspections of the remaining four schools is currently being considered having regard to the inspection provisions set out in the Children Act, 2001.

Further information on the establishment of an office of ombudsman for children, including clarification as to whether the ombudsman will also be empowered to inspect police stations, prisons or other establishments used from time to time to hold children deprived of their liberty (paragraph 120).

This information is outlined at page 43 in this response.

E. Other issues of relevance to the CPT's mandate

1. Child care services

Note on Child Care Services including High Support / Special Care Unit Developments.

Significant funding has been invested in the development of special residential services for non-offending children in need of special care or protection in recent years. Approximately 40m capital funding has been provided through the health boards to put 110 extra high support and special care places in place to address the needs of a small number of children who need more intensive intervention than mainstream residential care or foster care. Currently there are 120 such places compared to 17 in 1997. In addition a five-place special care unit for boys (Coovagh House) located in Limerick is being introduced on a phased basis in the near future.

High support is designed to provide an alternative to and a step-down service from special care. It is generally characterised by high staff client ratios, with therapeutic support being provided in a suitably adapted or purpose built residential facility with on site education. High support units operate as open units (i.e. children are not detained). Special care is characterised by high staff client ratios, with therapeutic support provided in suitably adapted or purpose built facilities with on site education. Children in special care units are detained by order of the court for their own protection. About a quarter of these specialised residential places are in the special care category.

It should also be noted that intensive community based programmes have been established to cater for the needs of this category of children (e.g. Youth Advocacy Pilot Projects in Dublin and Galway).

Special care units are subject, like all residential facilities run by health boards, to the provisions of the Child Care Act, 1991, the Child Care (Standards in Children's Residential Centres) Regulations, 1996 and are subject to annual inspection by the Social Services Inspectorate against the National Standards For Special Care Units (Part 3 of the Children Act, 2001 provides for a specific statutory scheme of registration for special care units).

This comparatively small specialised provision is being developed as part of the wider child welfare services. At the end of the year 2000 more than 4,424 children were in care (over 75% were in foster care). The development of early intervention and community based family support services is a particular priority in line with the Health Strategy *Quality and Fairness: A Health System for You* that was published in 2001.

2. *Children Act 2001*

The Children Act 2001 provides, inter alia, for the amendment of the Child Care Act, 1991 and in Part 3 imposes statutory duties on health boards in relation to children in need of special care or protection. Part 2 of the Act establishes the Family Welfare Conference on a statutory basis for the first time and provides that a family welfare conference be held in relation to the issue of a child's placement in special care. (Piloting of these conferences by health boards has been taking place over the past two years). Part 11 provides for the establishment of a Special Residential Services Board to co-ordinate special residential services. The Board has been operating on an administrative basis since April, 2000. Work is advancing with a view to bringing Parts 2, 3 and 11 into force later this year.

3. *Ombudsman for children*

The Ombudsman for Children Act, 2002 was signed by the President on 2 May, 2002. The Act provides for the setting up of an office by end of April, 2004.

The principal functions of the Ombudsman for Children will be as follows:

- To promote the welfare and rights of children
- To act as a catalyst for change
- To respond to individual complaints
- To establish mechanisms through which there will be regular consultation with children, and
- To provide an advisory role to Government

The Ombudsman's remit will include investigating complaints against public bodies, schools and voluntary hospitals. However, Garda Stations, Prisons and other places of detention are not covered under the Act with the exception of reformatory schools or industrial schools, certified under Part IV of the Children Act, 1908.

4. *National Prison Health Working Group*

Progress report

A working group was established to examine the specifics of a partnership between the Department of Justice, Equality & Law Reform, Irish Prison Service and the Department of Health & Children and/or the statutory Health Boards. This group has been established for one year and it is now both timely and appropriate to review the progress made since the last report of May, 2002.

This group works under the Chairmanship of Mr. Pat McLoughlin, Chief Executive, South Eastern Health Board.

Terms of reference

Review the recommendations of the Report of the Group to Review the Structure and Organisation of Prison Health Care Services.

Examine international models reflecting good practice and to identify any lessons concerning the effectiveness and efficiency, organisation and management structures exhibited by those models and to devise a model suitable for the Irish system.

In pursuit of the policy of equivalence of care between the prison population and the general population, the working group will be assessing options for closer and more integrated work between the Prison Service and Healthcare Service, including any implications for the structure, organisation, management, working practices, I.T., human resources, funding and legislation governing the functions of those services.

To examine the specifics of a formal partnership arrangement between the Irish Prison Service and the Health Boards.

To agree templates for service agreements between the Irish Prison Service and the Regional / Area Health Boards.

To provide advice on the broader policy implications of these recommendations.

Of the 43 recommendations in the report, this group are pursuing 13 (recommendations 9, 16, 17, 21, 23, 24, 26, 27, 31, 32, 37, 40 and 42, please see report for further details).

Membership:

- Mr. Pat McLoughlin, Chairperson, South Eastern Health Board.
- Mr. Noel Brett, Regional Manager, Mental Health & Services for Older People, Western Health Board.
- Mr. Pat Brosnan, Director of Mental Health Services, Mid Western Health Board.
- Ms. Ann Doherty, Director of Strategy & Planning, Southern Health Board.
- Dr. Enda Dooley, Irish Prison Service.
- Dr. Pat Doorley, Director of Public Health, Midland Health Board.
- Dr. Peter Finnegan, Specialist in Public Health Medicine, North Eastern Health Board.

- Mr. Martin Gallagher, Assistant Chief Executive, ECAHB.
- Mr. Hugh Kane, Assistant Chief Executive, SWAHB.
- Mr. David Moloney, Principal Officer, Department of Health & Children.
- Ms. Frances Nangle-Connor, Irish Prison Service.
- Mr. Eamonn O'Brien, Director of HR, North Eastern Health Board.
- Ms. Deirdre O'Reilly, Irish Prison Service.
- Ms. Ruth Ryan, Directorate Manager, Planning, Commissioning & Change, ERHA.
- Mr. Michael Walsh, Assistant Chief Executive, NAHB.
- Department of Justice, Equality & Law Reform nominee.

Meetings are held on a monthly or six weekly basis and are convened by the Irish Prison Service.

Overview of main discussions

The Prison Health Service is the responsibility of the Director of Prison Medical Services within the Irish Prison Service.

It is the intention that through formal service agreements, the Department of Health & Children and the Health Boards should work in partnership with the Department of Justice, Equality & Law Reform and the Irish Prison Service in relation to the development and delivery of prisons health care.

The Irish Prison Service (IPS) has the responsibility for the provision and maintenance of a secure, efficient and progressive system of custody and rehabilitation for offenders committed to prison.

The present situation whereby prison health care is funded and organised separately from general health care in the community has contributed to an inequitable situation.

Prison policy recommends that each prisoner have an initial health check on entering prison. In order to implement this strategy, it needs to be reflected in staffing levels at medical level in order to avail of the opportunity to provide such treatment. Over the last number of years, public services have been less competitive with private industry for attracting potential employees. In addition, the environment of a prison service may not appeal to potential employees either.

The image of the prison setting as a potential employer needs to be examined and is a matter for the IPS but promotion of this is also responsibility of the health boards.

Inmates may have health problems, which have not been dealt with before their imprisonment. Life in the custodial sector may also lead to or aggravate certain pathologies. The frequency of dental problems, hepatitis B and C, traumatic pathologies and mental health problems should be especially highlighted. With regard to addictive habits such as alcohol, drug and medicine abuse, these present an ever-increasing problem in the prison sector. There should be a health care service of the same quality and continuity as is provided for the rest of the Irish population.

In addition to general health issues such as primary and secondary care, the Prison Service has a key role and duty to perform in tackling drug misuse and this must be undertaken in a coordinated way with other government departments, statutory agencies, prisoners, their families and the wider community. To the maximum extent possible the level of equivalence of access available to the community should be replicated in the prisons. It has been agreed that this working group would not concentrate on drug misuse as there are numerous committees working on this area.

Unfortunately, at the moment, there is no centralised data system for compiling all the health data together that exists on prisoners in each prison. Prison is an ideal opportunity for some prisoners to be screened for Hepatitis C, vaccination opportunity for Hepatitis B and to commence HIV treatment, as they are often more stable in prison than they have been in the community.

Prisoners quite often come from disadvantaged backgrounds. Therefore it is an opportunity to redress disadvantage in so far as is possible through an integrated health promoting prison strategy that includes training, personal development and social support.

To ensure that each prison evolves into an increasingly health promoting institution, it is essential that all stakeholders, prisoners, prison officers, senior staff, health board employees and initiatives get the opportunity to contribute to the creation and building of such an environment. All should be part of the process and of any needs assessment. Sufficient resources will need to be made available and management changes will also be required to implement strategies. A supportive prison environment will be of benefit in the immediate short term and could mean the difference in terms of risk of re-entry to prison. Prisoners should not be patronised nor have their skills and capacities as individuals underestimated just because they are in many respects disadvantaged.

Health care provision has reached equivalence in some areas such as dental and secondary care but the foundations of health care such as dedicated GPs and psychiatric care for this special needs group needs to be improved. Prisoners can also be patients. Prisoners also have come from the community and will return to the community. If there is to be improvement in prisoner's health, there must be shared care planning between the prison authorities and the community setting.

Progress and/or decisions made

- Conjoint working has been initiated regarding the purchasing of methadone maintenance between the Eastern Regional Health Authority and the Irish Prison Service.
- A site visit was organised to both Cloverhill and Wheatfield Prisons to outline at a local level the range of healthcare services available within these prisons and the context of the physical environment in organising and providing services. Another site visit is to be organised before the summer to a prison outside of the eastern region.
- Mr. Hugh Kane presented a position paper on Medical Card Holders – Entitlement to Services to the group.

- It was decided to form a Prisons Primary Care Sub-Group under the chairmanship of Dr. Pat Doorley. Membership includes Irish Prison Service, Governor and Health Board representation. This group have met a number of times and there is to be regular reports to the national group on progress. Reports have already been completed on the following areas:
 1. Existing Services in Prisons
 2. Hepatitis, HIV
 3. General literature review on primary care in prisons (work in progress)
 4. Quality Standards (work in progress)
 5. Needs Assessment
- A further Sub-Group addressing Needs Assessment has also been established and have had one meeting to date, this is under the chairmanship of Ms. Ruth Ryan. Membership again includes Irish Prison Service, Governor and Health Board representation. Its Terms of Reference are to develop a framework for a comprehensive needs assessment of primary health care needs in prisons. This committee will inform the Primary Care Sub-Group/National Group.
- Dr. Enda Dooley presented a position paper for discussion/consideration on the development of prison psychiatric services. It was decided to hold a round table discussion on how psychiatric services to the prison population should be organised and structured in March 2003. The following groups have been asked to make presentations to the working group:
 6. Comhairle na nOspidéal
 7. Department of Health and Children
 8. Royal College of Psychiatrists in Ireland
 9. Central Mental Hospital
 10. Representative of Prison Governors
 11. Irish Prison Doctors Association
 12. Psychological Society of Ireland
 13. New Mental Health Commission
 14. Consultant in Substance Misuse – NAHB