



IPRT Submission to Mental Health Reform on a ‘Vision for Change’

August 2018

(For submission to Chairperson of Oversight Group)

About IPRT

Established in 1994, the Irish Penal Reform Trust (IPRT) is Ireland's leading non-governmental organisation campaigning for rights in the penal system and the progressive reform of Irish penal policy. Our vision is one of respect for human rights in the penal system, with prison as a sanction of last resort. We are committed to respecting the rights of everyone in the penal system and to reducing imprisonment. We work towards progressive reform of the penal system based on evidence-led policies and on a commitment to combating social injustice.

Introduction

As identified by the Inspector of Prisons Office, *Annual Report for 2015 and 2016*:

“There is growing concern at the level of prisoners within the prison system with mental health difficulties. This presents a serious challenge for the Irish Prison Service management. It is recognised that the prison system must work with all the relevant State agencies to deliver high quality care to this cohort of vulnerable prisoners.”ⁱ

1. Social Inclusion and Recovery

People with mental health issues frequently come into contact with the criminal justice system.ⁱⁱ This places them doubly at risk of stigma and discrimination. One action identified by the Irish Prison Service is to: *“explore and develop links with HSE to support access to appropriate through care by breaking down stigma of working with people with a forensic history.”ⁱⁱⁱ* The particular stigma experienced by this group was also previously identified in a ‘*Vision for Change*’:

“There has however been a culture of suspicion within services, as individuals with both mental illness and a forensic history are concerned, evolving into a covert policy of having nothing to do with such a clientele. Barriers must be overcome to allow a more open and accepting attitude to mentally ill persons.”^{iv}

IPRT questions whether the prevalence of this culture described above has changed; recent research highlighted:

“Approved Centres (‘open wards’ or local inpatient psychiatric units) in Ireland are often reluctant to accept patients with offender status owing to inadequate resources, inappropriate facilities or lack of expertise.”^v

All sectors should recognise prisoners as citizens and include this cohort in accessing relevant services and supports in healthcare, education and housing. This point has been well-articulated in domestic criminological research:

“In other words, society must meet ex-offenders halfway by providing appropriate structural and criminal justice supports that help desisters to fulfil their potential and experience an authentic sense of social inclusion.”^{vi}

(a.) Service provision must be equitable for those coming into contact with the criminal justice system. Discrimination against this cohort should be addressed and provided for by an Amendment to the *Equal Status Acts 2000-2015*.^{vii}

(b.) Inter-agency protocols that promote the social inclusion of prisoners should be developed and enforced.

2 (i.) Prevention & Early Intervention

The experiences which precede imprisonment are often marked by multiple vulnerabilities including adversity, trauma, violence, addiction, poverty and homelessness. Recent literature highlights the impact of Adverse Childhood Experiences (ACEs)^{viii} on outcomes for children.

Good mental health care provision including adequately resourced mental health assessments in the community at the earliest point for children, will help reduce the numbers coming into contact with the criminal justice system.

(a.) Supports should be made available to children who are likely to have experienced one or more ACE. We draw attention to: children affected by parental imprisonment, children in care and children in the criminal justice system.

2 (ii.) Mental Health Promotion

The policy should identify prisoners as a group at particular risk of mental health issues. Poor prison conditions such as restricted regimes including the practice of solitary confinement, overcrowding, violence, lack of meaningful activity and lack of privacy can exacerbate and have a negative impact on an individual's mental health.^{ix} It can increase the risk of self-harm and suicide.

(a.) The practice of solitary confinement in Irish prisons must be abolished.^x

(b.) The State must commit to creating 'healthy' prison conditions which promote positive mental health. This includes addressing the proportion of prisoners who are currently on a restricted regime and facilitate all prisoners to have access to purposeful activity in safe environment.

(c.) Promotion of mental health should in prisons including mental health training for all prison staff.

3. Service access, coordination and continuity of care

There should be a focus on the development of diversion services in police stations and courts. While a diversion system is in place, the *Prison In-Reach and Court Liaison Service ('PICLS')*, PICLS has been described as in its infancy: *'Prison in-reach and Court Liaison Services (PICLS) are developing in Ireland but expertise and resourcing are highly variable geographically.'*^{xi} Domestic research has also found the absence of Intensive Care Regional Units in Ireland and *'limited scope to divert to hospital at sentencing stage in the absence of a 'hospital order' provision in Irish legislation.'*^{xii}

In 2017, the United Nations Committee against Torture^{xiii} made a recommendation to the Irish State on mental health in Irish prisons:

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

In January-May 2018, there was on average 20-30 prisoners with severe mental illness awaiting transfer to the only designated centre, the CMH.^{xiv} While data is not available on lengths of time individual prisoners are waiting for transfer, the Executive Clinical Director in May 2018 stated:

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

A report by the Ministry of Justice in England states that *"eligible prisoners should wait no longer than 14 days to be admitted to a secure hospital."*^{xvi}

Ireland currently has one of the lowest per capita psychiatric forensic beds in Europe at 2 per 100,000.^{xvii} With the opening of the new facility in 2020, it will increase provision to 3.5 per 100,000.^{xviii} Ireland's rate is below the European average of eight per 100,000.^{xix}

As far back as 2003, the CPT stated that:

mentally ill prisoner[s] should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff. In the view of the CPT that facility could be a civil mental hospital or a specifically equipped psychiatric facility within the prison system. Whichever course is chosen, the accommodation capacity of the psychiatric facility should be adequate and there should not be a prolonged waiting period before a person is transferred to the psychiatric facility.^{xx}

In 2015, the CPT visited high support units^{xxi} and found they “*were not properly resourced and did not address the needs of mentally-ill prisoners; there was a complete lack of structured activities and no occupational or recreational therapy, only pharmacotherapy.*”^{xxii}

Access to mental health care provision in the community is also especially relevant to continuity of care on release. While prison-based medical personnel make efforts to create these links where possible, they report that there is effectively no adult psychology service available in the community to refer.

(a.) Law and policy should support the diversion of mentally-ill individuals away from the criminal justice system and to an appropriate clinical setting or service.

(b.) Enhanced screening procedures for individuals with mental illness should be available across the entire prison estate.

(c.) Where a person has been imprisoned, there should be a continuity of care upon admission to prison and upon release.

(d.) A sufficient number of forensic mental health spaces must be ring-fenced to meet current demand and provide for projected future needs.

(e.) Access to the proposed community based forensic mental health teams and low security units across the country should be available to the prison population based on clinical need. As previously recommended, all forensic mental health teams should provide a service to those with dual diagnosis.^{xxiii}

(f.) The Irish Prison Service must be provided with the necessary resources to support the mental health needs of prisoners in their care.

4. Accountability and Transparency

Accountability and transparency within closed institutions is imperative for the protection of children and adults deprived of their liberty. IPRT calls for ratification of OPCAT and the establishment of a National Preventative Mechanism (NPM). Ratifying OPCAT would allow for more comprehensive inspections mechanisms (both national and international) in all detention settings.

(a.) IPRT calls for ratification of OPCAT and the establishment of a National Preventative Mechanism in order to allow for more frequent inspections, safeguarding and protecting the human rights of individuals detained.

(b.) In order to provide transparency, the Irish Prison Service should publish data consistently on the number of prisoners with severe mental illness waiting to be transferred to an appropriate facility and the lengths of time waiting.

Appendix 1: Number of prisoners awaiting transfer to the Central Mental Hospital (CMH)

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

Endnotes

- ⁱ Office of the Inspector of Prisons, *Annual Report for the years of 2015 and 2016*, p.21
http://www.justice.ie/en/JELR/IOP_Annual_Report_2015-16.pdf/Files/IOP_Annual_Report_2015-16.pdf
- ⁱⁱ In 2012, an Inter-Departmental Group was set up to examine the issue of people with mental illness coming into contact with the criminal justice system, http://justice.ie/en/JELR/interdepartmental-group-to-examine-issues-relating-to-people-with-mental-illness-who-come-in-contact-with-the-criminal-justice-system_first-interim-report.pdf/Files/interdepartmental-group-to-examine-issues-relating-to-people-with-mental-illness-who-come-in-contact-with-the-criminal-justice-system_first-interim-report.pdf
- ⁱⁱⁱ Irish Prison Service, *Psychology Service Strategy 2016-2018*, p.4 http://www.irishprisons.ie/wp-content/uploads/documents_pdf/psychology_strategy_2016.pdf
- ^{iv} Report of the Expert Group on Mental Health Policy, *A Vision for Change*, p.138
<https://www.hse.ie/eng/services/publications/mentalhealth/mental-health---a-vision-for-change.pdf>
- ^v Gulati G. & B. Kelly (2018) *Diversion of Mentally Ill Offenders from Criminal Justice System in Ireland: Comparison with England and Wales*, p.5 available at <http://imj.ie/diversion-of-mentally-ill-offenders-from-the-criminal-justice-system-in-ireland-comparison-with-england-and-wales/>
- ^{vi} Hart W. & D. Healy (2018) 'An inside job': An autobiographical account of desistance, *European Journal of Probation*, p.14.
- ^{vii} For more info. see IHREC, *Equal Status Acts*, <https://www.ihrec.ie/guides-and-tools/human-rights-and-equality-in-the-provision-of-good-and-services/what-does-the-law-say/equal-status-acts/>
- ^{viii} See SAMHSA, *Adverse Childhood Experiences*, <https://www.samhsa.gov/capt/practicing-effective-prevention/prevention-behavioral-health/adverse-childhood-experiences>
- ^{ix} World Health Organisation and International Committee of the Red Cross (2005) *Information Sheet: Mental Health and Prisons*, p.1: http://www.who.int/mental_health/policy/mh_in_prison.pdf
- ^x IPRT (2018) 'Behind the Door': *Solitary Confinement in the Irish Penal System*, https://www.iprt.ie/files/Solitary_Confinement_web.pdf
- ^{xi} Gulati G. & B. Kelly (2018) *Diversion of Mentally Ill Offenders from Criminal Justice System in Ireland: Comparison with England and Wales*, available at <http://imj.ie/diversion-of-mentally-ill-offenders-from-the-criminal-justice-system-in-ireland-comparison-with-england-and-wales/>
- ^{xii} Gulati G. & B. Kelly (2018) *Diversion of Mentally Ill Offenders from Criminal Justice System in Ireland: Comparison with England and Wales*, p.2 available at <http://imj.ie/diversion-of-mentally-ill-offenders-from-the-criminal-justice-system-in-ireland-comparison-with-england-and-wales/>
- ^{xiii} United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2017) *Concluding Observations on the second periodic report of Ireland*, CAT/C/IRL/CO/2, at 16(f) p.6:
https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En
- ^{xiv} Information provided by the Irish Prison Service to IPRT.
- ^{xv} Presentation by Professor Harry Kennedy, Houses of the Oireachtas, *Psychiatric Support in Ireland's prisons the focus for the Committee on the Future of Mental Healthcare*:
https://www.oireachtas.ie/en/debates/debate/joint_committee_on_future_of_mental_health_care/2018-05-23/3/
- ^{xvi} Report by the Comptroller and Auditor General (2017) *Mental health in prisons*, Pt. 14, p. 9:
<https://www.nao.org.uk/wp-content/uploads/2017/06/Mental-health-in-prisons.pdf>
- ^{xvii} Kennedy, H. (2016) Prisons now a dumping ground for mentally ill young men, *The Irish Times*, 18th May 2016: <https://www.irishtimes.com/opinion/opinion-prisons-now-a-dumping-ground-for-mentally-ill-young-men-1.2651034>
- ^{xviii} Gallagher, C. Not guilty by reason of insanity: Inside the Central Mental Hospital, *The Irish Times*, 30th June 2018 <https://www.irishtimes.com/life-and-style/health-family/not-guilty-by-reason-of-insanity-inside-the-central-mental-hospital-1.3544665>
- ^{xix} Presentation by Professor Kennedy, Houses of the Oireachtas (2018) *Psychiatric Support in Ireland's prisons the focus for the Committee on the Future of Mental Health Care*:
https://www.oireachtas.ie/en/debates/debate/joint_committee_on_future_of_mental_health_care/2018-05-23/3/

^{xx} CPT Standards 2003, para 43 cited in Irish Human Rights Commission (2004) *The Treatment of Persons Deprived of their Liberty in Ireland: Observations of the Irish Human Rights Commission on the Third Report of the European Committee for the Prevention of Torture on their Visit to Ireland in February 2002*, p. 25.

^{xxi} High Support Units provide short term interventions and provide expertise for individuals in an acutely disturbed phase of mental illness who require observation, more here

<https://www.irishprisons.ie/information-centre/press-releases-and-speeches/press-releases-and-speeches-2012/mountjoy-high-support-unit-wins-taoiseachs-public-service-excellence-award/>

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

^{xxiii} Report of the Expert Group on Mental Health Policy, *A Vision for Change* p.136

^{xxiv} Data provided by the Irish Prison Service to IPRT.