

Progress in the Penal System (PIPS)

A framework for penal reform
(2017)

Summary

About IPRT

The Irish Penal Reform Trust is Ireland's leading independent charity campaigning for a penal system that is just and humane; protects and promotes human rights, equality and social justice; and uses prison as a last resort. IPRT publishes a wide range of policy and research documents; we campaign vigorously across a wide range of penal policy issues; and we have established IPRT as the leading independent voice in public debate on the Irish penal system.

Summary

About the PIPS Project

Progress in the Penal System (PIPS) sets out a clear vision for the future of Ireland's penal system, with an ambition for Ireland to lead as a model of international best practice.

The purpose of PIPS is to monitor and assess progress across a broad range of issues in Ireland's penal system. To achieve this, IPRT has developed a series of 35 standards and indicators against which progress will be tracked over three years, with a series of short-term actions recommended for implementation each year. These recommended actions are intended to help facilitate continued progressive reform of Ireland's penal system.

The project aims to encourage constructive dialogue between relevant criminal justice stakeholders, while also informing wider audiences, including agencies, politicians, media, the general public and international audiences interested in learning about the current state of the Irish penal system.

Current context

A number of progressive penal policy developments have occurred in Ireland since 2011, including: a reduction in prisoner numbers; considerable improvement in physical prison conditions; and the removal of children from the adult prison system.

However, some key human rights issues still prevail, including: limited out-of-cell time, particularly for those held on restricted regimes and in solitary confinement; deficiencies in prison healthcare; detention of people with severe mental health issues in prison; violence; and inadequate complaints and oversight.

Guiding Principles and Values

IPRT sets out the core principles and values that should underpin Ireland's penal system as follows:

Guiding Principles of Penal Reform

1. Imprisonment as a last resort
2. Recognition of the harms and costs of imprisonment
3. Deprivation of liberty as the punishment
4. Balancing security, safety and protection of prisoners while ensuring a humane regime
5. Protection and promotion of human rights, equality and social justice
6. Emphasis on rehabilitation and reintegration

Values that should be embedded in the Penal System

- Respect, dignity and protection from inhumane, discriminatory or degrading treatment
- Safety, protection of life and a duty of care
- Accountability
- Consistency and promotion of fairness and equality
- Good relationships between prisoners, staff and management

IPRT Standards

IPRT's standards are informed by international human rights standards and best practice, guided by the principles and values set out above. The standards aim to go beyond basic universal minimum human rights provisions, towards achieving a 'world class' penal system.

Standard 1:	Penal policy is continually monitored, implemented, evaluated and evolving.
Standard 2:	Imprisonment is used as a last resort. This principle is enshrined in domestic legislation, with focus on the promotion and proportionate use of alternatives to custody.
Standard 3:	Every closed prison is operating at least 10% below its recommended maximum capacity.
Standard 4:	Each prison is limited to a prison population not exceeding 300, but ideally 200–250.
Standard 5:	Prisoners are detained in the least restrictive prison security setting, as determined through risk assessment.
Standard 6:	Open prisons comprise 30%-35% of the prison estate.
Standard 7:	Every prisoner is provided with respect, dignity and humanity and has access to decent living conditions.
Standard 8:	Every prisoner has 24-hour access to toilet facilities that respect the dignity and privacy of the individual.
Standard 9:	Every prisoner has access to single-cell accommodation.
Standard 10:	Remand prisoners are held separately from sentenced prisoners across the entire prison estate.
Standard 11:	Every prisoner is encouraged and facilitated to maintain positive family and close, significant relationships.
Standard 12:	The healthcare needs of individual prisoners are met. Every prisoner has access to healthcare that goes beyond the 'equivalence of care' principle, with a full range of preventative services and continuity of healthcare in the community.
Standard 13:	People with serious mental health issues are diverted from the prison system and receive the appropriate treatment and supports in a timely manner.
Standard 14:	People with addiction issues are diverted from the prison system and receive the appropriate treatment. Where imprisonment is the only appropriate response, treatment is made available within prison, with a continuum of care upon release.
Standard 15:	A prisoner's right to privacy, and that of his/her family members, is respected and protected.
Standard 16:	Every prisoner spends a minimum of five hours a day engaged in structured meaningful activity for five days a week, in addition to a further minimum seven hours' out-of-cell time.
Standard 17:	Every prisoner and his/her family members, where desired, are facilitated and actively involved in his/her sentence planning from the beginning of sentence through to the point of release.
Standard 18:	Prisoners are encouraged and facilitated to develop and maintain life skills and assume personal responsibility while in prison.

Standard 19:	Every prison provides each prisoner with access to a range of educational activities that meet the individual's needs and take into account their aspirations.
Standard 20:	Civil society access to prisons is encouraged, and there are opportunities for prisoners to participate and engage in the community through structured forms of temporary release.
Standard 21:	Prisoners are encouraged to engage with their political and civic rights.
Standard 22:	Prisoners have access to a robust and effective complaints mechanism. All complaints are dealt with in a timely manner, and the outcome of a decision is clearly communicated to the prisoner, with a satisfactory resolution if the complaint is upheld.
Standard 23:	Prisoners have access to an external, independent complaints and appeal mechanism, including access to a prisoner ombudsman or equivalent.
Standard 24:	Structures are in place for the regular inspection and monitoring of prisons. Inspection reports are made publicly available within a clear timeframe.
Standard 25:	The death of, or serious incident involving, a prisoner is investigated by an independent body immediately, and the investigation report published promptly.
Standard 26:	Solitary confinement is used as a last resort and only in exceptional circumstances. It is used for the shortest period possible and for a maximum of 15 days. Reasons for and lengths of time a prisoner is held in solitary confinement must be recorded.
Standard 27:	Prisoners and everyone in the prison system feel safe and protected from violence in the prison environment.
Standard 28:	The health and welfare of prisoners is prioritised while they are under escort.
Standard 29:	All staff receive relevant ongoing training and supports in order to effectively carry out their duties to a high standard.
Standard 30:	Good relationships between management, staff and prisoners are facilitated and encouraged. Management ensures that a positive working culture is created in the prison.
Standard 31:	Prison protocols emphasise de-escalation and conflict resolution approaches. Use of force and restraint are a measure of last resort.
Standard 32:	Management in the prison system takes a proactive approach towards protecting anyone who is at risk of discrimination due to their age, gender, ethnicity, sexuality, disability or other.
Standard 33:	The parole system is fair, transparent and removed from political control.
Standard 34:	All prisoners have comprehensive preparation and structured plans for release. National policy and legislation provides for a structured release system.
Standard 35:	Protocols are in place for inter-agency co-ordination in order to ensure the successful reintegration of prisoners on release.

Assessment against the Standards

The PIPS report assesses the current state of Ireland's penal system against the 35 IPRT standards, detailing key indicators and recommended short-term actions.

A. An Effective and Humane Penal System (Standards 1–6)

There have been a considerable number of progressive penal policy commitments over the past five years – including the *Oireachtas Joint Committee Report on Penal Reform* (2013) and the *Strategic Review Group on Penal Policy Final Report* (2014) – but implementation has been slight. These commitments must be monitored, fully implemented and evaluated. Robust criminal justice and prisons data must be collated and published in order to identify trends and better inform policy and service provision.

While Ireland has a relatively low daily imprisonment rate by international standards, high committal rates suggest that imprisonment is not being used as a last resort. This is particularly the case for the female prison population, despite evidence that female offenders are most often imprisoned for non-violent offences. Further analysis to assess the effectiveness of initiatives such as the *Criminal Justice (Community Service) (Amendment) Act 2011* is needed. IPRT believes a medium-term goal of reducing the prison population from 79 per 100,000 to 50 per 100,000 by 2021 is achievable.

Safe custody limits reduce the risk of violence and ensure the safety of prisoners. All prisons should be operating at 10% below maximum capacity levels. Published capacity figures must be updated regularly to reflect factors which affect capacity, including access to regimes.

Smaller prisons are more effective, reduce the likelihood of violence, and facilitate positive relationships between staff and prisoners. However, five out of the 12 Irish prisons have operational capacities above 300; Mountjoy Prison has a bed capacity of 755 and Midlands Prison has a bed capacity of 870.

The damaging institutional effects of imprisonment should be minimised through accommodating prisoners at the lowest appropriate security levels. Limited low security and open prison settings are available across Ireland's prison estate. Despite policy commitments to increase open prison provision, in 2017 there was a reduction in such provision from 9% to under 7%; there is also a lack of access to open prisons for women and prisoners on protection.

B. Prison Conditions (Standards 7–15)

In recent years, there has been substantial improvement to physical conditions of Irish prisons, including a dramatic reduction in the number of prisoners with no access to in-cell sanitation. However, over 40% of prisoners must toilet in the presence of others.

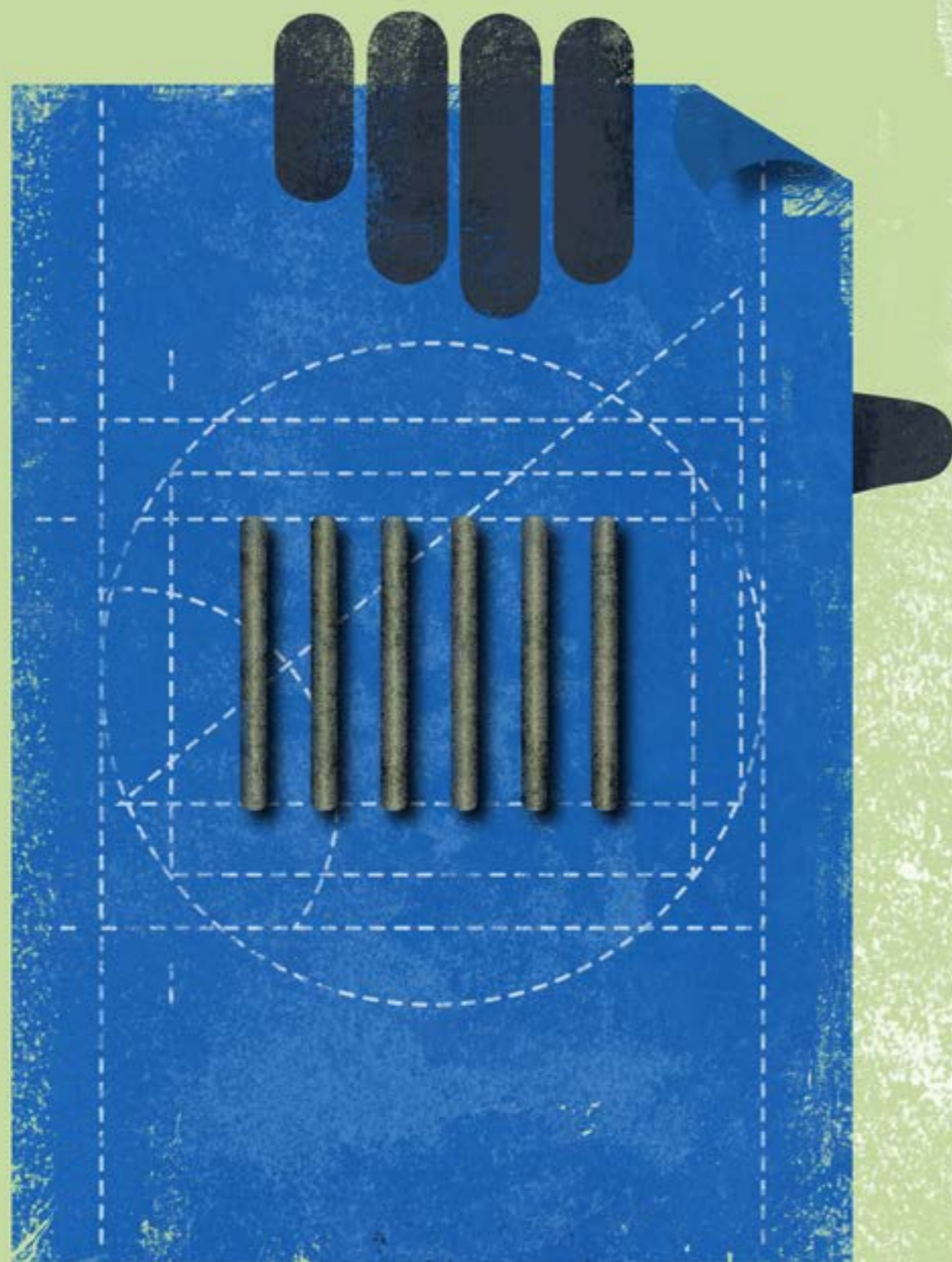
Single-cell accommodation is an important feature in ensuring prisoner safety. However, just over half of the prison population resides in single-cell accommodation. In 2016, the newly-constructed Cork Prison was designed for double-cell occupancy, contravening international best practice standards. Additionally, a number of remand prisoners are sharing cells with sentenced prisoners in Ireland.

The rights and needs of children and families affected by imprisonment must be met. Child-friendly visiting conditions should be available across the entire prison estate, along with increased access to other forms of contact, such as telephone calls and video-conferencing. The distinct needs of children affected by parental imprisonment should be recognised as an inter-departmental issue, including provision of specific mental health and education supports. Media intrusion into the privacy of prisoners and their families should be addressed, and routine censorship of prisoner correspondence should end.

Healthcare, mental healthcare and addressing addictions and social exclusion requires considerable work by stakeholders outside of the criminal justice system. Prisoners should have access to a full range of preventative services and continuity of healthcare in the community. Responsibility for prison healthcare currently lies with the Irish Prison Service, despite growing trends in Europe for prison healthcare to be under the remit of national health services. There has been no progress on the joint Department of Justice and Equality and Department of Health review of prison healthcare.

In 2017, it was reported that 20–30 prisoners were awaiting transfer to the Central Mental Hospital. People with serious mental health issues should not be in prison, and should be diverted immediately to appropriate treatment. Good mental health supports should also be available to people in prison. The current ratio of psychologists to the prison population in Ireland is low by international standards.

IPRT welcomes the *National Drugs Strategy 2017–2025* which places emphasis on recognising drug addiction as a public health issue. The root causes of social exclusion and addictions should be addressed, with increased provision of treatment in the community. There is a current lack of treatment services to meet demand both in prison and post-release.



C. Regimes (Standards 16–21) 🟦🟦🟦🟦🟦

Purposeful activity is a central feature of a constructive prison regime. Every prisoner should spend a minimum of five hours a day engaged in structured meaningful activity, in addition to a further seven hours' out-of-cell time. In 2017, staff shortages have led to closure of schools and workshops in prisons. Furthermore, over 10% of the prison population is on a restricted regime (spending 19 or more hours in cell) with limited access to purposeful activity.

Individualised sentenced management should begin at very early stages of the sentence, with the positive facilitation of family involvement. However, there are currently only 24 designated Integrated Sentence Management (ISM) officers across the prison estate for a sentenced prison population exceeding 3,000. Further resourcing is required to ensure the effective implementation of ISM.

Developing and maintaining everyday life skills while in prison is essential. IPRT welcomes the provision of Independent Living Skills Units (ILSU) in Wheatfield Prison with another due to open in Mountjoy Prison shortly. Other aspects of prison regimes which facilitate normalisation, such as communal dining, should be increased across the estate.

Education has the potential to transform the lives of individuals. Education in prisons must cater for and reflect the diverse educational needs of the prison population. Of concern are the depletion of funds for prison education and staff shortages that have led to closures of schools across the estate. Community involvement and civic and political participation should be encouraged among the prisoner population, including an increase in prisoner representation groups.

D. Complaints, Accountability, Inspections & Oversight Mechanisms (Standards 22–25) 🟦🟦🟦🟦

Transparency, accountability and robust safeguards ensure the protection and promotion of human rights in any prison system. Significant progress is required in this area in Ireland.

In 2016, a total of 76 serious complaints ('Category A') were made by prisoners. A low level of complaints may indicate a lack of confidence in the system. The Inspector of Prisons has highlighted deficiencies in the internal prisoner complaints system, and recommended an overhaul of the system. Currently prisoners in Ireland have no access to an independent complaints mechanism. The Department of Justice and Equality has stated that prisoners will be able to make complaints to the Office of the Ombudsman by end 2017. This timeline must be met.

Regular and unannounced inspections by external bodies provide for increased transparency in the prison system. However, just one prison inspection report has been published since 2014. The Inspector of Prisons submits reports to the Minister of Justice, who decides when and how to publish. The Inspector of Prisons should have the authority to publish reports directly, and should be adequately resourced for the delivery of timely inspection reports.

It is of urgent importance that the State ratifies the *Optional Protocol to the Convention against Torture (OP-CAT)*, which Ireland signed on 2nd October 2007. Ratification of OPCAT requires the development of a National Preventative Mechanism (NPM) and strengthened national and international oversight of all places where people are deprived of their liberty. **IPRT sees this prolonged delay of ratification of OPCAT as a major failure by the State.**

Independent, robust and timely investigations into all deaths occurring in custody is required of the State. Recommendations arising must be implemented across the prison estate in order to protect against potential future deaths or serious incidents.

E. Safety and Protection in Irish Prisons (Standards 26–32)

The Irish Prison Service has made significant progress in reducing the number of prisoners in solitary confinement by 80% since 2013. In 2017, an amendment to the Prison Rules requires that all prisoners have at least two hours' out-of-cell time with access to meaningful human contact. The Irish Prison Service has published its policy on the elimination of solitary confinement, which is welcome. There is a need for transition programmes for prisoners returning from this harmful regime back to the general prison population and to the community.

Violence remains a feature of Irish prisons. Factors that help reduce levels of violence include: safe custody limits; access to single-cell accommodation; facilitation of positive family contact; and access to a wide and varied regime, with increased out-of-cell time. Proper record-keeping of violent incidents is essential. IPRT welcomes the proposed establishment of a new therapeutic unit to manage and address prisoners who display violent and disruptive behaviour.

Issues relating to escort conditions in Ireland include: conditions for prisoners while under escort; treatment of prisoners with medical conditions; and the standard practice of handcuffing during transport. The Prison Service Escort Corps is not currently subject to independent inspections.

Ongoing training is important to ensure staff to carry out their duties effectively. Human rights and equality should be an essential feature in the training of all prison staff, and staff must be supported in order to carry out their duties to the highest standard. The *Council of Europe Code of Ethics for Prison Staff* provides good guidance in this regard. Good relationships between staff, management and prisoners promote a safe and positive culture in Irish prisons. Conflict resolution techniques should be applied, with the use of force or restraint a measure of last resort.

People at risk of discrimination due to age, gender, sexuality, disability or ethnicity should be protected and safeguarded. A zero tolerance approach must be taken toward any form of discrimination. The implementation of Section 42 of the Public Sector Duty under the *Irish Human Rights and Equality Commission Act 2014* is essential in this respect.

F. Reintegration (Standards 33–35)

Supporting rehabilitation and reintegration is essential for safer communities. This is a key area that needs strong collaborative inter-agency work that goes beyond criminal justice, and extends to welfare, housing, education, employment, health and other services. Access to long-term accommodation, supports and proper linking in with relevant services upon release protects against reoffending. Legislation and policy requiring inter-agency cooperation is needed.

Reform of the parole system is required. While IPRT welcomes current proposals to place the parole system on an independent, statutory footing, IPRT has reservations relating to certain aspects of the Parole Bill 2016. A review of the current spent convictions legislation should also be a priority, as its limitations continue to act as a significant barrier to the reintegration of people who have moved on from their offending behaviour.



Summary of Priority Actions:

This time next year (2018), IPRT will be assessing progress achieved on the recommended actions set out in the PIPS report. 'Actions' set out steps that can be taken towards achievement of a standard and are intended to help facilitate continued progress in Ireland's penal system.

The following is a summary of IPRT's recommended short-term actions which we believe will support progress towards a 'world-class' penal system, and which can be achieved by end 2018.

For increased understanding and cohesiveness, following each action, there is a note of the standard in the report that relates specifically to that action e.g. (S10) = Standard 10.



Implementation of policy commitments:

- Implement the five key recommendations of the 2013 Oireachtas Joint Committee Report on Penal Reform (S1)
- Implement five key Strategic Review of Penal Policy recommendations (S1)
- Commit to working towards implementing the IPRT standards (S1)

Publication of data:

- Publish further prisons data on a quarterly basis (S1), including:
 - data on time spent on remand, and detention of remand prisoners alongside sentenced prisoners (S10)
 - comprehensive data on health and mental health assessment, treatment waiting lists and waiting times (S13)
 - data on control and restraint incidents versus use of conflict resolution techniques (S31)
 - data on caseloads of ISM officers and the number of prisoners with sentence management plans (S17)
 - data on frequency and proportion of schools open across the prison estate (S19)
 - data on participation and completion rates for accredited learning courses (S19)
- Develop a standardised approach to collecting, recording and publication of information on incidents, including violent and sexual assaults (S27)

Publication of reviews:

- Publish the 'Mountjoy Campus 15-Year Masterplan' (S6)
- Publish the Department of Justice and Equality 'Value for Money and Policy Review of Escort Services in the Criminal Justice Sector' (S28)

Policy development:

- Develop a cross-sectoral strategy for children of prisoners (S11)
- Implement positive strategies to safeguard against discrimination and ensure the specific needs of minority groups are met (S32)
- Pro-actively work towards full implementation of the Public Sector Duty (S32)

Legislation:

- Enshrine the principle of imprisonment as a last resort into legislation (S2)
- Progress the *Criminal Justice (Community Sanctions) Bill* (S2)
- Progress the *Inspection of Places of Detention Bill* (S24)
- Pass and enact the *Prisons (Solitary Confinement) Bill 2016* (S26)
- Progress legislation to place the Parole Board on a fully independent statutory footing (S33)
- Introduce legislation that provides clarity around all forms of release and enhances inter-agency co-operation around release (S34)
- Review the *Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016* (S35)

Sentencing:

- Work towards reducing Ireland's rate of imprisonment to 50 per 100,000 by 2021 (S2)
- Commute all sentences under six months for non-violent offences and replace these with CSOs (S2)
- Introduce pilot Community Court (S2)
- Explore potential of Sentencing Guidelines (S2)

Prison estate:

- Commit to reducing each prison's capacity to below a maximum of 300 prisoners (S3)
- Publish revised operational capacity levels for every prison (S3)
- Increase open prison provision (S6) including a step-down facility or equivalent for female prisoners (S5)
- Introduce regular audits of prison conditions, across: accommodation, physical repair, diet and nutrition, regimes, legal representation, gratuity payments, and prices in tuckshops (S7)
- Eliminate 'slopping out' and reduce the numbers toileting in the presence of others by 33% (S8)
- Commit to achieving single-cell occupancy as standard across the closed prison estate (S9)
- Introduce round-table child-friendly visiting conditions in all prisons by July 2018, and increase access to phone calls and video-conferencing (S11)
- Open the Independent Living Skills Unit in Mountjoy Prison by end 2017 (S18)

Regimes:

- Ensure all prisoners, including those on a restricted regime, have access to minimum five hours of meaningful activity (education, training, work) on a daily basis, in addition to further out-of-cell time (S16)
- Increase the proportion of prisoners with access to communal dining, and facilitate increased personal responsibility such as preparation of meals (S18)
- A review on the practice of restricted regimes across the prison estate should be undertaken by the Inspector of Prisons (S16)
- Adopt Council of Europe recommendations on education (S19)
- Implement transition programmes for prisoners returning from restricted regimes to the (i.) general prison population and (ii.) community (S26)
- Protect and promote rights to privacy of prisoners and their families, and end routine censorship of prisoner correspondence (S15)

Healthcare:

- Conduct an independent healthcare review, which considers the feasibility of transferring prison healthcare to the Department of Health (S12)
- Undertake and publish a health needs assessment of the prison population and staffing analysis (S12)
- Reduce reliance on methadone maintenance in prisons, and increase alternative treatment options (S14)
- Increase provision of residential drug treatment in the community (S14)
- Monitor the establishment and operation of the Violent and Disruptive Prisoner Unit in Midlands Prison (S27)
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Support Rehabilitation:

- Ring-fence the role of ISM officer in all prisons, and increase the number of ISM officers (S17)
- End exclusion of categories of offender from accessing temporary release, incentivised early release or remission (S34)
- Introduce binding protocols that require inter-agency co-operation around prisoner release (S35)
- Ensure the Parole Board is adequately resourced to complete timely reviews, and that prisoners are facilitated to fulfil recommendations (S33)

Staffing:

- Ensure staff are fully supported to carry out their significant role (S29)
- Ensure all staff are trained in human rights and equality, including the UN Convention against Torture (S29)
- Adopt the Council of Europe Code of Ethics for Prison Staff in training and in practice (S29)

Accountability mechanisms:

- Ratify OPCAT (S24)
- Strengthen the legislation and resourcing of the Inspector of Prisons (S24)
- Develop mechanism for implementation of Inspector's recommendations (S25)
- Reform the Prison Visiting Committees (S24)
- Introduce robust new individual prisoner complaints policy by end 2017 (S22)
- Meet stated timeline of end 2017 for prisoners to be able to refer complaints to the Office of the Ombudsman (S23)
- Ensure the Prison Service Escort Corps is subject to independent inspections and oversight (S28)

More information:

The full text of *Progress in the Penal System: A framework for penal reform (2017)* is available online at www.iprt.ie Print copies are available on request from the IPRT office.



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