

Irish Penal Reform Trust**Making Rights Real for people with Disabilities in Prison****15 January 2020****Office of Inspector of Prisons Response**

Good Morning.

I would like to thank Fíona Ní Chinnéide, Executive Director of the Irish Penal Reform Trust (IRPT) for the invitation to attend today's launch and respond to the report - *Making Rights Real for People with Disabilities in Prison*.

The IRPT is to be congratulated for commissioning this research supported by funding from the Irish Human Rights and Equality Commission, which was conducted by the Centre for Disability Law and Policy at the National University of Ireland Galway. Maria Ní Fhlatharta and her research team colleagues, led by Professor Eilionór Flynn, with contributions from an expert Advisory Group, sought to explore the rights and experience of individuals with disabilities in custody in prisons in Ireland. In addition to an international literature review and legislative analysis, the research team endeavoured to, and succeeded, in capturing the 'lived experience' of 16 prisoners with disabilities - from those in their early 20's to those in their early 60's, across 3 prison settings settings, in addition to capturing the views of representative organisations of persons with disabilities, prison officers, civil servants and public officials working in the justice and the prison system and advocates of prison reform. A total of 31 semi- structured interviews were conducted and following an in-depth analysis the research team made 16 recommendations. As Dr Devlin has stated and as recommended within the report, further research in this area is required which will assist in looking at prevalence across the system.

The Irish Prison Service is also to be commended for its willingness to provide access to the research team to carry out this valuable research and to peer into an extremely important but heretofore unexplored area in Ireland. The commitment of the Irish Prison Service to evolve and strive to continually improve the quality of custodial care and rehabilitation in prisons, cannot be achieved in a vacuum, and it is reliant upon, amongst other things, evidence about current practice to inform the direction of change required.

If I was asked to carry out a review of this report in a similar fashion to a book review, I would say that today's report is a 'stark read' and is not for the faint hearted. It is not for relaxing bedtime reading but it is gripping, and is 'an essential read' because it shines a light on the plight of persons with disabilities in our prisons. Its readership should not be confined to academics, researchers and public officials in the justice and prisons sectors. It is for everyone, including civil society so that we can all reflect on the findings and ask

ourselves is this ok, and if not, what can each and every one of us do to bring about change? I would particularly call upon the Irish Prison Service College to include the report on 'essential reading lists' and utilise the findings, in particular the statements of 'lived experiences' as a basis for reflective practice and learning, not only for recruit prison officers but also for the continuous professional development of all grades of prison officers and all staff across the entire prison system in particular those whose decisions impact upon persons with disabilities in prisons.

At a European level the report notes that in 2018 the Committee on Equality and Non-Discrimination of the European Parliament recognised the lack of accessibility of prisons, which results in unfit conditions of detention of persons with disabilities, due to the lack of provision of reasonable accommodation, lack of accessibility and inadequate provision of their specific needs. They also recognised that prisoners with disabilities may be placed in unsuitable cells and under unfit living conditions, with inaccessible common spaces or where they cannot move around the prison without assistance. Also in that report, lack of access to communication due to lack of accessibility and lack of appropriate care and treatment for prisoners with disabilities, which resulted in a worsening state of health for those prisoners was identified. The parliament highlighted that this exacerbated the vulnerability and isolation of prisoners with disabilities.

Today's report tells us that 16 persons with disabilities in prisons in Ireland have a similar lived experience. This is one of the times that Ireland would prefer to be an outlier but that is not the case.

The experience of the Office of Inspector of Prisons concurs with the conclusion that disabled people are a significant but overlooked population in Irish prisons. Over the past year or so my colleagues and I have observed and also received correspondence from individuals with disabilities in prison who were, and continue to be unable to fully participate in prison life, on an equitable basis to individuals in prisons who do not have disabilities, and where 'reasonable accommodation' in terms of 'access' and 'other supports' have not been provided. The Office of Inspector of Prisons fully supports implementation of the 16 recommendations in this report and believes such implementation will go a long way, to position Ireland as a progressive nation that fulfils its human rights obligations to individuals with disabilities who are in custody in prisons in Ireland. However, as the authors of this report state, addressing significant barriers facing disabled prisoners in Ireland will require considerable effort on behalf of civil society and the Irish Prison Service. This cannot be underestimated. However, some of the recommendations are easier to attain than others as they are not resource dependent but rather call for a change in operational practices and procedures. As Michelle Martyn said earlier this morning – this is not an option.

We have already heard the details in the report and the associated recommendations – all of which the Office of Inspector of Prisons endorses. Rather than systematically responding

to each of the recommendations in turn I have decided to briefly focus on some of the issues. This is not to be construed as priority being placed on some recommendations over others as this is not the case.

The issue of overcrowding in prisons is very real and poses significant challenges on a daily basis for prison staff and for prisoners with and without disabilities. Recommendation 8 provides that *'All prisoners should have access to single-cell accommodation if they choose it. In particular, people with sensory issues should have access to a less noisy cell.'* Last week we were informed by the IPS of two recent changes to bed capacity figures which in our view negatively impact upon the attainment of this recommendation, as the availability of single cell accommodation has recently been reduced and will reduce further before the end of the month.

The Dóchas Centre female prison bed capacity was increased from 105 to 146 shortly before Christmas. On the 9th January the bed capacity of Wheatfield Prison was increased from 550 to 610 by the installation of 60 additional bunk beds and a further 24 bunks will be installed in the Midlands Prison over the next week or so, increasing its bed capacity by thirty. This is extremely concerning as the realisation of access to single cell accommodation is further away than when the research underpinning this report was conducted. The challenge for the Irish Prison Service in accommodating the increasing prison population cannot be underestimated. It is acknowledged that Prisons must accept custody of individuals sentenced by the courts to custodial sentences. Therefore, it is essential that the first recommendation calling for the Penal Policy Review Group Recommendation *on the principle of imprisonment as a sanction of last resort to be embedded in legislation* which was made in 2014, should be implemented without further delays. We look forward to noting the progress in implementing this recommendation in the next Report of the Implementation Oversight Group to the Minister for Justice and Equality. We note that the Implementation Oversight Group provides the Minister with a report twice a year and the last report was in February 2019 so we hope to see another progress report shortly.

We have heard from Áine Flynn, Director of the Decision Support Service in the Mental Health Commission regarding the Assisted Decision-Making (Capacity) Act 2015 ('the 2015 Act') and how the establishment of the Decision Support Service and the commencement of the 2015 Act are central to compliance with the United Nations Convention on the Rights of Persons with Disabilities. The 2015 Act establishes a statutory time specific and issue-specific assessment of capacity and sets out important guiding principles, emphasising privacy, autonomy and minimal intervention. The supports provided for and monitored by the Director of the Decision Support Service will help to ensure that people (irrespective of the settings in which they reside, including in prisons) are afforded the fundamental human rights to make their own decisions as far as possible about their personal welfare, property, affairs and finances. Therefore, recommendation 13 that calls upon the Irish Prison Service

to *'Plan for the implementation of the Assisted Decision-making (Capacity) Act 2015 in prisons'* is timely. We look forward to commencement in full of the 2015 Act.

The Office of Inspector of Prisons Annual Report 2018 highlighted significant concerns in relation to the challenges faced by prisoners with significant mental health issues in prisons in gaining access to appropriate care and treatment in therapeutic settings. We also acknowledge and support the recommendation calling for the availability of non-psychiatric responses for all prisoners experiencing emotional distress as choice in this regard is important. Professor Gulati has addressed this area and has highlighted the need for prevention and addressing issues 'upstream' and proactively, rather than reactively. So I will not get into it this morning in any level of detail as if I was to commence to do so I would have you all here all day. However, our Office will be focusing on forensic mental health services in prisons this year.

In conclusion, I would like to congratulate all involved in developing this excellent report, in particular all of the prisoners with disabilities, prison officers and others who participated in the research. In our work in the Office of Inspector of Prisons we will be cognisant of the recommendations and we will avail of opportunities to continue to raise awareness of the issues identified and seek improvements to ensure that the human rights of persons with disabilities in prisons are vindicated.

Thank you.