



# IPRT

Irish Penal Reform Trust

## **IPRT Submission to the Consultation on the *Irish Prison Service* *Draft Strategic Plan 2019-2021***

**19th March 2019**

### **Submitting Stakeholder: Irish Penal Reform Trust**

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 are working towards progressive reform of the penal system based on evidence-led policies and on a commitment to combating social injustice.

IPRT publishes a wide range of policy positions 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.

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## **Introduction**

IPRT welcomes this opportunity to provide input on the *Irish Prison Service Draft Strategic Plan 2019-2021* (the ‘Strategic Plan’). In our submission, IPRT provides brief commentary on actions currently included in the draft plan, and proposes new actions for inclusion under each of the five pillars (Staff Support; Care and Rehabilitation; Custody and Security; Capital Investment Strategy; and Governance).

As an overarching point, the Strategic Plan should include a general recognition of the **centrality of human rights and equality duties for all those involved in the system (whether as staff or prisoners)**. A stated commitment to compliance with both domestic and international human rights obligations and best practice should be included as an overarching goal of the Strategic Plan. This should include progress to meeting the “public sector equality duty” set out under s. 42 of the Irish Human Rights and Equality Act 2014.<sup>1</sup>

Actions included in the Strategic Plan should also be informed by a commitment to working towards **full compliance with European and international minimum human rights standards**, including the *United Nations Standard Minimum Rules for the Treatment of Prisoners* (the ‘Mandela Rules’).<sup>2</sup> The Strategic Plan should also consider relevant recommendations of the Joint Committee on Justice, Defence and Equality *Report on Penal Reform* (2013)<sup>3</sup>, the Strategic Review of Penal Policy *Final Report* (2014)<sup>4</sup>, and the Joint Committee on Justice and Equality *Report on Penal Reform and Sentencing* (2018).<sup>5</sup>

### *Progress in the Penal System (PIPS)*<sup>6</sup>

Ireland as a small, wealthy country should aspire to having a ‘world class’ penal system – one that is led by evidence-informed best practices, innovation, and penal moderation, and that plays an important role in promoting public safety.

To support progress towards achieving this goal, in 2017 IPRT developed 35 standards as part of the *Progress in the Penal System*<sup>7</sup> (‘PIPS’) project. The Irish Prison Service is a key ‘changemaker’ in the penal system and has a central role to play in the delivery of the PIPS standards. These 35 standards are grounded in international minimum human rights

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<sup>1</sup> For detail on considerations around implementation of the Public Sector Duty, see paras. iii-xi in *IPRT Submission to the Consultation on the Irish Prison Service Strategic Plan 2016-2018*, submitted 24 March 2016.

<sup>2</sup> United Nations General Assembly, *Resolution adopted by the General Assembly on 17 December 2015, 70/175 United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)* <https://cdn.penalreform.org/wp-content/uploads/1957/06/ENG.pdf>

<sup>3</sup> Joint Committee on Justice, Defence and Equality (2013) *Report on Penal Reform* <https://webarchive.oireachtas.ie/parliament/media/penal-reform-report-13-march-2013-final.pdf>

<sup>4</sup> Strategic Review of Penal Policy (2014) *Final Report* <http://www.justice.ie/en/JELR/Pages/PB14000244>

<sup>5</sup> Joint Committee on Justice and Equality (2018) *Report on Penal Reform and Sentencing* [https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint\\_committee\\_on\\_justice\\_and\\_equality/reports/2018/2018-05-10\\_report-on-penal-reform-and-sentencing\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf)

<sup>6</sup> See [pips.iprt.ie](http://pips.iprt.ie)

<sup>7</sup> Irish Penal Reform Trust (2017) *Progress in the Penal System (PIPS): A Framework for Penal Reform (2017)* [http://www.iprt.ie/files/Progress\\_in\\_the\\_Penal\\_System.compressed\\_.pdf](http://www.iprt.ie/files/Progress_in_the_Penal_System.compressed_.pdf) and IPRT (2018) *Progress in the Penal System (PIPS): A Framework for Penal Reform (2018)* <http://www.iprt.ie/files/PIPS2018.pdf>

standards and best practice, informed by the principles and values that should guide Ireland's penal system<sup>8</sup>. These are:

### **PIPS Guiding Principles of Penal Reform**

1. Imprisonment is viewed as a sanction of last resort
2. Recognition of the harms and costs associated with imprisonment
3. Adherence to the 'Deprivation of Liberty' principle where the loss of freedom is viewed as the punishment
4. Balance the security and protection of prisoners with provision of a safe and purposeful regime
5. Protection and promotion of human rights, equality and social justice
6. Focus on rehabilitation, desistance and reintegration.

### **IPRT's Values of the Penal System**

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

These principles and values are grounded in penal theory and research, and their application to a number of areas in the draft Strategic Plan should be considered.

**Considering the vital role that the prison system plays in promoting safer communities, the Irish Prison Service must be adequately resourced by Government to meet its human rights and equality duties, and to fulfil its Mission and Vision:**

***Providing safe and secure custody, dignity of care and rehabilitation to prisoners for safer communities.***

***A safer community through excellence in a prison service built on respect for human dignity.***

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<sup>8</sup> See PIPS 2018, '1.1 Introduction: A Vision for the Penal System in Ireland' at: <https://pips.iprt.ie/progress-in-the-penal-system-pips/part-1-how-progress-can-be-achieved/1.1-introduction-a-vision-for-the-penal-system-in-ireland/>

## **Strategic Priority 1: Staff Support**

### Comment:

*IPRT welcomes the proposed actions under this crucial pillar. The important role and diverse skill set required of prison staff should be recognised, valued and supported.<sup>9</sup> IPRT welcomes recruitment processes in recent years, which have proactively sought to improve diversity among prison officers, and the ‘Every Contact Counts’ approach to training.*

### **1.1 Review current staffing levels, structures and rotas to ensure sufficient staffing across the prison estate at all times**

Insufficient staffing in Ireland’s prisons is a key issue identified in the 2018 *PIPS* report<sup>10</sup>. This impacts on prisoner regimes and rehabilitation,<sup>11</sup> including the closure of education centres as a result of the unavailability of prison staff.<sup>12</sup> Fulfilling and maintaining the target complement of staff should be achieved within the Strategic Plan.<sup>13</sup> Anecdotally, there is a deficit in the availability of prison officers at the end of each working quarter, which suggests that current staffing structures and rotas should be reviewed.

Sufficient staffing on a daily basis is essential to: (i) increase the number of prisoners having their right to education<sup>14</sup> realised, and to (ii) support professional development through facilitating the release of staff to training (see 1.2).

### **1.2 Provide Continuous Professional Development (CPD) training to staff**

Providing CPD training is crucial to enhance staff skills and professionalism and thus effecting overall positive prison environments. Sufficient staffing levels must be maintained to facilitate regular training. Such training should include:

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<sup>9</sup> The Howard League for Penal Reform has identified a number of issues and recommendations related to the role of the prison officer, some of which may have relevance in this jurisdiction. See Howard League for Penal Reform (2017) *The Role of the Prison Officer* <https://howardleague.org/wp-content/uploads/2017/11/The-role-of-the-prison-officer.pdf>

<sup>10</sup> IPRT (2018) *Progress in the Penal System (PIPS)* <https://pips.iprt.ie/>

<sup>11</sup> IPRT (2018) *Progress in the Penal System: A Framework for Penal Reform* <http://www.iprt.ie/files/PIPS2018.pdf> and [pips.iprt.ie](https://pips.iprt.ie/)

<sup>12</sup> Department of Justice & Equality (2018) *Parliamentary Question 579*, 17<sup>th</sup> April 2018 <http://www.inis.gov.ie/en/JELR/Pages/PQ-17-04-2018-579>

<sup>13</sup> According to information provided by the IPS to IPRT, the Irish Prison Service is fewer than 82 officers short of its authorised complement of 3,153 staff. Information provided 18<sup>th</sup> September 2018.

<sup>14</sup> Every person has the right to access education as outlined under the International Covenant for Civil and Political Rights (Article 13, ICCPR). The right to education for persons in prison is also outlined under Principle 6 of the Basic Principles for the Treatment of Prisoners and the UN Standard Minimum Rules for the Treatment of Prisoners (Rule 104 & 105, Mandela Rules). Rule 28.1 of the European Prison Rules (2006) states that “every prison shall seek to provide all prisoners with access to educational programmes which are as comprehensive as possible and which meet their needs which take into account the individual needs while taking into account their aspirations.” Council of Europe Committee of Ministers, Recommendation No. R (89) 12 of the Committee of Ministers to Member States on Education in Prisons, Strasbourg: Europe.

(i) **the principles of restorative justice** and how it may apply to daily work of prison staff, as recommended by the Council of Europe (2018).<sup>15</sup>

(ii) **training on the use of restraints as a last resort.** Use of force and Personal Protective Equipment (PPE) should be seen as a last resort. Guidance<sup>16</sup> on the Mandela Rules highlights that all staff should receive training on restraints before they begin their duties; this training should include experiencing instruments of restraint themselves. It should include as minimum, training on:

- all relevant laws, policies and procedures;
- the instruments of restraint that can and cannot be used and the risks associated with them;
- the criteria for deployment;
- how to use different instruments of restraint safely, legitimately and proportionately;
- how to use force or arms to the minimum extent necessary, and how to determine when their use is no longer necessary;
- alternative intervention techniques, including pre-emption and de-escalation techniques;
- procedures for authorizing the use of instruments of restraint;
- the requirements for documenting the use of restraints; and
- consequences for staff who violate laws or policies on restraints.

(iii) **training on the UN Convention against Torture**, as recommended by the United Nations Committee against Torture in its Concluding Observation to Ireland (2017).<sup>17</sup> The Committee also made a recommendation on provision of mandatory training to public officials, including prison staff, dealing with victims of gender-based violence, including domestic and sexual violence.

(iv) **training on duties under the Public Sector Equality and Human Rights Duty.**<sup>18</sup> The implementation of the duty should take into consideration the specific needs of different categories of prisoners, including: women<sup>19</sup>, travellers<sup>20</sup>, older prisoners<sup>21</sup>, LGBT prisoners,<sup>22</sup> foreign prisoners, and prisoners with disabilities.

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<sup>15</sup> Council of Europe, *Recommendation CM/Rec (2018) 8 of the Committee of Ministers to member states concerning restorative justice in criminal matters*, see point 57

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016808e35f3](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016808e35f3)

<sup>16</sup> See Penal Reform International & Office for Democratic Institutions and Human Rights (2018) *Guidance Document on the Nelson Mandela Rules* pp.84-85 [https://cdn.penalreform.org/wp-content/uploads/2018/07/MR\\_Guidance\\_Doc.pdf](https://cdn.penalreform.org/wp-content/uploads/2018/07/MR_Guidance_Doc.pdf)

<sup>17</sup> Committee against Torture (2017), *Concluding Observations on the second periodic report of Ireland* [https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/INT\\_CAT\\_COC\\_IRL\\_28491\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/INT_CAT_COC_IRL_28491_E.pdf)

<sup>18</sup> Irish Human Rights and Equality Commission (2017) *Public Sector Equality and Human Rights Duty, Eliminating discrimination, promoting equality and protecting human rights.*

<https://www.ihrec.ie/app/uploads/2016/09/Public-Sector-Equality-and-Human-Rights-Duty-Leaflet.pdf>

<sup>19</sup> See IPRT Position Paper 10 (2013) *Women in the Criminal Justice System, Towards a non-custodial approach*, [http://www.iprt.ie/files/IPRT\\_Position\\_Paper\\_on\\_Women\\_in\\_the\\_Criminal\\_Justice\\_System.pdf](http://www.iprt.ie/files/IPRT_Position_Paper_on_Women_in_the_Criminal_Justice_System.pdf)

### **1.3 Ensure regular staff supervision and compliance with organisational procedures and policies**

Staff should receive regular supervision by senior management. We welcome reference in the draft Strategic Plan to ensuring staff have sufficient understanding of organisational policies and procedures. In particular, staff should be fully apprised of their duties in relation to: the need to maintain accurate record keeping and compliance with Standard Operating Procedures (SOP), as well as ensuring that the right to privacy<sup>23</sup> of prisoners and their families is upheld.<sup>24</sup> Clear sanctions should be communicated and enforced in relation to any breaches.

### **1.4 Adopt the Council of Europe Code of Ethics for Prison Staff<sup>25</sup>**

Adoption of the Council of Europe Code of Ethics for Prison Staff will further embed in staff culture an awareness of human rights and equality in the prison setting. Principles outlined under this code include: accountability, integrity, respect for protection of human rights, care, fairness, impartiality and non-discrimination.

## **Strategic Priority 2: Care and Rehabilitation**

### Comment:

*The State has a duty of care<sup>26</sup> for every person in its custody. A healthy prison environment with a clear focus on care, and availability and accessibility of supports and services, means a safer prison environment for everyone.*

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<sup>20</sup> See IPRT (2014) *Travellers in the Irish Prison System, A Qualitative Study*  
[http://www.iprt.ie/files/IPRT\\_Travellers\\_Report\\_web.pdf](http://www.iprt.ie/files/IPRT_Travellers_Report_web.pdf)

<sup>21</sup> See IPRT (2016) *"In Here Time Stands Still" The Rights, Needs and Experiences of Older People in Prison*  
[http://www.iprt.ie/files/IPRT-Older\\_People\\_in\\_Prison\\_Report\\_web.pdf](http://www.iprt.ie/files/IPRT-Older_People_in_Prison_Report_web.pdf)

<sup>22</sup> See IPRT (2016) *Out on the Inside: The Rights, Experiences and Needs of LGBT People in Prison*  
[https://www.iprt.ie/files/IPRT\\_Out\\_on\\_the\\_Inside\\_2016\\_EMBARGO\\_TO\\_1030\\_Feb\\_02\\_2016.pdf](https://www.iprt.ie/files/IPRT_Out_on_the_Inside_2016_EMBARGO_TO_1030_Feb_02_2016.pdf)

<sup>23</sup> The right to privacy is set out under Article 8 of the *European Convention on Human Rights*  
[https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

<sup>24</sup> Guidance on securing confidential information published by Penal Reform International recommends that: "A secure audit trail involves carefully kept records, which include the identity of the staff member who enters or modifies information in the system, as well as the date and time of any additions and revisions. Audits should be carried out periodically by an identified oversight authority." See: Penal Reform International & Office for Democratic Institutions and Human Rights (2018) *Guidance Document on the Nelson Mandela Rules*, Point 35, p. 15 [https://cdn.penalreform.org/wp-content/uploads/2018/07/MR\\_Guidance\\_Doc.pdf](https://cdn.penalreform.org/wp-content/uploads/2018/07/MR_Guidance_Doc.pdf)

<sup>25</sup> Council of Europe, *Recommendation CM/Rec (2012) 5 of the Committee of Ministers to Member States on the European Code of Ethics for Prison Staff*,  
[http://www.prisonstudies.org/sites/default/files/resources/downloads/cmrec\\_2012\\_5\\_on\\_the\\_european\\_code\\_of\\_ethics\\_for\\_prison\\_staff.pdf](http://www.prisonstudies.org/sites/default/files/resources/downloads/cmrec_2012_5_on_the_european_code_of_ethics_for_prison_staff.pdf)

<sup>26</sup> Council of Europe, *European Convention on Human Rights, Article 2:*  
[http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf)

*Placing emphasis on rehabilitation in prison is key to improving individual outcomes and promoting public safety. IPRT welcomes the proposed actions and objectives under this Strategic Priority, particularly in the area of psychology and mental health supports.*

## **2.1 Embed the principles of responsabilisation, normalisation and progression**

The principles of responsabilisation, normalisation and progression should be promoted in the prison environment,<sup>27</sup> particularly for prisoners serving longer sentences. There should be clear lines of progression that prisoners can work within and towards during their time in prison. Integrated Sentence Management should be further developed, with ring-fenced resources, and regular evaluation. Community engagement and civic and political participation also have an important role in fulfilling this proposed objective.

## **2.2 Eliminate the practice of solitary confinement**

The practice of solitary confinement must be abolished, in line with the Irish Prison Service policy on the elimination of solitary confinement. This should be a targeted objective within the first year of the Strategic Plan.

In the interim, the Irish Prison Service should consider the policy recommendations outlined in IPRT's (2018) *'Behind the Door': Solitary Confinement in the Penal System*<sup>28</sup>, including:

- The Irish Prison Service should set the minimum out-of-cell time at 8 hours per day. Additionally, a target should be set of at least 12 hours' out-of-cell time per prisoner per day (see 2.3), based upon meaningful human contact and access to services and activities. (Rec. 1.3)
- Special supports should be put in place to encourage prisoners to come off a restricted regime where it is assessed as safe to do so, including access to a step-down programme (Rec. 2.5)
- Prisoners held in isolation and/or subjected to a restricted regime should have strengthened access to independent complaints mechanisms and should be afforded appropriate assistance to avail of those mechanisms (Rec. 3.4)

## **2.3 Work towards achieving the goal of 12 hours' out-of-cell time as standard**

The Strategic Plan should set clear targets on reducing the numbers of people in prison on protection or on a restricted regime, with the 3-year goal of ensuring all prisoners have 12 hours out-of-cell time as the norm. This should include access to a minimum of 5 hours per

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<sup>27</sup> These principles are outlined in the Council of Europe, *Recommendation Rec (2003) 23 of the Committee of Ministers to member states on the management by prison administrations of life sentence and other long-term prisoners*, <https://pjp-eu.coe.int/documents/3983922/6970334/CMRec+%282003%29+23+on+the+management+of+life+sentence+and+other+long+term+prisoners.pdf/bb16b837-7a88-4b12-b9e8-803c734a6117>

<sup>28</sup> Irish Penal Reform Trust (2018) *'Behind the Door': Solitary Confinement in the Penal System*, [https://www.iprt.ie/files/Solitary\\_Confinement\\_web.pdf](https://www.iprt.ie/files/Solitary_Confinement_web.pdf)

day of meaningful and purposeful activity. Prisoners having access to 12 hours out of cell time was a recommendation of the Joint Committee on Justice and Equality (2018).<sup>29</sup>

#### **2.4 Ensure access to education/training and publish data on participation and completion rates**

In 2018, the *PIPS* report highlighted the frequent closure of education centres in prisons due to the unavailability of prison staff. Ensuring that all prisoners have access to education, training and workshops must be a core objective for the IPS over the 3-year Strategic Plan.

The IPS should review current education and training programmes available across the estate to ensure these align with current employment opportunities and labour force needs. Education in all prisons should include modules on information technology and life skills development (which consider individualised needs); this should be available to all prisoners, including those on protection or on a restricted regime.

In order to measure progress in this area, data should be published on participation and completion rates in education and training across all prisons. Publication of data should be included as part of any new *Joint Education Strategy* with Education and Training Boards.

#### **2.5 Provide equivalence of healthcare in prison to that available in the community**

As identified in the Strategic Plan, prisoners should be guaranteed equal access to healthcare in prison to that available in the community. Given the disproportionate healthcare needs of the prison population, this cohort should arguably have increased access to healthcare services. A number of actions should be delivered upon within the 3-year timeframe:

- A review of the healthcare needs of the prison population should be completed in the first year of the Strategic Plan.
- Based on the findings of the completed review, a sufficient ratio of doctors, dentists, healthcare staff, psychologists, psychiatrists and addiction counsellors must be available to meet the needs of the prison population.
- A review of the feasibility of transferring prison healthcare from the Irish Prison Service to the Health Service Executive should be completed and published.
- The Prison In-Reach and Court Liaison Service (PICLS) should be extended to all prisons within the 3-year period.

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<sup>29</sup> Joint Committee on Justice and Equality (2018) *Report on Penal Reform and Sentencing*  
[https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint\\_committee\\_on\\_justice\\_and\\_equality/reports/2018/2018-05-10\\_report-on-penal-reform-and-sentencing\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf)

## **2.6 Widen eligibility criteria for structured early release programmes and increase access to enhanced remission**

Innovative structured early release programmes, such as the Community Support Scheme and Community Return, must be retained and expanded. Eligibility for the Community Return programme should be widened to include those on longer sentences, and consideration should be given to including currently excluded categories of prisoners. This form of structured release supports successful reintegration, and benefits the community.

Increasing access to enhanced one third-remission would incentivise engagement with services and regimes, while also helping to alleviate overcrowding and reduce prison population numbers. In this respect, we welcome the proposed action (under Priority 3) to review policies in relation to the open centres and structured temporary release.

## **2.7 Develop a discrete strategy on age-appropriate interventions for 18-24 year olds**

IPRT welcomes the mention of 18-24 year olds as a discrete group in the draft Strategic Plan. Age-appropriate interventions, services and regimes should be available in all prisons where people under the age of 24 are accommodated. A discrete strategy should include: data collection, such as the number of young adults in prison who have care experience; investment in research and evaluation of effectiveness of such interventions; improvement of regimes; staff training; and the elimination of 21+ hour lock-up for this group.<sup>30</sup>

## **2.8 Develop and implement a strategy to address the specific needs of foreign national prisoners**

13% of the current prison population are foreign prisoners.<sup>31</sup> These prisoners have their own specific needs, may experience language and cultural barriers, and are more likely to lack familial supports. There may also be a heightened risk of racial or religious discrimination. Therefore, special provision must be made for this cohort.

In particular, foreign nationals who are serving long sentences and life sentences must be facilitated to maintain contact with family through video conferencing and other initiatives. Furthermore, extra efforts must be made to ensure they can access temporary release as those who have family in Ireland.

## **2.9 Prioritise family contact and promote the rights of children affected by parental imprisonment**

Family contact should be facilitated and encouraged with particular reference to relevant guidance by the Council of Europe (2018) recommendation on *Children of Imprisoned*

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<sup>30</sup> See IPRT (2015) *Turnaround Youth: Young Adults (18-24) in the Criminal Justice System, The case for a distinct approach*, <http://www.iprt.ie/files/IPRT-Turnaround-web-optimised.pdf>

<sup>31</sup> World Prison Brief, *Ireland, Republic of*, according to figures provided as of 30.11.17 <http://www.prisonstudies.org/country/ireland-republic> (accessed 15.03. 19)

Parents.<sup>32</sup> Actions within the 3-year period should focus on encouraging and promoting family contact through practical measures such as:

- increased access to video-conferencing, such as Skype
- increased access to neutral venue visits
- increased availability of phone calls, including in-cell phone provision
- financial supports for families travelling long distances for visits
- consideration of evening and weekend visits to facilitate children in school and family members who may find it difficult to visit as a result of working hours.

## **2.10 Introduce assessment of potential disabilities, including intellectual disability and neuro-diversity, into committals assessment**

The prevalence of disability in the prison population in Ireland is currently unknown. In order to identify the extent of this issue and provide the relevant supports, the Irish Prison Service should introduce an assessment of potential disabilities, including intellectual disabilities and neuro-diversity, into the general committals assessment and at relevant and appropriate stages thereafter.

## **2.11 Ensure the separation of the remand population from sentenced prisoners**

In line with international human rights frameworks<sup>33</sup>, individuals on remand should be separated from sentenced prisoners; there should be a separate remand facility for females.

## **Strategic Priority 3: Custody and Security**

### Comment:

*IPRT acknowledges the importance of security to ensuring the safety of everyone in the custodial environment. A key principle of penal reform is the need to balance security, safety and protection with ensuring a humane regime. Measures to ensure safety must be finely balanced with the human rights of people detained, and must consider all relevant evidence of longer-term impact and outcomes. For example, the practice of holding prisoners who exhibit violent or challenging behaviour in isolation may protect safety in the very short-term but has been found to undermine both physical and psychological safety of staff and people detained in the long term. IPRT welcomes proposed increased use of Open Centres and the promotion of safer communities through greater levels of normalisation of prisoners included in the draft Strategic Plan.*

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<sup>32</sup> Council of Europe (2018) *Recommendation CM/Rec 5 of the Committee of Ministers to member States concerning Children with Imprisoned Parents*, <https://rm.coe.int/cm-recommendation-2018-5-concerning-children-with-imprisoned-parents-e/16807b3438>

<sup>33</sup> United Nations Human Rights Office of the High Commissioner, *International Covenant on Civil and Political Rights*, see Article 10 (2)a <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

### **3.1 Ensure access to single-cell accommodation across the prison estate**

Access to single-cell accommodation is proven to improve overall safety in prisons, in particular in the areas of illicit drug use and rates of sexual violence<sup>34</sup>. Prisoners who request to share should be facilitated to do so, but robust risk assessment procedures must be in place where prisoners are cell-sharing. As identified by the Joint Committee on Justice and Equality (2018) *“Prisons should aim for an accommodation policy of one person, one cell, and the necessary resources should be made available to realise this aspiration.”*<sup>35</sup>

### **3.2 Address violence and place emphasis on de-escalation, conflict resolution and restorative practices**

Emphasis should be placed on de-escalation, conflict resolution and restorative practice techniques in prisons. In relation to violence in prisons in Ireland, the UN Committee against Torture (2017) recommended:

- 18 (a.) undertaking thorough and impartial inquiries into all acts of violence committed in prisons
- (b.) enhancing measures to prevent and reduce inter-prisoner violence by improving prison management and the ratio of staff to prisoners, and strengthen the monitoring and protection of vulnerable prisoners and those presenting disciplinary issues, and
- (c.) provide training to prison staff and medical personnel on communication with and managing of inmates, including juveniles, and on detecting signs of vulnerability and disciplinary issues.<sup>36</sup>

Use of force should be viewed as a measure of last resort. This is of particular importance for cohorts such as young adults and women who have often experienced trauma in early childhood and may experience re-traumatisation as a result of the deployment of practices including restraint and isolation. All staff working with prisoners should receive training on trauma-informed approaches in order to identify and minimise potential triggers for people in prison.

### **3.3 Introduce a handcuffing by exception policy**

A handcuffing by exception policy should be introduced. In its Concluding Observation on Ireland, the UN Committee against Torture (2017) stated: *“Ensure that prisoners who are*

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<sup>34</sup> See Wortley, R. (2002) *Situational Prison Control: Crime Prevention in Correctional Institutions*, p.107 Cambridge University Press.

<sup>35</sup> Joint Committee on Justice and Equality (2018) *Report on Penal Reform and Sentencing* p.54 [https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint\\_committee\\_on\\_justice\\_and\\_equality/report\\_s/2018/2018-05-10\\_report-on-penal-reform-and-sentencing\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/report_s/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf)

<sup>36</sup> United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2017), *Concluding Observations on the Second Periodic Report of Ireland*, p. 7 [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En)

*transferred between facilities are not injured during transportation and ensure that handcuffing is used only as an exceptional measure, after appropriate risk assessment.*<sup>37</sup>

The Committee for the Prevention of Torture<sup>38</sup> also recommends that the application of handcuffs should only be resorted to when the risk assessment of an individual case clearly warrants it. Such a policy has been successfully introduced by the Northern Ireland Prison Service<sup>39</sup> and should be introduced and implemented in Ireland. Similarly, Personal Protective Equipment should be used only in line with risk assessment and not as standard.

### **3.4 Usage of video-link facilities**

IPRT acknowledges the challenges that prisoner escort services place on prison staffing. The draft Strategic Plan proposes “*greater utilisation of video-linking facilities for visits and medical appointments*”. Any such change should be piloted, voluntary and evaluated, including feedback from prisoners on both aspects, viz. (i) visits (ii) medical appointments.

### **3.5 Ensure a robust internal complaints system is in place**

The commitment to the introduction of a “fair and transparent” internal complaints policy is welcome. The internal complaints system must be robust with clear timelines (maximum of 3 months) for outcomes of complaints to be communicated to the prisoner. Having a robust complaints system in place will create confidence in prisoners and staff alike, and reduce tensions in prison. Along with the effective functioning of an internal complaints system, prisoners should have access to an independent external appeals complaints system.

## **Strategic Priority 4: Capital Investment Strategy:**

### Comment:

*IPRT welcomes reference to supporting a “modern and progressive penal policy” in the draft Strategic Plan, in line with the Vision and Mission of the service. Planning the future prison estate must be led by the principles of normalisation, minimum appropriate security levels, paths of progression, and penal moderation. In this respect, key relevant standards in IPRT’s PIPS Framework<sup>40</sup> are reiterated here:*

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<sup>37</sup> United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2017) *Concluding Observations on the Second Periodic Report of Ireland*, p. 6 [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En)

<sup>38</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (2018) *Transport of Detainees*, p.3 <https://rm.coe.int/16808b631d>

<sup>39</sup> Criminal Justice Inspection Northern Ireland (2014) *Prisoner Escort and Court Custody Arrangements in Northern Ireland, A follow-up review of inspection recommendations, April 2014*, <http://www.cjini.org/getattachment/a6b3edcd-4f37-441a-b039-43f8f75147e6/report.aspx>

<sup>40</sup> IPRT (2018) *Progress in the Penal System: A Framework for Penal Reform*, <https://pips.iprt.ie/>

#### **4.1 Develop smaller prisons and ensure all prisons operate below 10% recommended maximum capacities**

An objective of ensuring all prisons operate 10% below recommended maximum capacity within 3 years should be included in the Strategic Plan. The longer-term objective should be to work towards smaller prison sizes of a maximum of 300 prisoners or less, matched with a reduction in large, closed prison provision.

#### **4.2 Increase access to less restrictive prison settings and open provision**

The Strategic Plan should include specific targets on provision of less restrictive prison settings, including open provision, over the 3-year period, matched with a reduction in closed prisons. This must include the establishment of open provision in an urban area for both men and women.

#### **4.3 End Slopping Out**

Fully eliminate the practice of slopping out and reduce by one-third the number of prisoners having to toilet in the presence of others over the next three years.

#### **4.4 Improve accommodation in Limerick prison, with reduced closed prison capacity and increase open provision in the Munster region**

Accommodation that is 'unfit' for purpose in Limerick prison should be replaced; however, the proposed increase in closed capacity in Limerick Prison is a regressive move, and contrary to policy recommendations in the Strategic Review of Penal Policy<sup>41</sup>, the Joint Committee on Justice, Defence and Equality (2013)<sup>42</sup> and the Joint Committee on Justice and Equality *Report on Penal Reform and Sentencing* (2018).<sup>43</sup> Furthermore, Concluding Observations<sup>44</sup> by UNCAT (2017) to the Irish State includes:

16.The State party should:

(a) Continue to strengthen the measures aimed at further decreasing the number of persons in the prison system and to reduce overcrowding with a view to bringing conditions of detention into line with the international standards enshrined in the United

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<sup>41</sup> Strategic Review of Penal Policy (2014) *Final Report* <http://www.justice.ie/en/JELR/Pages/PB14000244>

<sup>42</sup> Joint Committee on Justice, Defence and Equality (2013) *Report on Penal Reform* <https://webarchive.oireachtas.ie/parliament/media/penal-reform-report-13-march-2013-final.pdf>

<sup>43</sup> Joint Committee on Justice and Equality (2018) *Report on Penal Reform and Sentencing* [https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint\\_committee\\_on\\_justice\\_and\\_equality/reports/2018/2018-05-10\\_report-on-penal-reform-and-sentencing\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2018/2018-05-10_report-on-penal-reform-and-sentencing_en.pdf)

<sup>44</sup> United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2017), *Concluding Observations on the Second Periodic Report of Ireland*, p. 6 [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En)

Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);

(b) Continue efforts aimed at reducing overcrowding and improving material conditions in all places where women are detained, in line with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);

(c) Consider increasing the use of non-custodial measures and alternatives to detention, in keeping with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);

Instead of increasing capacity within the closed prison system in Limerick, open prison provision should be introduced in the Munster region for both men and women.

## **Strategic Priority 5: Governance**

### Comment:

*IPRT welcomes the emphasis on accountability and transparency throughout the draft Strategic Plan. Robust governance and oversight leads to a culture of excellence, which the Irish Prison Service should be striving towards. IPRT further welcomes the commitment to evidence-based decision-making, grounded in better data collation and analysis.*

### **5.1 Implement recommendations arising from Inspector of Prisons *Deaths in Custody* reports across the whole prison estate**

Commit to tracking and implementing recommendations in the Inspector of Prisons' reports on investigations into deaths in custody<sup>45</sup> consistently across the prison estate.

### **5.2 Increased publication of data and application of 'evidence informed' approaches**

IPRT acknowledges the increased provision of prisons-related data and information over the last 5-10 years. Continued publication of prisons data to inform both policy and practice is essential, along with the adoption of 'evidence informed' approaches with in-built evaluation mechanisms.

### **5.3 Adopt PIPS Standards**

Adopt and commit to adhering to the delivery of applicable IPRT *PIPS*<sup>46</sup> standards.

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<sup>45</sup> Office of the Inspector of Prisons, *Death in Custody Reports*  
[http://www.inspectorofprisons.gov.ie/en/iop/pages/deaths\\_in\\_custody\\_reports](http://www.inspectorofprisons.gov.ie/en/iop/pages/deaths_in_custody_reports)

<sup>46</sup> IPRT (2018) *Progress in the Penal System: A Framework for Penal Reform*  
<http://www.iprt.ie/files/PIPS2018.pdf>

#### **5.4 Consult on Strategic Plan 2019-21**

IPRT notes the inclusion of an objective to create a work environment that is “centred on open, two-way communications”. To demonstrate a commitment to this, both prisoners and staff should be facilitated with an opportunity to participate in the consultation process on relevant aspects of the Strategic Plan.