

Response

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

from 16 to 26 September 2014

The Government of Ireland has requested the publication of this response. The CPT's report on the September 2014 visit to Ireland is set out in document CPT/Inf (2015) 38.

Strasbourg, 17 November 2015

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September 2015

Introduction

Background

The Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) made its sixth visit to Ireland from 16th September to the 26th September 2014 pursuant to Article 7 of the European Convention which established the CPT. As is normal practice in the case of a periodic visit, the CPT wrote to the Irish Authorities on 26th November, 2013 announcing that a delegation of the CPT would visit Ireland sometime in 2014. On 2nd September, 2014, the CPT indicated that the visit would begin on 16th September, 2014 and was expected to last 11 days. On 9th September, 2014 the CPT made known the preliminary list of places it wished to visit.

The details of the visit, including the composition of the delegation, places visited and the CPT's recommendations, comments and requests for information are contained in its Report to the Irish Government. This Report was adopted by the CPT on 6th March, 2015 and sent to Ireland on 18th March, 2015.

The response of the Irish Government to the recommendations, comments and requests for information contained in the Report of the CPT on its visit to Ireland from 16th September to 26th September, 2014 is set out in this document. For ease of reference and reading this response follows the format of the CPT's Report of 6th March, 2015 on the visit.

Publication

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

Immediate observations under Article 8, paragraph 5 of the Convention

At the conclusion of the visit, the CPT delegation made an immediate observation under Article 8, paragraph 5, of the Convention in relation to the deaths of four specific prisoners in Irish prisons in 2013 and 2014. The Irish authorities were requested to provide by 6th January 2015 information on the effective investigation into how all of these persons were cared for with a view to establishing accountability and ensuring lessons learned.

In their letter of the 6th January, 2015 the Irish authorities provided information on the actions being taken in response in the light of the delegation's immediate observations and to other issues raised by the CPT at the end-of-visit talks. A copy of this letter is attached at Appendix A.

Response to Recommendations, Comments and Requests for Information arising from the visit by the CPT to Ireland from 16th September to the 26th September, 2014.

I. INTRODUCTION

C. Consultations held by the delegation and co-operation encountered

Comment

The degree of co-operation received during the visit from the Irish authorities was very good, both at central and local levels (paragraph 4).

Ireland's Response

The Government is fully committed to providing the fullest co-operation to the CPT as was evidenced by the high level of co-operation given to the delegation at all times during the visit.

E. National Preventive Mechanism

Request for information

The CPT encourages the Irish authorities to ratify OPCAT and would like to be informed about the progress towards ratification and of the envisaged structure of the National Preventive Mechanism that will be tasked to implement the Optional Protocol.

Ireland's Response

Work is continuing on the development of draft legislative proposals to facilitate the ratification of the OPCAT. A consultation process will take place this year, in line with the requirement to consult with civil society in preparation for implementing the protocol.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement agencies

1. Preliminary remarks:

In their preliminary remarks the CPT notes that legislative framework governing detention by the police remains essentially unchanged ...

...the existence of effective mechanisms to tackle police misconduct is an important safeguard against ill-treatment of persons deprived of their liberty. ... In the course of the 2014 visit, the CPT's delegation met with representatives of the Garda Síochána Ombudsman Commission.

... the visit, the CPT's delegation was informed of plans to introduce new legislation that would in effect mandate the Ombudsman Commission to investigate all complaints brought against An Garda Síochána, including ones relating to disciplinary matters. Such a development would be welcomed ... Further, such a move can but strengthen public confidence in the independence of the Ombudsman Commission. However, it will increase significantly the workload of the Ombudsman Commission (paragraph 9).

Ireland's Response

The Garda Síochána Ombudsman Commission (GSOC) have advised the Department of Justice and Equality that there appears to have been a misunderstanding of what the Ombudsman Commission informed the Committee. They informed the Committee that legislative change might, it was hoped by the Commission, assist it in moving away from having the Garda Síochána involved in the numbers of disciplinary investigations that it carries out at present. The Ombudsman Commission indicated that it would consider how the practice might be ended entirely but that that was reliant very heavily on the nature of the legislative change and the resources that would be made available to the Commission.

The Garda Síochána (No 3) (Amendment) Bill 2014

The Garda Síochána (No 3) (Amendment) Bill, 2014 has been enacted as the Garda Síochána (Amendment) Act, 2015 which is now fully operational. The new Act amends and updates the Garda Síochána Act, 2005 and other relevant legislation with the main objectives of:

- bringing the Garda Commissioner within the complaints remit of GSOC, for the first time;
- extending GSOC's powers of investigation in relation to complaints involving suspected criminal behaviour;
- increasing the general time limit for making a complaint to GSOC from six months to twelve months;
- ensuring that the Garda Síochána provides information sought by GSOC for an investigation as soon as practicable; and
- providing greater autonomy for GSOC in examining the Garda Síochána's practices, policies and procedures.

Independent Policing Authority

The Minister for Justice and Equality has also published a Bill to provide for the establishment of an independent Policing Authority. The new Authority will oversee the performance by the Garda Síochána of its policing functions.

Resources

In 2015 the Government increased the financial allocation available to GSOC.

The Minister has stated she will continue to keep the budget available to GSOC under on-going review in the light of its operational requirements. Moreover she has informed the Oireachtas that she is specifically pursuing the feasibility of increasing the number of less serious complaints made to GSOC that are resolved by informal means, with a view to freeing up GSOC resources in dealing with more serious matters.

Comment

The Garda Síochána (Amendment No. 3) Bill 2014, ..., confers additional powers on the Ombudsman Commission in the area of criminal investigations ...However, it appears that the Ombudsman Commission's mandatory powers of investigation do not include all complaints and cases ... Further, An Garda Síochána continues to be involved in investigating serious disciplinary matters. ... it goes without saying that any police action which may fall within Article 3 of the European Convention on Human Rights, notably allegations of excessive use of force at the time of apprehension, should be investigated by an independent body such as the Ombudsman Commission (paragraph 10).

Recommendation

The CPT recommends that the Irish authorities consider carefully the mandate of the Ombudsman Commission ... it would like to be informed about the outcome of the debates relating to the Garda Síochána (Amendment No.3) Bill 2014 and the implications this may have in terms of resources for the Ombudsman Commission to effectively carry out its mandate.

Ireland's Response

GSOC investigates independently all allegations of a criminal nature including alleged sexual offences and assault which it receives through complaints. Provision is made in Section 92 of the Garda Síochána, Act, which precludes GSOC from referring to the Garda Commissioner a complaint about conduct that appears to constitute a criminal offence. If there is not an allegation of criminal misconduct, the Ombudsman Commission may, at its discretion, investigate independently allegations of excessive use of force or choose to supervise an investigation by the Garda Síochána.

The Ombudsman Commission raised the issue of alleged sexual offences in discussions of legislative amendment proposals. The Ombudsman Commission asked that consideration be given to broadening the definition of 'serious harm' to include some sexual offences. Given that GSOC investigates all allegations of a criminal nature which it receives through complaints, the question of extending the definition of serious harm in Section 82 of the Garda Act may not give rise to significant practical concerns and in any event it is a matter that is being considered.

Comment

The CPT understands that there is some debate over whether it would be preferable for the Ombudsman Commission to have its own independent pool of investigators... now that the Commission has been operating for a number of years perhaps consideration should also be given to recruiting young professionals from outside the police and to training them in carrying out investigations (paragraph 11).

Request for information

The CPT would appreciate the views of the Irish authorities and Ombudsman Commission on this matter.

Ireland's Response

In its statutory capacity GSOC has recruited its own complement of experienced and independent investigators who act as "designated officers" of GSOC. Under section 98 of the 2005 Act these officers have the same powers as Garda personnel in conducting investigations.

The Ombudsman Commission currently has one Garda Superintendent seconded to it and this person is employed largely in liaison duties, with particular emphasis on achieving adherence to agreed time-scales for investigations by the Garda Síochána. While the Ombudsman Commission is proud of the quality of training and skills of its investigating teams, it does recognise, and there is legislative provision for, the need to use technical Garda Síochána expertise on occasion.

GSOC is engaged in a process of ensuring its investigators receive continuing professional development to maintain a professional and high standard of engagement with the public and the Garda Síochána. It is necessary for the Ombudsman Commission to use technical Garda Síochána expertise on occasion, as it is not feasible for the Ombudsman Commission to have its own investigators trained in every specialist role, the main reason being that the specialism would not be

relied upon on a regular basis, hence the individual would lose the skill set attained. However the Ombudsman Commission's investigators are provided with training to ensure awareness of the technical area, thereby facilitating an oversight role by the Ombudsman Commission investigators when engaging with Garda Síochána technical experts.

2. Allegations of ill-treatment:

Comment

The majority of detained persons interviewed by the delegation stated that they had been treated correctly by the Garda. Indeed the CPT delegation again heard from persons with past experience of detention that the treatment by the Garda has progressively improved. Nevertheless in the course of the visit, the delegation received several allegations of physical ill-treatment and verbal disrespect by Garda; ... some of the allegations involved juveniles (paragraph 12). ...the delegation gathered little medical evidence of ill-treatment. This should not, however, be interpreted as undermining the credibility of the allegations (paragraph 13).

Recommendation

The CPT recommends that the Irish authorities reiterate to An Garda Síochána officers that any form of ill-treatment (physical or verbal) of detained person is not acceptable and will be punished accordingly.

Ireland's Response

At the outset it is important to note the initial observations of the CPT that the great majority of detained persons stated they had been treated correctly by members of An Garda Síochána, which is a positive reflection on the adherence to the Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987. It is also noted that the treatment of persons by Gardai has progressively improved.

Nevertheless, it is disappointing to read of allegations of ill-treatment and in that regard it must be emphasised that members of An Garda Síochána engaging in such behaviour will not and should not be tolerated. There can be no room for complacency when it comes to the issue of ill-treatment regardless as to whether such behaviour occurs at the time of arrest, during transportation to or in a Garda station. This recommendation is one An Garda Síochána and its members fully comprehend.

An Garda Síochána is fully committed to upholding the rights of all citizens, regardless of their nationality. The fundamental principle of protecting the human and constitutional rights, including the European Convention on Human Rights, of all citizens is a priority commitment for An Garda Síochána. An Garda Síochána, in achieving its function, is required to comply with the principle of legality and in doing so, its members must act proportionately and be accountable at all times for their actions.

3. Safeguards against ill-treatment:

Comment

... generally speaking, the main safeguards advocated by the CPT continue to operate in a satisfactory manner. The Irish authorities confirmed that it has been the practice of An Garda Síochána since the introduction of the Criminal Justice Act of 1984 Treatment of Persons in Garda Síochána Stations Regulations 1987 to advise persons detained at Garda stations of their rights of notification and access to a solicitor... The CPT welcomes the Supreme Court judgment in the case of Gormley and White whereby solicitors are now permitted to participate in police interviews and “to intervene where appropriate”... This is positive, as is the announcement ... that this right will be placed on a legislative footing by way of regulations adopted by the Minister of Justice and Equality (paragraph 14).

Requests for information

The CPT would like to be kept abreast of developments in this area.

Ireland’s Response

In relation to access to a lawyer for persons in Garda custody, the comments of the CPT are noted. However, since their visit An Garda Síochána has issued a Code of Practice Access to Solicitors by Persons in Custody’ to all members of the organisation following consultation with the Advisory Committee on the interviewing of suspects in Garda custody, chaired by the Honourable Mr Justice Esmond Smyth. The code of practice aims to streamline the interaction between An Garda Síochána and solicitors relating to arrested/detained persons. It also aims to ensure a consistent approach, taking into account the rights of the suspect to a fair trial and to provide practical guidance for those tasked with interviewing detained persons.

It is the Government’s intention to place the issue of access to legal advice during interview on a statutory footing by way of regulation, i.e. Statutory Instrument.

Comment

.. on the other hand, the provision of health care services within police custody suites remains somewhat problematic .. police stations are not equipped with medical facilities ... the Irish authorities informed the CPT that a working group had prepared “a specification on medical services required for persons whilst detained in Garda stations” and that, following the identification of a service provider, the service would be commenced in the Dublin Metropolitan Region (paragraph 15).

Requests for information

The CPT would like to receive a copy of the specification referred to above and to be informed, in due course, of the operation of the new service.

Ireland’s Response

In relation to medical services for persons in Garda custody, An Garda Síochána is currently undergoing a tender competition, in the Dublin Metropolitan Region, for the provision of medical services. The details of this competition contain commercially sensitive information and it would be inappropriate to comment other than to make available the tender criteria which was published on the tender website (Appendix B). When the service is fully operational, An Garda Síochána has no difficulty in consulting with the CPT on its operational effectiveness.

Comment

... the inspection of detention facilities of law enforcement agencies by an independent authority can make an important contribution towards the prevention of ill-treatment of detained persons ... The independent Garda Inspectorate's mandate is geared towards operational efficiency and effectiveness of An Garda Síochána, but Garda stations are not, at present, subject to independent monitoring of the treatment of detained persons or of the conditions of detention therein. Ratification of OPCAT and the establishment of a National Preventive Mechanism will require such monitoring (paragraph 16).

Recommendation

The CPT recommends that steps be taken now to put in place an independent system of monitoring Garda stations.

Ireland's Response

In providing for a National Preventive Mechanism structure under the OPCAT, legislative provision will be made for the independent monitoring and inspections of places of detention in Garda stations. Draft legislative proposals are in preparation.

4. Conditions of detention:

Comment

Material conditions at the police stations visited were in general satisfactory for the periods of detention involved.... However, the holding cell in the reception area at Kevin Street Garda Station which was used for holding vulnerable persons and juveniles ... did not possess a proper means of rest. The CPT trusts this cell will not be used for overnight accommodation (paragraph 17).

Ireland's Response

In relation to the holding cell in Kevin Street Garda Station, instructions have been issued, in accordance with the CPT report, that this cell facility should not be used for overnight accommodation.

Furthermore, since the CPT visit, the construction of a new building has commenced at Kevin Street which, when fully operational, will provide a modern suite of cell accommodation. The new building will be completed in time for the next scheduled visit of the CPT circa 2018.

5. Immigration detention:

Comment

In the course of the visit, the CPT's delegation was informed that immigration detainees were being held in Cloverhill and Limerick Prisons, the Dóchas Centre, as well as in police stations pending their deportation.

Persons refused the right to land are generally returned within a few hours but a not insignificant number could spend one or more nights in a police station or prison. At Cloverhill Prison, the delegation observed that these persons were usually mixed in holding cells (for up to five hours or more) with remand and convicted prisoners. Further, they were not provided with information in a language they could understand about what was happening to them, heightening their anxieties.

The situation of persons held in Cloverhill prison pending their deportation.. for up to eight weeks was particularly worrying. Persons met by the delegation.. were subject to bullying from remand prisoners with whom they had to share a cell. Further, they were only offered screened visits.

..Prison managers and officers, in the establishments visited by the delegation, all agreed that they were not appropriately equipped or trained to look after immigration detainees.

..There was no register for persons detained in the holding room in Dublin airport pending their return. This should be remedied without delay (paragraph 18).

The CPT reiterates that, in its opinion, a prison is by definition not a suitable place in which to detain someone who is neither suspected nor convicted of a criminal offence. In those cases where it is deemed necessary to deprive persons of their liberty for an extended period under aliens legislation, they should be accommodated in centres specifically designed for that purpose, offering material conditions and a regime appropriate to their legal situation and staffed by suitably qualified personnel.

...The Irish authorities announced that a suitable location at Dublin airport has been identified as a facility for immigration detainees and that it would be ready in 2016 (paragraph 19).

Recommendation

The CPT recommends that the Irish authorities pursue their plans to establish a specifically designed centre for immigration detainees in accordance with the Committee's requirements. Further, as long as immigration detainees are kept in prisons, all appropriate steps should be taken to ensure that their exposure to remand and sentenced prisoners is limited, that they are offered as much time out of cell as possible and that they are afforded open visits. In addition, interpretation services should be readily accessible ...in this respect, the telephone interpretation services available at ports of entry should also be available in prisons.

Ireland's Response

Plans are being progressed for the provision of a dedicated immigration detention facility at Dublin Airport – the main point of entry to the State which is expected to in place in 2016.

In general, detention is used sparingly in relation to immigration related matters. Where possible persons are served with a notice under section 14 of the Immigration Act, 2004 which provides for the issue of a written instruction setting out reporting and residence conditions to a non-national who does not have permission to be in the State. This is used in certain low risk cases as an alternative to detention.

Persons held on immigration related matters, including those with deportation orders are, unless the subject of a conviction, in general kept apart from convicted persons while in detention.

B. Adult male prison establishments

1. Preliminary remarks:

- a. recent developments

Comment

... The CPT wishes to acknowledge the considerable steps taken by the Irish authorities to reform the Irish Prison Service since the CPT's last visit in 2010 (paragraph 20)... In April 2014, the Fines (Payment and Recovery) Act, 2014 was adopted which aimed to reduce to the greatest extent possible the use of imprisonment as a sanction for fine default. According to the Irish authorities, the law would be fully functional by the end of 2014, once all the necessary regulations were introduced (paragraph 21).

Request for information

The CPT would like to receive updated information on the implementation of the Fines (Payment and Recovery) Act 2014.

Ireland's Response

The Fines (Payments and Recovery) Act, 2014 was signed into law by the President on 16 April 2014. The aim of the legislation is to seek to effectively eliminate, in so far as is possible, the option of imprisonment as a sanction for fine default. This Act has not yet been commenced.

Current position regarding commencement

The legislation represents a very significant change in the way justice will be administered by the courts. The aim is to seek to effectively eliminate, in so far as is possible the need for a judge to commit anyone to prison for the non-payment of a fine. As well as introducing an option for persons to pay by instalment, there are also changes in the way in which those who fail to pay fines are dealt with, with a range of options available to judges which are recovery orders, attachment to earnings and community service. Such change has implications for agencies across the Justice sector, including the Courts and the Courts Service, An Garda Síochána, the Probation Service and the Irish Prison Service. Changes of the scale proposed in the Fines (Payments and Recovery) Act 2014 require a major overhaul of IT systems and of administrative systems.

Work is ongoing in preparing for the implementation of the Act. The area most directly affected by the changes is the Courts and the Courts Service is working on a number of developments which will ensure that the implementation of the legislation, and the new procedures which will operate under it, are as efficient as possible.

This has required work to upgrade the IT systems to ensure that the instalment payment system operates effectively and that the necessary accounting procedures are in place for the recording of payments. Changes are also required in the way that information is transferred between the Courts Service and An Garda Síochána to ensure that both organisations have fully up to date information on the cases and their current status. Some of this work could not commence before the passing of the legislation and the final details of the new process becoming available.

Good progress is being made in the preparatory work. All aspects of the recovery of fines are being outsourced to an external provider and the procurement process is nearing conclusion. The successful tender has been decided upon and the contract will be signed shortly. It is important that preparations are done correctly to ensure that the significant changes being implemented in the fines system as a result of the legislation are implemented smoothly and effectively from the start. It is envisaged that preparations will be completed in the 3rd quarter of 2015.

Comment

During previous visits to Ireland, the CPT has been critical of the practice of slopping-out... At the time of the CPT's last visit in 2010, nearly one-quarter of the prison population had to "slop out" every day.

In this context, the Committee welcomes the ending of slopping-out in Mountjoy Prison Wings A, B and C and it also welcomes the fact that the new Cork Prison, ..., will provide for in-cell sanitation. However, at the time of the CPT's visit, there were still 330 prisoners slopping-out in Cork, Limerick and Portlaoise Prisons, ... The situation in Cork gives particular cause for concern since many prisoners have to share a cell and are confined to their cells for long periods of the day.

The Irish authorities ... stated that they would examine the possibilities of extending toilet patrols. The CPT considers that every prisoner should have access to a toilet whenever required and that persons sharing a cell should never have to resort to the use of chamber pots (paragraph 22).

Recommendation

The CPT again calls upon the Irish authorities to eradicate "slopping out" ... Until such time as all cells possess in-cell sanitation, the authorities should ensure that prisoners who need to use a toilet facility are released from their cells without undue delay at all times (including at night). The CPT would also like to receive updated information on the opening of the new prison in Cork.

Ireland's Response

The Irish Prison Service (IPS) welcomes the acknowledgement by the CPT of the significant progress made, since the last visit in 2010, in addressing overcrowding, improving the conditions of detention and enhancing measures focused on the rehabilitation and integration of prisoners. At the time of the last visit, the number of persons in custody on a daily basis was in the region of 4,145. The average in 2014 was 3,915, a decrease of 5.5% on the 2010 figure cited in the published CPT Report. The overall daily average number in custody in 2014 was 11% less than the peak average of 4,390 in 2011. In accordance with the IPS Three Year Strategic Plan 2012-2015, launched in April 2012, bed capacities in nine prisons have been aligned with the Inspector of Prisons' recommended figures. The 3,554 prisoners in custody on 31 December 2014 represented an occupancy level of 86% of the IPS bed capacity of 4,126 and 89% of the 3,982 Inspector of Prisons recommended bed capacity.

Two innovative initiatives are helping to reduce the numbers in custody and to improve the post-release integration outcomes for prisoners. The Community Return programme, which is an incentivised scheme for the supervised release of qualifying prisoners, combines unpaid work for the benefit of the community with early release and resettlement support. 455 persons were granted structured release under the Community Return programme in 2014. The Community Support Scheme which commenced in Cork Prison and the Mountjoy campus in 2013 expanded to the West

Dublin campus and to Limerick Prison in 2014. Under this scheme, key community workers engage with short sentence prisoners after committal to help with their resettlement planning. The primary aim of the scheme is to reduce the current recidivism rates of this cohort of offenders by arranging for additional support structures and provide for a more structured form of temporary release. A total of 349 persons were released in a structured manner to the Community Support Schemes in 2014.

The IPS also welcomes the acknowledgement by the CPT of the substantial improvements at Mountjoy Prison with the ending of slopping-out and the introduction of single-cell occupancy. The IPS is committed to the elimination of slopping-out in all prisons and has made significant progress in this regard with a reduction of over 70 % in the number of prisoners slopping out between the end of 2010 and April 2015 (from 1,003 prisoners to 292). It is the intention of the IPS to provide in cell sanitation in all remaining areas of the prison estate by providing toilet and wash hand basins in every locked cell over the lifetime of the IPS Capital Expenditure Plan 2012-2016. In relation to enhanced toilet patrols, the IPS has put in place an additional night guard post in Cork Prison to provide for the operation of a toilet patrol throughout the night. In Limerick Prison, staffing arrangements are also in place that allow for the accommodation of toilet requests throughout the night. In regard to the building of the new Cork Prison, the construction works are on target and it is expected that the new facility will be fully operational at the beginning of 2016.

b. prisons visited

Comment

Castlerea Prison... operational capacity of 340. At the time of the visit, the prison was holding 332 inmates.

Cloverhill Prison... operational capacity of 431; at the time of the visit, it was holding 416 inmates.

Midlands Prison... At the time of the 2014 visit, the prison was accommodating 783 inmates for an operational capacity of 870.

Mountjoy Prison... it held 513 prisoners for an operational capacity of 548.

...St. Patrick's Institution,... B Wing was still used to accommodate 17-year-olds on remand, C Wing was holding 79 house workers from Mountjoy Prison and D West Wing was allocated for 72 prisoners on protection from Mountjoy Prison.

...Portlaoise Prison; at the time of the visit A Block held 25 inmates for an operational capacity of 40.

Wheatfield Place of Detention,... With the closure of St. Patrick's Institution, it now also accommodated 18-20 year olds and sentenced 17 year olds since December 2013; ... At the time of the visit, the establishment was holding 498 inmates for an operational capacity of 540.

2. Ill-treatment:

Comment

Prisoners ... stated that the vast majority of prison officers treated them correctly, and the relations between staff and prisoners could be categorised as respectful in most of the prisons visited. However, a small number of prison officers seem to be inclined to use more physical force than is necessary and to verbally abuse prisoners. Allegations were received of prison officers deliberately provoking prisoners, ... Furthermore, in Wheatfield Place of Detention, the delegation observed for itself a prison officer escalating rather than de-escalating a verbal altercation with prisoners. The delegation also received a few allegations of physical ill-treatment, consisting of punches, kicks and head butts.

In one case, a prisoner at Mountjoy Prison alleged that ..., following an altercation with a prison officer at Cloverhill Prison, the officer punched him in the stomach, pushed him to the ground, sat on his chest and pressed a finger into his right eye. The officer then allegedly pressed a finger on the prisoner's throat which resulted in him coughing up blood and he also alleged that part of a front tooth was broken. Members of the delegation observed the broken tooth and the black eye. The medical records upon admission to Mountjoy Prison on 6 September 2014 noted "recent physical altercation. Injury to back and right eye. Complains of low back pain – nil on inspection". On 5 September, prior to his transfer to Mountjoy Prison, the prisoner had been seen by the doctor at Cloverhill Prison and referred to the Accident & Emergency Department at the local hospital (paragraph 25).

Recommendation

The CPT recommends that the Irish authorities reiterate to prison officers that no more force than is strictly necessary should be used in bringing an agitated/aggressive prisoner under control. ... prison officers should be reminded that they will be held accountable for any act of ill-treatment (including verbal abuse) or any excessive use of force. It is essential that all prison officers receive regular refresher training in the use of control and restraint techniques and that communication skills and de-escalation techniques be promoted...

Ireland's Response

We are pleased to note the positive comments by the CPT regarding the views expressed by the prisoners met on their visit that the vast majority of prison officers treated them correctly. The IPS is committed to ensuring any unnecessary use of force or other form of ill-treatment of prisoners, including verbal abuse, is not tolerated. All allegations of ill-treatment are thoroughly investigated and, if warranted, disciplinary measures against staff would follow¹.

While prisoners have a wide range of avenues open to them if they wish to make a complaint, including Prison Visiting Committees, the CPT, the Minister and the Courts, a comprehensive complaints mechanism was introduced in November 2012 to address previous concerns regarding the complaints process. The new mechanism was given legislative status by an amendment to the Prison Rules in January, 2013 (Prison Rules (Amendment) 2013, S I No 11 of 2013). Under the new arrangements, prisoner complaints are examined by investigators from outside the Prison Service to ensure effective and impartial investigation. The complainant is kept informed and the investigators' reports are submitted to the relevant Governor, the Director General, and the Inspector of Prisons. The Inspector of Prisons has oversight of the complaints process.

¹ The Prison (Disciplinary Code for Officers) Rules, 1996 and the Prison Rules, 2007, as amended, address this issue.

Control and Restraint techniques are only to be employed as the last stage of a process of intervention. Rule 93 of the Prison Rules 2007 requires prison officers to report each incident, which involved the use of force, to the Governor (specifying the circumstances that gave rise to force having been used and, also, the nature and degree of force used). The Governor is required to ensure, where required, that the prisoner is examined by a healthcare professional.

All prison officers receive comprehensive training in Control and Restraint techniques to an internationally recognised standard. Following an initial five day programme, on their induction into the service, all uniformed grades are required to complete an annual mandatory one day 'refresher' training programme. De-escalation and communication skills form an integral part of Control and Restraint training. The IPS Control and Restraint Manual includes a section focusing on positive communication techniques, listening skills, body language, tone and empathy. From an operational training perspective, Control and Restraint Instructors are required to ensure that de-escalation techniques are further emphasised during all phases of any physical interventions.

The concept of humane and respectful treatment of prisoners is embedded throughout all elements of IPS Learning and Development training including procedural and prison-craft/professional practice courses. The guiding principle is that, in addition to delivering knowledge of professional obligations from a human rights legislation perspective to prison officers, staff are encouraged towards an appreciation that good prison management requires a culture of decency and respect where *everyone* is treated with dignity and humanity. The inclusion modules in Ethics, Social Psychology, Equality, Communication techniques and Pro-social modelling in the Recruit Prison Officer induction programme is a direct result of this principle. The induction programme - called the Higher Certificate in Custodial Care (HCCC) - was introduced in 2007 and is a mandatory two year (level 6) training programme for all Recruit Prison Officers. To date, 876 prison officers have undertaken the course.

In addition to the HCCC, the Irish Prison Service College (IPSC), in partnership with the Irish Human Rights Commission (IHRC), developed a tailored, prison specific Human Rights programme for IPS staff. This programme focuses on the practical application of principles of human rights, such as dignity, respect, equality, proportionality and transparency. To date the programme has been delivered to 1,250 officers across the prison estate.

Following their induction, positive communication and conflict management skills are further developed through a series of other programmes. In summary, the suite of available training programmes have the common objective of equipping staff in prisons with the necessary skills and attributes to meet their obligations to the prisoners in their care.

Ireland's Response

The Director General of the IPS has established a Category A Complaint Investigation into the alleged incident on 5, September, 2014 to establish how the prisoner suffered the injuries reported by the CPT and to establish whether, and by whom, he was assaulted or subjected to excessive force. The Report will be issued to the Director General, the Inspector of Prisons and the Governor when the investigation is complete.

Comment

.. Considerable efforts have been invested to reduce the levels of violence in prisons. ... Nevertheless, the level of violence at Mountjoy Prison and other establishments remains far too high.

... The duty of care which is owed by custodial staff to those in their charge includes the responsibility to protect them from other inmates who wish to cause them harm.

Addressing the phenomenon of inter-prisoner violence requires that prison staff must be alert to signs of trouble and both resolved and properly trained to intervene. The existence of positive relations between staff and prisoners, based on the notions of dynamic security and care, is a decisive factor in this context; this will depend in large measure on staff possessing appropriate interpersonal communication skills. ...an effective strategy to tackle inter-prisoner intimidation/violence should seek to ensure that prison staff are placed in a position to exercise their authority in an appropriate manner... the prison system as a whole may need to develop the capacity to ensure that potentially incompatible categories of prisoners are not accommodated together (paragraph 26).

Recommendation

The CPT recommends that the Irish authorities pursue their efforts to address the phenomenon of inter-prisoner violence and intimidation.

Ireland's Response

The findings of the CPT that progress has been made in reducing the levels of violence in prisons since their last report in 2010 are welcome. Every effort is made by prison staff and management to limit the scope of acts of violence. However, no regime can completely eliminate the possibility of violent happenings in a prison setting where dangerous and violent offenders are being held. The IPS has successfully introduced a number of interventionist measures such as hand-held metal detectors, netting over prison yards, boss chairs and security screening machines to detect and prevent weapons from entering prisons. In addition, new prisoner programmes, such as the Incentivised Regimes policy, provide for a differentiation of privileges between prisoners according to their level of engagement with services and quality of behaviour. One of the objectives of this policy is to reinforce good behaviour, leading to a safer and more secure environment. As a result of these measures, there has been a downward trend in the number of incidents of inter-prisoner violence in recent years. For instance, in 2013 the number of recorded incidents was almost 26% down on the total number in 2012 (530 versus 715). The incidents of violence recorded include very minor incidents.

Comment

The delegation was concerned to find a rather poor recording of incidents of inter-prisoner violence in some of the prisons. At Mountjoy Prison, the delegation came across serious assaults that took place on 23 and 24 July 2014 which were not recorded by the prison administration. At Midlands Prison, all incidents were registered ... However, the delegation met two prisoners who had recently been placed on protection after having been assaulted by other inmates and yet these assaults were not recorded in either of the two incident records. Furthermore, one of the prisoners had not been examined by a doctor following the assault (bruising around his eye was still visible at the time of the visit). The impression that there were more cases of inter-prisoner violence at Midlands Prison than were being recorded was reinforced by the fact that the majority of incidents in the incident records were described merely as "injury to the head/hand/leg" without giving any further explanation as to the probable causes for the trauma (paragraph 27).

Recommendation

The CPT recommends that the Irish authorities reiterate the importance of diligently recording all the incidents of inter-prisoner violence to the management and staff of all the penitentiary establishments

Ireland's Response

Please see response to paragraph 55 below.

Comment

The policy of reporting inter-prisoner violence to An Garda Síochána appeared to differ from one prison establishment to another. ...the CPT would advocate that every instance of inter-prisoner violence resulting in an injury be communicated to An Garda Síochána. It is essential that prisons do not become places of impunity (paragraph 28).

Recommendation

The CPT recommends that any injury indicative of inter-prisoner violence is immediately brought to the attention of An Garda Síochána and a preliminary investigation is initiated.

Ireland's Response

The IPS has recently introduced a standard approach to the recording and reporting of allegations of such assaults. Governors are required to record the identity of the complainant and the time and date the complaint was made, the details of the complaint, the time and date the complaint was notified to the Governor and the time and date of the notification to the Garda Síochána. The Governor must also arrange for any potential evidence (such as CCTV footage, written reports etc) to be preserved as long as they may be required for any investigation by the Gardai or for any criminal proceedings. The alleged victim must be examined and any marks or injuries recorded and photographed. The names of all potential witnesses must also be recorded. Reports to the Gardai are to be in writing (either by email, fax, or hardcopy letter) and a copy is to be maintained on a central register in the prison.

3. Deaths in custody:

Comment

..., the delegation examined in detail four recent cases of deaths in custody ... The delegation was concerned that the Irish Prison Service may have failed in its duty of care to these prisoners (paragraph 29).

..., the CPT's delegation was concerned to find that there had been no internal review by the prison management into the circumstances surrounding the deaths ... In each of the four cases ..., there were a number of troubling factors which did not appear to have been examined by the Irish Prison Service... The Committee is all the more concerned since the non-suicide deaths appear to be symptomatic of a culture of impunity for violent acts committed within Irish prisons.

The CPT considers that every death of a prisoner should be the subject of a thorough investigation to ascertain, *inter alia*, the cause of death, the facts leading up to the death, including any contributing factors, and whether the death might have been prevented. Such inquiries are necessary in order to identify possible means to improve the system of prevention in place as well as to provide the relatives of the deceased person(s) with relevant information concerning the circumstances of the death (paragraph 30).

Request for information

The CPT would like to receive information on the outcome of the investigations into the four cases of death in custody outlined above.

Ireland's Response

The welcome given by the CPT to the steps taken by the IPS since their visit to improve the structures and methods of dealing with all deaths in custody is noted. Under the new arrangements, every incident is to be the subject of an internal review and assessment of the circumstances of the death to determine accountability arising and the lessons to be learned and applied both in the particular prison and across the prison system generally. The Governor's internal report is to be forwarded to the Director General. If the assessment points to duty performance deficiencies it is envisaged that the Code of Discipline procedures will be activated.

Lead institution Governors are also to assume the Chair of the local multi-disciplinary Death in Custody/Suicide Prevention Group (previously chaired by a middle ranking member of prison management). That group is to play an active role in identifying the lessons to be learned and in developing and overseeing the implementation of any corrective action plan. It is expected that the local group will also carry out periodic audits to ensure action steps agreed are continuing to be followed and adhered to.

The Director General has taken over the chairing role of the National Suicide and Harm Prevention Steering Group (NSHPSG). The NSHPSG will ensure that the lessons learned from a particular incident, and the corrective actions identified in the internal review report, will be communicated to the network of local multi-disciplinary groups at prison level. The prison groups, under the leadership of the local Governor, will be tasked with ensuring that any performance and practice issues are addressed in their institution. The NSHPSG may also arrange for spot check audits of institutions to further ensure compliance.

In relation to the follow up and implementation of the findings and recommendations of the Inspector of Prison's (IOP) reports, local responsibility rests with the relevant Prison Governor working with the local Death in Custody Group. At national level, the NSHPSG has oversight responsibility for ensuring that the individual prison has implemented the recommendations and will also ensure that the findings and recommendations are brought to the attention of Death in Custody groups in all other prisons for appropriate action in relation to their own institution.

In regard to the four cases highlighted by the CPT, the Director General has requested a report in each case from the Governor of the relevant prison on the circumstances of the death of the prisoner to include:

- any assessment made based on the reports, statements, CCTV material etc,
- whether any accountability has been established and, if so, what actions have been taken by the Governor in regard to same, and
- what lessons have been learned from the assessment of the circumstances of the death and the actions now in place to prevent a recurrence.

The internal investigations are not as yet complete in all of the four cases and external investigations are also ongoing involving the Inspector of Prisons, the Garda Síochána and Coroner. In relation to the one case in which both external and internal investigations have been concluded – that of prisoner CP who was found hanging in his cell at Limerick Prison on 7 October, 2013 - certain procedural duty performance shortcomings identified in the internal investigative process have been addressed through the application of the Prison (Disciplinary Code For Officers) Rules, 1996. A detailed action plan has been put in place by the Governor of Limerick Prison to ensure that the lessons learned from this tragic incident are implemented. As set out in the Inspector of Prisons Report into this death, the deceased had a history of depression and self harming and had attempted suicide on several occasions in the past including an attempt to self-harm in August of that year while on A Division in Limerick Prison. On that occasion his cell mate alerted staff and he was revived through the quick intervention of disciplinary and medical staff. The deceased was placed on a Special Observation List and was the subject of regular reviews. He also attended both the general practitioner and psychiatric clinics and a referral to the prison psychologist had been made a short number of days before his unfortunate death on 7th October. Information on the outcome of the investigations into the other three deaths will be conveyed to the CPT in due course.

The report on the Death in Custody of Prisoner CP² was published by the Minister for Justice and Equality on 03/07/14.

An Garda Síochána state the following:

- (i) Prisoner PD Mountjoy Prison who died on 26 July 2014:

A file on this death was sent to the Dublin City Coroner's Office on 18th May 2015 and a date for the hearing is awaited.

- (ii) Prisoner SL who died on 12th February 2013:

The Inquest into this death has not yet been held. On examination of the Coroner's schedule of Inquests, this Inquest is likely to be held in early 2016.

- (iii) Prisoner CP who died at Limerick Prison on 7th October 2013:

² Inspector of Prisons Report - Prisoner K of 2013 published 3rd July, 2014 and available on the Department's website – www.justice.ie.

The Inquest into this death was held on 11 February 2015 by the Coroner for South East Limerick. The outcome of the Inquest recorded an 'Open Verdict', with the finding in accordance with medical evidence that CP died from Bronchopneumonia due to Cerebral Hypoxia as a result of hanging.

(iv) Prisoner MS who died on 26th August 2014 at Cloverhill prison:

A comprehensive file on this death is being prepared by the Superintendent at Lucan Garda Station for submission to the Coroner for South County Dublin. It is advised that the compilation of the file involves significant quantities of statements and related work. It is anticipated the Inquest will be held in late 2015/early 2016.

4. Conditions of detention:

a. material conditions

Comment

At Midlands Prison, the cells of A wing (each approximately 8m²) accommodated two prisoners and were equipped with a bunk bed, a television, a table and a chair and had in-cell sanitation. They had good access to natural light and the artificial lighting and ventilation were sufficient. However, cells of 8m² are not suitable for accommodating two prisoners (paragraph 32).

Recommendation

The CPT recommends that cells of 8m² cease to be used to accommodate more than one prisoner.

Ireland's Response

The IPS is working to reduce the capacity of prisons to align with the Inspector of Prisons recommended bed capacity of 3,982 in so far as this is compatible with public safety and the integrity of the criminal justice system. As of July 2015, alignment with the Inspector of Prisons recommended bed capacity has been completed in 9 out of 14 institutions.

Significant investment has taken place in our prison estate in recent years with in excess of 900 new prison spaces having been constructed and brought into use since 2007. Over the lifetime of the Capital Expenditure Plan 2012-2016, the IPS intends further progressing the modernisation of the prison estate by replacing outdated facilities in Cork, Limerick, Mountjoy and Portlaoise. The intention is to provide in-cell sanitation in every locked cell that lacks such a facility and to continue to increase the percentage of the prison population with access to single cell accommodation. In April 2015³, over 2,000 prisoners, or 54% of the prison population, were accommodated in single cells. This compares to just over 1,700 prisoners, or 41% of the prison population, in April 2010. While the prison service will continue to strive to maximise the number of prisoners in single cell accommodation it would not be possible at present to implement the CPT's recommendation that cells of 8m² cease to be used to accommodate more than one prisoner as this could not be achieved without releasing sizeable numbers of prisoners considered unsuitable for early release.

³ The most up to date survey information available.

b. regime

Comment

In February 2012, the Irish Prison Service adopted the Policy on Incentivised Regimes. It provides for a differentiation of privileges between prisoners based on their level of engagement with prison services and their behaviour. Newly committed prisoners enter the prison on a standard level regime. They may later progress to the enhanced level if they meet the criteria for it, .. or regress to basic level if they fail to meet the criteria for standard level and/or consistently refuse to engage in structured activities.

The CPT supports the individualised approach to a prisoner's treatment .. progression from one regime level to another should be based on the prisoner's attitude, behaviour, participation in activities... and adherence to reasonable pre-established targets set out in a sentence plan and observance of the internal rules. The challenge is to ensure that the incentivised regime is applied in an objective manner by prison staff to all prisoners (paragraph 33).

Request for information

The CPT would be interested to learn about the results of an evaluation of the Policy on Incentivised Regimes since its introduction in February 2012.

Ireland's Response

The objective of an Incentivised Regimes policy is to provide tangible incentives to prisoners to participate in structured activities and to reinforce incentives for good behaviour, leading to a safer and more secure environment.

An external expert was commissioned to carry out a benchmark exercise to inform senior management on the application and implementation of the policy. The report was completed in August 2013 and its recommendations have been accepted by the IPS. A copy of the benchmark report will be provided to the CPT. Since the Report issued certain changes to the policy have been introduced with regard to incentivising sex offenders. Further changes to the policy to address persons returning from breaches of Temporary Release (TR) conditions and for violent offenders are currently under review. An Incentivised Regimes Implementation Group meets quarterly to review the application of the policy in practice.

Comment

... The Irish Prison Service has expanded the Integrated Sentence Management (ISM) system to cover all prisons. Under ISM, a newly committed prisoner with a sentence of one year or greater is assessed by an ISM co-ordinator and a personal plan for each prisoner is drawn up. The plan is reviewed regularly ... However, far too many prisoners serving sentences longer than one year still did not have any type of sentence plan... (paragraph 34).

Recommendation

The CPT reiterates its recommendation that a sentence plan be drawn up for all prisoners, with particular attention paid to the needs of persons sentenced to life-imprisonment and other prisoners serving lengthy sentences.

Ireland's Response

Dedicated ISM Coordinators became operational in all prisons and open centres during 2014. The allocation of dedicated staff in each establishment will greatly enhance the effectiveness of the sentence management system over time and facilitate the growing numbers of prisoners participating in the process. To enhance consistency of delivery across the prison estate, a dedicated ISM Coordinator training programme was delivered last year and further training will be provided shortly.

In addition to prisoners serving sentences of over one year duration, ISM Coordinators have been tasked with engaging with prisoners serving sentences of between 3 and 12 months in order to identify suitable candidates for the Community Support Scheme. The development of the Community Support Scheme is facilitating enhanced resettlement planning for prisoners serving short sentences in line with the CPT recommendation. ISM Coordinators also provide key assistance in identifying suitable prisoners for the Community Return Scheme. Given the current allocation of ISM posts, and the range of tasks assigned to the ISM team, prisoner engagement with ISM has had to be prioritised in the following way:

1. First Contact Assessments and referrals to relevant services for all new committals serving sentences above one year;
2. Community Integration Interviews and referrals to relevant services for those ISM eligible prisoners who are approaching release, and
3. Ongoing sentence management of longer term prisoners.

There were 3,079 active ISM cases at the end of May, 2015, of which 1,246 had an agreed personal Integration Plan or Community Integration Plan. It is accepted that full written sentence plans are not recorded for all participating prisoners at this time due to staff and other limitations. It is intended to address this issue in an ongoing review of the existing ISM policy and current practice. The intention is to set down revised protocols and standard operating procedures to achieve efficiencies. A re-development of the central ISM database and further ISM Coordinator training will also be actioned which will also help address the recording requirements.

5. Prisoners on protection:

Comment

The CPT welcomes the steps taken by the Irish Prison Service to drastically reduce the number of prisoners on protection, notably those under 23-hour lock-up. ...211 prisoners were subjected to a restricted regime and spent up to 21 hours in their cells every day (paragraph 35).

At Castlerea Prison, the prisoners on protection (47 at the time of the visit) ... None of the prisoners were on 23-hour lock-up and the prison management was able to ensure that prisoners could freely associate with each other. Inmates were allowed out of their cells for at least four hours per day; they could attend school two to three days a week where they mixed with other prisoners and could participate in several workshops...; some of the prisoners worked ... but there were far too few jobs for the number of inmates. The vast majority of these prisoners were on the standard level of the incentivised regime, with a few on basic and a few on enhanced (paragraph 36).

At Mountjoy Prison, the Separation Unit, used to accommodate prisoners on protection, was closed down a few days before the CPT's visit ..., and the protection prisoners were transferred to the D West Wing of St. Patrick's Institution. At the time of the visit, there were 72 protection prisoners on this wing but due to the lack of space, four protection prisoners were accommodated in the committal area and one in the Challenging Behaviour Unit of Mountjoy Prison (paragraph 37).

Every effort should be made to avoid placing prisoners on protection in the Challenging Behaviour Unit.

The D West Wing of St. Patrick's Institution consisted of 72 single-occupancy cells... At the time of the visit, the protection prisoners were divided among five groups – each colour coded (red, green, yellow, orange and blue) to signify with whom the prisoners could associate. A sixth group of inmates was composed of individuals who could mix with everyone and who could participate in a full programme of activities every day. At the time of the visit, one prisoner was on “protection all others”, which meant that he had no interaction with any of the other detainees and stayed in his cell 23 hours a day.

The regime at D West Wing was limited: yellow group attended school three times a week for two hours each time, while red, green and orange groups attended twice a week and blue group only once a week. The only two other activities were exercise in the yard (one hour per day), and the gym (one hour per day). A computer class was offered daily on weekdays, but it was poorly attended. Thus, prisoners had out-of-cell activities for two to four hours per day; in addition, they had one hour of out-of-cell time daily on the landing for cell cleaning, washing clothes, showers and phone calls.

Although none of the protection prisoners was on the basic level of the incentivised regime, the prison management admitted that the incentivised regime system did not work so well on the protection wing, due to the limited number of activities that could be offered. The inmates thus received their incentivised regime stamps for displaying good behaviour rather than taking part in activities (paragraph 38).

Prisoners on protection in Mountjoy Prison can receive two visits per week. Visits are generally screened... Nevertheless, prisoners on the enhanced level of the incentivised regime were offered one 30-minute visit per month under open conditions.

The CPT accepts that in certain cases it will be justified, for security-related reasons, for visits to take place in booths. It also acknowledges that open visits may require additional staff resources. However, “open” visiting arrangements should be the rule and “closed” ones the exception,... Any decision to impose closed visits must always be well-founded and reasoned, and based on an individual assessment of the potential risk posed by the prisoner or their visitors (paragraph 39).

At Midlands Prison, the 30 prisoners on protection were accommodated in C2 Wing, in cells measuring some 9m². Cells of this size are suitable for single-occupancy but should not be used to hold two prisoners, as was the case in a number of the cells. In some cells, the sinks were leaking, there was no hot water and the windows were broken. Further, the sanitary facilities in any cell accommodating more than one prisoner should be fully partitioned (i.e. up to the ceiling);

The CPT recommends that steps be taken to remedy these deficiencies (paragraph 40).

At the time of the visit, 23 of the protection prisoners were on 23-hour lock-up. The delegation received complaints that they were often offered less than one hour out of their cells every day. Moreover, once a prisoner was placed on protection, he was downgraded to the basic level of the incentivised regime system which meant that he only received three phone calls and one 30-minute open visit per week. The Governor of Midlands Prison explained that this was due to the limited availability of staff to ensure the safety of prisoners; he also explained that the management wanted to discourage prisoners from asking for protection and that it did not want to dis-incentivise other prisoners who made an effort to participate in education and activities by giving the prisoners on protection the same privileges (paragraph 41).

At Wheatfield Place of Detention, the intention of the management had been to have no prisoners on protection and to ensure that all prisoners could associate freely, especially as the establishment was supposed to be a working prison with at least 80% on inmates gainfully employed. The arrival of the young adults and juveniles from St. Patrick's Institution had put these plans on hold. Nevertheless, it was hoped that in 2015, once sentenced 17-year-olds were no longer held at Wheatfield Place of Detention but in the Children's Detention Schools, it would be possible to transfer any remaining protection prisoners out of Wheatfield.

At the time of the visit, there were some 60 prisoners on protection. Six young adults (i.e. 18 to 20-year-olds) were accommodated in unit 3G, on the same wing as three juveniles on protection. All the prisoners attended school three times a week, which was mandatory, were offered access to several workshops ... and could access the gym a few times a week as well as associate together on the wing every evening which was equipped with table tennis and billiards tables.

The situation of adult prisoners on protection ... was far less favourable. The delegation received many complaints from inmates about the poor regime of being confined to their cells for 21 hours or more and no access to any activities. They also complained that their visits were only available on Tuesday mornings which was inconvenient for their families as it was during the school and work-day.

Some six prisoners were also accommodated for protection reasons on Wing West 2, where the regime was even more restrictive, with daily out-of-cell time for some limited to one hour or less of outdoor exercise. For example, one prisoner (DM) who had been placed in West 2 against his wishes for his own protection in February 2014 had given up going to the outdoor exercise yard some two months earlier and, as he had no one to talk to, was becoming more and more introverted. Moreover, as he has a long sentence ahead of him, it is essential that efforts be made to provide him with a more meaningful regime, including access to purposeful activities and the possibility to associate with other prisoners (paragraph 42).

.... Prisoners on protection who have not committed any disciplinary offence but are unable to access activities ... should not be de facto punished by being placed on the basic level of the incentivised regime system.

Moreover, it is very important for prisoners to be able to maintain good contact with the outside world. This is all the more the case for prisoners on protection ...

.. conditions akin to solitary confinement can have an extremely damaging effect on the mental, somatic and social health of the prisoner. .. while pursuing their goal of ensuring that all prisoners can serve their sentences under safe conditions, the authorities should strive to minimise the deleterious effects of such segregation. For those prisoners placed on protection (i.e. 21-hour to 23-hour lock-up) for more than a few weeks, additional measures should be taken in order to provide them with appropriate conditions and treatment; access to activities, educational courses and sport should be feasible.

Recommendation

The CPT recommends that the Irish authorities pursue their efforts to provide prisoners on protection in Midlands and Mountjoy Prisons, and Wheatfield Place of Detention for more than a short period with a range of purposeful activities, taking into consideration the above remarks. Further, it recommends that all prisoners on protection be offered one hour a week of visits, preferably under open conditions (paragraph 43).

Ireland's Response

The recognition by the CPT of the steps taken by the IPS to significantly reduce the numbers of prisoners on restricted regimes is welcome. The Director General of the IPS established a high level working group in July 2013 to look at measures to reduce the number of prisoners held on restricted regimes and to ensure that such prisoners would receive, as a minimum standard, out of cell time of 3 hours per day, to engage in exercise or activity. Through the work of this group, action was taken by prison management and an immediate reduction was achieved in the overall numbers of prisoners held on restricted regimes and, specifically, 22/23 hour lock up. Progress towards reducing the number of such prisoners is continuing. In July 2013, there were 211 prisoners on 22/23 hour lock up. The number fell to 43 by April 2015 – the latest available figures. This reduction in numbers amounts to an 80% fall on the July 2013 total. In addition, the overall number of prisoners on restricted regimes (between 19 and 23 hours in cell time) has fallen from 339 to 301 in that period.

The restriction on a prisoner's regime can occur due to a number of factors including the protection of vulnerable prisoners⁴. A prisoner may, either at his/her own request, or when the Governor considers it necessary, be kept separate from other prisoners who are reasonably likely to cause significant harm to him/her. The fact that prisoners seeking protection are immediately separated from the general population, or from specific prisoners identified as presenting a threat, clearly demonstrates the commitment of the IPS to ensure their safety and security.

The status of each prisoner on restricted regimes is regularly reviewed. If possible, prisoners can be transferred to other institutions where a restricted regime would not be necessary for their safety. In other cases, the Governor may decide, for the maintenance of good order in the prison, to remove a prisoner from general association or structured activity to reduce the negative affect that a prisoner, or prisoners, may have on the general population⁵. In addition, there may be some prisoners who would be restricted for medical (Rule 64) or discipline reasons (Rule 67).

The IPS is continuing its efforts to eliminate the use of solitary confinement and move to facilitating at least three hours of out of cell time for all prisoners. This issue is, however, a complex one which takes constant daily dynamic management by prison Governors.

⁴ This is provided for under Rule 63 of the Prison Rules 2007.

⁵ This is provided for under Rule 62 of the Prison Rules 2007.

The IPS further intends to use all means and measures available to it to address the core group of prisoners who remain on a restricted regime. A recently developed new Restricted Regimes policy seeks to minimise the numbers of prisoners availing of restricted regimes and to ensure that the management and regime arrangements include a daily minimum period of three hours of out of cell time. The regime of meaningful activities for restricted regimes prisoners must include access to Education, Work Training, Gym and Recreation. Access to phone calls and visits are to be granted in accordance with the terms determined by the Incentivised Regime level of the prisoner. In regard to the plumbing and other maintenance issues identified in some cells in the Midland Prison, these deficiencies are being addressed under our facilities management contract arrangements.

Comment

In this context, the CPT wishes to refer to the High Court judgment.. in the case of Daniel McDonnell.. which concludes that the placement of this prisoner in conditions akin to solitary confinement for his own protection for eleven months constitutes a clear breach of his constitutional rights to bodily and psychological integrity. Moreover, the judgment refers to the unlawful nature of the application of Rule 63 as no end date was defined at each renewal of the direction (roughly every four weeks) and the Governor of the prison had not himself made the direction. The CPT also considers that for persons placed on protection against their wishes, there ought to be an opportunity to challenge the measure at a higher administrative level and that the person concerned should be part of the discussion to seek an alternative solution (paragraph 43).

Request

The CPT would be interested to learn what steps have been taken to improve the situation of prisoner Daniel McDonnell in West 2 of Wheatfield Place of Detention. Further, it would like to be informed of the general measures that have been taken to prevent similar such cases arising in the future, in the light of this judgment.

Ireland's Response

The decision of the Court in this case was appealed and judgment delivered on 31st July 2015 by the Court of Appeal. The Court allowed the appeal and concluded that 'It is for prison authorities to decide what measures are necessary for the safety of prisoners....

..A high level of threat or some extreme circumstances may justify severely restrictive conditions of detention on a temporary basis. Justification is a function of the level of threat to life or safety measured against the severity of the temporary conditions. Ultimately, that judgment is one for the Court but a wide margin of appreciation has to be allowed to the Governor and his staff..

..This Court is satisfied that the trial judge fell into error in making the declarations and orders in these cases; in holding that there was a continuing breach of Mr. McDonnell's constitutional right to bodily integrity because of the conditions of his detention, having regard to all the circumstances; that there was an obligation on the Court to remedy the breach as far as possible and that the Court was in a position to do so by granting an injunction specifying minimum facilities for association with two other prisoners.

In particular, the declaration that Mr. McDonnell was being kept in solitary confinement in breach of his constitutional rights did not reflect a sufficient or correct analysis of the complex issues in this case because:-

- the nature of the threat to Mr. McDonnell is grave;
- the only purpose of the conditions is protection;
- these arrangements are temporary;
- the authorities wish to alleviate conditions as much as they can and as soon as possible;
- the situation is reviewed constantly;
- the actual conditions, although harsh, are not intolerable;
- Mr. McDonnell does have contact with other persons besides prison officers, for example, listeners and family, as well as legal advisers, medical personnel, psychology and psychiatry services;
- opportunities for prisoner social contact on this wing are limited because of the circumstances consigning them to that location;
- part of the problem is in the control of Mr. McDonnell himself, which is not a matter of blame but recognition of a fact because of
 - his own status;
 - his relationship with the other two suitable fellow occupants of the wing;
- There is no element of punishment;
- The Governor accepts that the situation is difficult and harsh and is endeavouring to improve conditions'.

6. Segregation / “dangerous” prisoners:

Comment

In every country there will be a certain number of prisoners considered to present a particularly high security risk and hence to require special conditions of detention. ... This group of prisoners will .. represent a very small proportion of the overall prison population. However, it is a group that is of particular concern to the CPT, as the need to take exceptional measures vis-à-vis such prisoners bring with it a greater risk of inhuman treatment (paragraph 44).

At Midlands Prison, the Separation Unit in C1 Left Wing, consisting of 11 single-occupancy cells, was accommodating 11 prisoners at the time of the visit who were deemed to pose a danger to other prisoners and to the good order of the establishment. The delegation was informed that these prisoners were held there for security reasons and that they were “regularly reassessed” as to the necessity for them to stay on the unit. However, there appeared to be no clear legal basis for allocating these prisoners to this unit or for prisoners to appeal such a placement. Rule 62 of the Prison Rules 2007 regulates “removal from association” and contains a number of procedural safeguards regulating the application of this rule to a prisoner. It was not, however, applied to the prisoners in the Separation Unit.

Reportedly, the inmates were offered the same regime as the rest of the prison population and most of them were on the enhanced level of the incentivised regime. However, there were only very few activities in which they could engage; access to a small courtyard for daily outdoor exercise, a gym and the school. At the time of the visit, seven of the eleven prisoners were on 23-hour lock-up and interviews with inmates and staff on this unit confirmed the absence of any meaningful regime. Further, it appeared that some inmates were offered not much more than 15 minutes out of their cells every day while others spent more than three hours out of their cells.

Recommendation

The CPT recommends that the Irish authorities ensure that all prisoners are offered a minimum of one hour of daily outdoor exercise (paragraph 45).

.. there must be a clear legal basis for the placement of a prisoner in a high-security unit... any measure of segregation should not be imposed for longer than the risk which a particular prisoner presents makes necessary. This calls for regular reviews of the decision to impose the measure. Further, prisoners should as far as possible be kept fully informed of the reasons for the imposition of the measure and, if necessary, its renewal.

The CPT recommends that the Irish authorities adopt clear rules and procedures to govern those prisoners who present a high security risk, notably:

- prisoners placed in segregation or in respect of whom such placement is extended be informed in writing of the reasons therefore and sign an attestation that they have received the decision (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to security);
- prisoners in respect of whom a segregation (or increased supervision) measure is envisaged be given an opportunity to express their views on the matter;
- prisoners are informed of the possibility to use the assistance of a lawyer in case of contesting the measure;
- prisoners have their case reviewed on a regular basis, according to the same procedure (information on reasons for extending the measure, right to be heard, decision notified in writing, etc.); such reviews should always be based on the continuous assessment of the individual prisoner by staff specially trained to carry out such assessment;
- prisoners have the right to appeal to an authority outside the prison establishment concerned against the imposition or extension of a segregation measure (the remedies available to them should be set out in the decision) (paragraph 46).

As regards the regime, prisoners who present a particularly high security risk should, within the confines of their detention units, enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. It is crucial that such prisoners are provided with a tailored programme of purposeful activities of a varied nature. This programme should be drawn up and reviewed on the basis of an individualised needs/risk assessment by a multi-disciplinary team ..., in consultation with the inmates concerned. Interaction/association between prisoners should be the norm; conditions akin to solitary confinement should only be used when absolutely unavoidable in order to deal with a person who is assessed to be acutely dangerous to others and for the shortest period necessary.

Recommendation

The CPT recommends that the Irish authorities review the regime for prisoners who present a high security risk in the light of the above remarks (paragraph 47).

Ireland's Response

The IPS does not have 'punishment blocks' or other such facilities in the system. Prisoners placed on Rule 62 are so placed in consideration of the jurisprudence which has arisen from a number of Judicial Review proceedings taken by prisoners.

Under Rule 62 of the Prison Rules 2007, a Governor may decide, for the maintenance of good order in the prison, to remove a prisoner from general association or structured activity to reduce the negative affect that a prisoner, or prisoners, may have on the general population. There is a requirement under the Rule that the prisoner concerned shall be informed in writing of the reasons therefore, either before the direction is given or immediately upon its being given. The Governor is obliged to make and keep a record of the grounds on which the decision is made and the views, if any, of the prisoner. The Governor is also required to ensure that a review of the direction takes place at least once in every seven days.

Where the period of removal from structured activity or association will exceed 21 days, the Governor is obliged to submit an application to the Director General for decision. The views of the prisoner, if any, must be conveyed with the Governor's submission. The application process provides an opportunity for the prisoner to object and make his/her views known to the Director General. An additional protection for prisoners has been included in internal IPS processes so that, on each seventh day after the Director General has approved an extension on the Rule, the Governor is required to seek the Director General's approval - through the Director of Operations - to retain the prisoner on the Rule for a further seven days. Prisoners also have the entitlement, under the complaints mechanism, to make a complaint in relation to directions made and all such prisoners retain the right to consult with their legal advisors and have access to the Courts. The IPS intend reviewing the operation of Rule 62 with a view to introducing new procedures to ensure the greatest clarity and consistency in the operation of the Rule.

Rule 63 of the Prison Rules, 2007 also provides for a prisoner at his/her own request, or when the Governor considers it necessary, to be kept separate from other prisoners who are reasonably likely to cause significant harm to him/her.

The C1 left Wing of Midlands Prison provides single occupancy accommodation for prisoners who meet the terms of either Rule 62 or Rule 63. While all of the prisoners housed there, at the time of the CPT visit, met the required criteria, formal documentation was not in place in some cases. Following the CPT visit, any assignment of prisoners to this accommodation unit is now strictly in accordance with the categorisation procedures under Rule 62 or Rule 63.

In regard to the recommendation on outdoor daily exercise see response to paragraphs 35-43 above in relation to Prisoners on Protection.

7. Health-care services:

Comment

In the report on the 2010 visit to Ireland, the CPT had expressed its concerns regarding the provision of health care in certain prisons, ...The findings of the 2014 visit illustrate that the situation has improved in some prisons while it has further deteriorated in others, such as Midlands Prison.

In its preliminary observations to the Irish authorities at the end of the 2014 visit, the CPT... commented that the health-care service in some prisons was in a state of crisis and urged the Irish authorities to invite the Health Information and Quality Authority (HIQA) or similar body to undertake a fundamental review of health-care services in Irish prisons. ..., the Irish authorities responded that such a review was outside the remit of HIQA and that discussions were underway to identify a similar mechanism to undertake the review. The CPT wishes to recall the importance of having in place an effective prison health-care service which is capable of meeting the broad range of health problems found in prison. Once again, the

findings from the 2014 visit highlighted poor management of prison health-care services and disjointed throughcare provision. Doctors working in prisons appeared disconnected from the national health-care service and prison health-care did not receive the necessary management support, with clinical opinions not acted upon and lack of escort staff available within prisons resulting in numerous prisoners missing medical appointments.

The recent policy trend in Europe has favoured prison health-care services being placed either to a great extent, or entirely, under Ministry of Health responsibility. In principle, the CPT supports this trend. In particular, it is convinced that a greater participation of Health Ministries in this area will help to ensure optimum health care for prisoners, as well as implementation of the general principle of the equivalence of health care in prison with that in the wider community (paragraph 48).

Recommendation

The CPT recommends that the Irish authorities identify an appropriate independent body to undertake a fundamental review of health-care services in Irish prisons. Further, it would appreciate the observations of the Irish authorities on the question of bringing prison health-care services under the responsibility of the Ministry of Health.

Ireland's Response

The IPS healthcare service aims to provide prisoners with access to the same quality and range of health services as that available to those entitled to public health services in the community and which are appropriate to the prison setting. Since the last CPT visit in 2010, the IPS healthcare service has endeavoured to improve the provision of healthcare in all Irish prisons to meet this objective of equivalence of care through a number of initiatives. The IPS notes the positive comments made by the CPT delegation in relation to the quality and comprehensiveness of healthcare services at some prison locations, notably the Dóchas Centre. In view of the finding of the CPT that the healthcare services in some prisons remain a matter of serious concern, the IPS, since receiving their preliminary observations, did try to progress, with the appropriate authorities, the possibility of the HIQA undertaking a fundamental review of health-care services in prisons. Unfortunately, the Department of Health has advised that such a review is outside the remit of HIQA.

In regard to the request for observations on moving responsibility for primary care services to the Ministry for Health, the IPS is aware of an emerging trend in other European jurisdictions for national healthcare service providers to assume responsibility for prison healthcare delivery. In addition, as recently as 2013, the World Health Organisation (WHO) and the United Nations Office on Drugs and Crime (UNODC) published a policy brief on the organisation of prison health , entitled *Good Governance for Prison Health in the 21st century*, which concluded that the management and coordination of health services to prisoners is a whole of Government responsibility and that “ *Health Ministries should provide, and be accountable for healthcare services in prisons, and advocate health prison conditions*”. In the light of the CPT remarks, the aforementioned emerging trend of shifting responsibilities in this area and the conclusions of the WHO/UNODC policy briefing, discussions are ongoing between IPS, the Department of Justice and Equality, the Department of Health and the Health Service Executive on the future delivery model for healthcare in Irish prisons.

The HSE supports the provision of extensive drug and alcohol programmes in prisons. The HSE, through the National Forensic Mental Health Service (NFMHS), provides healthcare services to prisoners on the same basis of access and entitlement as it provides to persons in the wider community. The Standards of Care for both primary healthcare and the provision of services to prisoners with mental health difficulties are outlined in the Mc Morrow Commission Report (Section 1.2 page 42), and include assessment, prison in-reach, ongoing treatment within the prison setting or escalation to the forensic hospital setting where necessary. Diversion of prisoners to appropriate treatment settings is also being developed, as outlined in the first report of the Joint Inter-Departmental Group, along with other improvements in the area of forensic mental healthcare. In the medium term, the aim would be to work towards implementing as much as possible the recommendations for the Forensic Mental Health Services, and services for prisoners generally, as outlined in Chapter 15 of *A Vision for Change*, although some of these recommendations may be adapted over time as our policy and the HSE's operational response undergoes review. The experience of the HSE in cooperating with the prison authorities in making services available, such as those outlined above, is that very specific considerations arise in delivering services in prison settings which would need very careful consideration in the development of any proposals for change.

- a. staff and facilities

Comment

The health-care team at Castlerea Prison comprised one general practitioner, visiting the prison every weekday for three hours only, a nurse manager and eight nurses... During weekends, a locum doctor was on call. As regards nursing staff resources, they can be considered as sufficient ... However, the prison should have the equivalent of at least one full-time general practitioner.

The prison did not have a visiting psychiatrist since the previous one left in June 2014; a psychologist visited the prison for one day every two weeks. An optician, a chiropodist and an addiction counsellor visited the prison regularly; a dentist was present in the establishment every second Monday.

Comment

The CPT notes the range of healthcare services available in Castlerea Prison but commented that the prison should have the equivalent of at least one full-time general practitioner (paragraph 49).

Ireland's Response

The positive comment on the sufficiency of nursing resources in Castlerea prison is noted as is the acknowledgement of the range of other services provided on an inreach basis including an optician, a chiropodist and a dentist as well as the regular addiction counselling service. In relation to the level of General Practitioner (GP) service, currently three hours per weekday with a locum on call at the weekends, the IPS agrees with the CPT finding that the GP service should be enhanced. The IPS is currently engaged in a process to secure GP services by way of contract for services with individual providers.

Recommendation

The CPT recommends that steps be taken to ensure a psychiatrist visits Castlerea Prison on a regular basis (paragraph 49).

Ireland's Response

An additional Consultant Forensic Psychiatrist has been employed to work one day in Castlerea Prison and four days in Midlands Prison, in conjunction with additional Nursing staff in both prisons from January of this year. This is an improved service position over that reflected in this recommendation.

Comment

At Mountjoy Prison, there was one general practitioner attending the prison during weekday mornings and a locum general practitioner, working full time Monday to Friday. Various other locum general practitioners covered committals and emergencies during weekend mornings. In addition, a general practitioner, specialising in addictions, visited the prison twice a week.

At the time of the visit, the nursing team consisted of a chief nurse and the equivalent of 16.5 fully qualified nurses while 7.5 nursing posts were vacant; their work was being covered by agency nursing staff. ... such nursing staff levels are satisfactory. However, as regards doctors, a prison of the size and complexity of Mountjoy should have the equivalent of at least two full-time general practitioners.

The vacant nursing posts had not been filled .. However, the hiring of high numbers of agency staff to fill their absence resulted in both a lack of continuity of care and an unfamiliarity of working within prisons which may well amount to an increased cost on the prison system (paragraph 50).

Ireland's Response

The comments of the CPT on the staffing and service provision in Mountjoy prison are noted. The IPS is progressing the filling of nursing vacancies through a public competition which is running currently. The IPS is also in agreement with the CPT comments that the current level of GP cover should be improved and is currently engaged in a process to secure GP services by way of contract for services with individual providers.

Comment

At Midlands Prison, the health-care staffing arrangements have not changed since the time of the 2010 visit. There were two full-time general practitioners, a chief nurse and 14 nurses However, the delegation learned that health-care staff numbers had not been increased since the opening of the prison in 2001 despite the fact that the prison's population had doubled during that period.

In addition, the placement of a large number of elderly offenders in the newly opened E and G Wings has caused challenges for health-care staff ... This had led to an increased use of agency nursing staff and locum medical staff. ..., the IPS would benefit from needs assessment using a prisoner profile/staffing matrix to determine how many additional health-care staff are needed at Midlands prison (paragraph 51).

Moreover, due to the lack of prison officers at Midlands Prison available to provide escorts to and from the health centre, often only around half of the patients listed to see a doctor on a particular day would be seen. The staff shortages also affected hospital consultations and follow-up treatments which were often cancelled because of a lack of staff to transfer prisoners to hospital.

The delegation was also concerned to find a total lack of organisation and management of health-care services at Midlands Prison. The health-care service was reactive; there was a lack of structured follow-up and there were long waits to be seen by medical staff... There was also a lack of inter-disciplinary organisation and, in respect of those prisoners who self-harmed, there was a total absence of any structured follow-up process (paragraph 52).

Recommendation

The CPT recommends that the Irish authorities take steps at Midlands prison to remedy the deficiencies referred to above. As a first step, it should be ensured that all prisoners are seen without delay by a member of the health-care service. Further, measures should be taken to increase the time of attendance of the general practitioners at Mountjoy, Midlands and Castlereagh prisons.

Ireland's Response

The staffing configuration and the determination of additional staffing resources for the Midlands healthcare area is currently the subject of a review. In relation to increasing the time of attendance of general practitioners, the IPS agrees that an increase is warranted given the significant rise in the prison's population. As stated above, the IPS is engaged in a process to secure GP services by way of contract for services with individual providers.

Comment

As regards medical confidentiality, .. it was generally respected in the prisons visited ...

However, the practice of handcuffing a prisoner to a prison officer during external medical consultations in the hospital, at all times, even when the consultation takes place in a secure room, regrettably, has not changed. In the CPT's view, to routinely apply handcuffs to a prisoner undergoing a medical consultation/ intervention is not acceptable from the standpoint of medical ethics and human dignity. Practices of this kind prevent an adequate medical examination from being carried out, will inevitably jeopardise the development of a proper doctor-patient relationship, and may even be prejudicial to the establishment of objective medical observations (paragraph 53).

Recommendation

The CPT reiterates its recommendation that the Irish authorities take the necessary steps to ensure that external medical consultations of prisoners respect the principle of medical confidentiality and human dignity, taking due account of the above remarks.

Ireland's Response

The CPT finding that medical confidentiality is respected in the prisons visited both in relation to medical consultations and in the storing of medical documents is welcome. It is the policy of the IPS that privacy and confidentiality is maintained during clinical consultations within custody as it would be in the community.

With regard to external medical examinations, the paramount responsibility of the IPS is to ensure the secure custody of individuals entrusted to it by due legal process and the IPS has to ensure that this responsibility is met. Where it is considered that a prisoner poses a potential risk to medical/healthcare staff, or an escape risk, those risks are managed in line with standard operating procedures. Indeed, following a recent incident, hospital authorities are requesting that handcuffs are not removed during any consultations.

- b. medical examination on admission and recording of injuries

Comment

The updated 2011 Irish Prison Service Health-Care Standards require an initial committal assessment carried out by nursing staff on the day of reception. Further, within 24 hours of reception a doctor should undertake a clinical assessment of the prisoner's physical and mental state of health.

The requirement for medical examination upon admission seemed to be generally observed in the prisons visited. However, the comprehensiveness of the examination was very variable. ...

At Mountjoy Prison, the delegation also received a number of allegations that there was no proper physical examination upon admission. According to the inmates, the procedure was limited ... and usually did not include a physical inspection of the prisoner. The situation was different in Castlerea Prison, where the general practitioner would perform a full physical examination within 48 hours of admission (paragraph 54).

Recommendation

The CPT recommends that the Irish authorities ensure strict adherence to the Health-Care Standards, including a proper interview and physical inspection of every newly-admitted prisoner by a medical doctor as soon as possible after admission.

Ireland's Response

The positive findings by the CPT regarding the carrying out of medical examinations of newly committed prisoners on admission to prisons are noted. In regard to the issues raised in relation to record keeping, the IPS will address this finding with the general practitioners at prison level.

Comment

The situation as regards the recording of injuries ... was such that injuries were usually recorded but the quality of the records was again variable.

..., at Cloverhill Prison, the delegation was informed that there was no automatic reporting obligation for health-care professionals to bring information consistent with allegations of ill-treatment to the attention of the relevant authority. According to the prison management, it is up to the prisoner to lodge a complaint. The Committee is concerned by this finding, even more so as this practice seems to be current in other prisons as well.

The CPT continuously emphasises the important contribution which health-care services can and should make to combating ill-treatment of detained persons, through the methodical recording of injuries and the provision of information to the relevant authorities. If a detained person is found to bear injuries which are clearly indicative of ill-treatment but refuses to reveal their cause or gives a reason unrelated to ill-treatment, his/her statement should be accurately documented and reported to the authority concerned together with a full account of the objective medical findings.

A corollary of the automatic reporting obligation is that the health-care professional should advise the prisoner concerned of the existence of that obligation, explaining that the writing of such a report falls within the framework of a system for preventing ill-treatment and that the forwarding of the report to the relevant authority is not a substitute for the lodging of a complaint in proper form.

Recommendation

The CPT recommends that the Irish authorities review the existing procedures in order to ensure that whenever injuries are recorded by a health-care professional which are consistent with allegations of ill-treatment made by a detained person, that information is immediately and systematically brought to the attention of An Garda Síochána, regardless of the wishes of the person concerned.

The record drawn up after the medical screening should contain:

- i) an account of statements made by the person which are relevant to the medical examination ...,
- ii) a full account of objective medical findings based on a thorough examination, and
- iii) the health-care professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.

The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed.

Recording of the medical examination in cases of traumatic injuries should be made on a special form ... with body charts for marking traumatic injuries ... it would be desirable for photographs to be taken of the injuries... a special trauma register should be kept in which all types of injury observed should be recorded (paragraph 55).

Ireland's Response

The IPS has recently introduced a standard approach to the recording and reporting of allegations of assaults. Governors are required to record the identity of the complainant and the time and date the complaint was made, the details of the complaint, the time and date the complaint was notified to the Governor and the time and date of the notification to the Garda Síochána. The Governor must also arrange for any potential evidence (such as CCTV footage, written reports etc) to be preserved as long as they may be required for any investigation by the Gardai or for any criminal proceedings. The alleged victim must be examined and any marks or injuries recorded and photographed. The names of all potential witnesses must also be recorded. Reports to the Gardai are to be in writing (either by email, fax, or hardcopy letter) and a copy is to be maintained on a central register in the prison.

Healthcare staff are required to document and treat all injuries sustained by prisoners. Healthcare staff are obliged to objectively document on the Prison Healthcare Medical System (PHMS) database the nature and extent of injuries sustained and action taken, being careful to be accurate about the time, patient name, treatment and sequencing of events. It is not, however, a matter for healthcare staff to report alleged ill-treatment to any third party.

c. drug-related issues

Comment

The presence in prison of inmates with drug-related problems gives rise to a number of particular difficulties for the prison authorities. ... the widespread availability of illicit drugs ... is bound to have very negative repercussions on all aspects of prison life, and may undermine the motivation of prison officers.

... drug misuse and a high prevalence of drugs remained a major problem in all the prisons visited. Prison staff admitted that there were still significant problems with illicit drug misuse and that many of the incidents in the prisons were drug-related.

.. the IPS drugs policy and strategy paper “Keeping drugs out of prison” remains relevant ... prisoners should be provided with the opportunity to serve their sentence in a drug-free environment; where drug-free units are established, the drug-free policy should be rigorously enforced (paragraph 56).

Recommendation

CPT recommends that the Irish authorities continue to pursue vigorously the drug strategy programme designed to put an end to the supply of drugs, to reduce as far as possible the demand for drugs and to provide appropriate assistance to prisoners with drug-related problems, including substitution treatment. Further, increased efforts should be made to ensure that drug-free units live up to their name.

In the report on the 2010 visit, the CPT criticised the manner in which the methadone treatment programme was carried out in some prisons. During the 2014 visit, the delegation visited the drug treatment centre at Mountjoy Prison and was generally satisfied with the approach to methadone prescribing there. A “stepped” drug assessment and treatment approach including non-pharmacological interventions was the essence of the treatment rather than simply a focus on methadone.

However, from interviews with the male inmates recently transferred from Limerick Prison, the delegation learned that the prison doctor there refused to prescribe methadone and that the “methadone doctor” only visited twice a week resulting in a haphazard and incomplete treatment programme. In addition, drug withdrawals at Limerick Prison were not managed well.

Recommendation

The CPT recommends that the Irish authorities take the necessary steps to remedy these deficiencies (paragraph 57).

Ireland’s Response

The IPS Drugs Policy and Strategy – *Keeping Drugs out of Prisons* sets out the steps required to tackle the supply of drugs into prisons, provide necessary treatment services to those prisoners who are addicted to drugs and ensure that developments in prisons are linked into the community. The IPS continues to implement and enhance supply reduction measures across the prison estate, the most recent development being the launch of a confidential anti-trafficking telephone line. The telephone line provides members of the general public and prisoners with a means to call the Prison Service with information about any matter relating to smuggling, or attempts at smuggling, of prohibited articles including drugs. Nearly 1,000 drug seizures were made within the prison system in 2014 and over 400 seizures have taken place to the end of June this year. Every effort and method will continue to be used to address the serious problem of contraband smuggling into our institutions.

Drug rehabilitation programmes for prisoners involve a significant multidimensional input by a diverse range of general and specialist services provided both by the IPS and visiting statutory and non-statutory organisations. Prisoners with a history of opiate use, and who test positive for opiates on committal, are offered a medically assisted symptomatic detoxification. Those who are engaged in an opoid substitution programme in the community have their substitution treatment continued while in custody. The IPS continues to review and monitor treatment and rehabilitation services in the prisons. Trends in Mountjoy, Portlaoise and other prisons point to a significant number of prisoners currently self-detoxing from methadone resulting in a marked reduction in the average dose of methadone. The addiction counselling service, which is available throughout the prison estate, delivered 11,000 counselling sessions in 2014 and provided services to 2,888 prisoners – a 13% rise on the previous year.

The IPS National Drug Treatment & Recovery Centre was re-launched earlier this year. The unit, based in the former Medical Unit in Mountjoy Prison, is primarily dedicated to drug treatment and addiction services and will operate with a doubling of previous capacity. In regard to Drug Free Units (DFUs), the current position is that these units are operational in seven of our closed prisons with an aggregate of 560 spaces in total. The majority of the DFUs operate at, or close to, their capacity and prisoners are only accommodated in the units when they meet strict criteria including evidence of drug free status.

The IPS is also currently advancing a proposal to develop a Therapeutic Community (TC) within the prison system. This intensive form of treatment involves participants living in an area in the prison which is a drug free environment and the community becomes the key agent for change. The TC is an innovative concept for a prison setting assigning key responsibilities to participants in the running of the TC and the facilitation of the group. International evidence suggests that the risk of engagement in criminal activity post-release is greatly reduced for participants in the twelve month programme and improved retention statistics have been reported for those who move to community based TCs on release.

The IPS will continue to work to implement our Drugs Policy and Strategy to provide a safer environment for prisoners and staff and to facilitate prisoners in addressing their addiction issues in order to enhance their prospects of effective resettlement on their return to the community.

In regard to the specific comments on methadone prescription practices, the acknowledgement by the CPT delegation of the improvement in the approach to methadone prescription in Mountjoy since their visit in 2010 is welcome. In relation to the difficulties highlighted in Limerick Prison, the IPS have arrangements in place for a GP with a special interest in substance misuse to attend the prison twice a week to review and manage prisoners on methadone. In instances where any additional requirements arise in respect of a new committal or transfer, the local healthcare team can contact the specialist GP to attend the prison.

d. psychiatric care in prisons

Comment

... the CPT's delegation had an opportunity to examine the care offered to prisoners suffering from a mental illness, notably in the High Support Units in Castlerea and Mountjoy Prisons and in the special wing in Cloverhill Prison.

..., in principle, prisoners suffering from a mental illness either remain in prison or are transferred to the Central Mental Hospital (CMH) under the terms of Article 15 of the 2006 Criminal Law (Insanity) Act (paragraph 59).

The Irish authorities have accepted the need to enhance psychiatric services for prisoners and the 2006 policy document "*A Vision for Change*" recommended that mental health services provided in the prison context should be person-centred, recovery oriented and based on evolved and integrated care plans. At the forefront of the approach has been the establishment of a "Court diversion scheme" at Cloverhill Prison by which mentally-ill prisoners suspected of having committed an offence could be transferred to a psychiatric facility. The diversion scheme is carried out by the CMH's "In Reach Service", based in Cloverhill Prison, which also screens all remand prisoners for mental disorders. The "In Reach Service" also visits Midlands, Mountjoy, Portlaoise Prisons and Wheatfield Place of Detention.

To complement these "In-Reach services", High Support Units (HSUs) have been established in several prisons to provide expert, supportive, short term input for prisoners who are in an acutely disturbed phase of a mental illness or require observation for a physical illness. The HSU should provide a more controlled and supportive environment for a vulnerable prisoner as a short term intervention. ...

The HSU in Mountjoy Prison, ..., comprises 9 single cells with in-cell sanitation. The HSU project was driven by two needs. .. a requirement to reduce the use of special observation cells in the prison without any increase in injuries or self-harm. .. step-down accommodation for sentenced prisoners with mental illnesses, who had responded well to treatment at the CMH. When returned to prison ..., they would be susceptible to relapse due to the ready availability of drugs... and the stresses of interactions with other prisoners. In its first year of operation, 96 prisoners passed through the unit and a study noted a 59 per cent reduction in the average monthly use of special observation cells compared to the year before the HSU opened.

At the time of the 2014 visit, there were eight prisoners in the HSU, four of whom were on a waiting list to be transferred to the CMH ... The prisoners were allowed out of their cells for about eight hours a day... However, the delegation was concerned to find that there was a complete lack of structured activities for this group of prisoners, many of whom had a severe and enduring long-term mental illness. There was no occupational therapy, individual or group psychotherapy or recreational therapy; only pharmacotherapy. In sum, they idled away their time watching TV; some of the prisoners simply rocked back and forth in their chairs.

A psychiatrist visits the HSU once a week and is supported by a community psychiatric nurse. In addition, the unit is staffed by three prison officers at any one time, all of whom demonstrated their good intentions but none of whom had received any specific training on how to provide care to the prisoners in their charge (paragraph 60).

The HSU in Castlerea Prison, ... comprises seven single-occupancy cells, six of which were occupied at the time of the visit; two of the prisoners were waiting for transfer to the CMH. The prisoners were allowed out of their cells for some seven hours a day but they were not engaged in any occupational therapy or educational activities. Further, there was no visiting psychiatrist or mental health team and the officers working on the unit, although committed, recognised themselves that they were not properly trained to work with prisoners suffering from serious mental disorders (paragraph 61).

... Midlands Prison, there was no HSU but a consultant psychiatrist and a community psychiatric nurse, both from the CMH, provided eight half-day sessions every week and were seeing 68 patients at the time of the visit. ... it appeared that quite often there were no prison officers available to bring the prisoners to the medical unit to be seen by the psychiatrist and, secondly, that there was a need for better communication between the psychiatry team and the general practitioners; ...the general practitioners who are responsible for health care in the establishment should take the lead. Steps should be taken to address these two deficiencies (paragraph 62).

..., the CPT's delegation again observed that Irish prisons continued to detain persons with psychiatric disorders too severe to be properly cared for in a prison setting; in particular, at Cloverhill Prison outside of the specific D2 vulnerable wing, a number of prisoners continue to be accommodated in special observation cells for considerable periods of time. For example, this was the case of MS (see paragraph 29 (iv) above) who was in a close supervision or safety observation cell from 8 September 2013 to 3 January 2014, 15 February to 3 April 2014, 15 to 23 May 2014 and 26 May to 18 August 2014 (i.e. some eight and half months in the

course of less than a year). This not only represents a clear violation of the Prison Rules 2007 but would appear to breach the prisoner's constitutional rights outlined in the 2012 Kinsella judgment in which the judge concluded that 11 days in a "padded" cell constituted a violation of the prisoner's constitutional right to the protection of the person and hence of Article 40.3.2 of the Constitution.

In their letter of 6 January 2015, the Irish authorities agreed with the CPT's position that there is a clear limit to the care that can be offered to mentally-ill persons in a prison setting. A prison setting cannot be expected to offer the full range of therapeutic options that should be available in a psychiatric hospital; indeed, even as regards pharmacotherapy a prison setting imposes restrictions, as was pointed out in the report on the CPT's 2010 visit (paragraph 63).

Consequently, for some persons detained in Irish prisons, the only suitable accommodation is a psychiatric hospital or more specifically, the CMH .. the capacity of the CMH remains a concern for the CPT. It is positive that the plans to re-locate and expand the CMH on the grounds of St Ita's Hospital in Portrane are proceeding. ... the new facility should open by mid-2018 and will result in a net increase of 15 beds. However, at the time of the visit there was a list of some 26 prisoners awaiting transfer to the CMH, some of whom had been waiting as long as a year. Further, the CMH was apparently now admitting more civil psychiatric patients ... This would suggest that even with the increase in capacity, the CMH will not be in a position to meet the demands on it from the criminal justice system.

The CPT recognises that there needs to be a multi-pronged approach to addressing the mental health needs of prisoners. In addition to the CMH offering beds for the most acute mentally-ill prisoners, consideration should be given to enhancing the possibilities for regular psychiatric hospitals to receive mentally-ill prisoners. Further, if the HSUs in prisons are to provide a stepping stone towards admission to a psychiatric hospital or a step-down unit for managing persons returned to prison from a psychiatric facility, it is essential that they be provided with the appropriate resources. ... an HSU should not only be visited on a regular basis by a mental health team ... but that the staffing complement should include psychiatric nurses and officers with special training to work with mentally-ill prisoners, and a structured programme of activities should be offered to all prisoners accommodated within an HSU.

Recommendation

The CPT recommends that the Irish authorities reflect further on the steps required to enhance the availability of beds in psychiatric care facilities for acute mentally-ill prisoners. Further, it recommends that the staffing at HSUs be reviewed in order to include the appropriate expertise in the light of the above-mentioned remarks.

Request for information

The CPT would like to receive updated information on the provision of psychiatric care in all Irish prisons, in particular as regards Castlerea Prison. Further, it would like to be informed how many prisoners are currently waiting to be admitted to the CMH and of these prisoners how many are placed in ordinary prison accommodation, how many in HSUs and how many in close supervision or special observation cells (paragraph 64).

Ireland's Response

Notwithstanding the challenges of the HSE National Forensic Mental Health Services (NFMHS) in delivering forensic support and services in the prison system, the service is expanding to meet the needs of a modern forensic service. Planning permission has recently been received from An Bord Pleanála for the development of the new hospital at Portrane to replace the CMH, as part of the National Forensic Mental Health Services Project. This phase of the Project will deliver a new 120 bed forensic mental health facility, along with a 10 bed unit each for Mental Health Intellectual Disability services and Child and Adolescent Forensic Services. The HSE is currently drawing up a construction management plan and expects to commence enabling works on the site in Q3 2015.

A second phase of NFMHS development, which is currently funded for the design stage, envisages the provision of new regional intensive care rehabilitation units (ICRUs), in line with the Vision for Change recommendations. In time, these developments will expand the level of psychiatric bed cover, which will also be of assistance to the prison system.

Work is currently underway in refurbishing Unit 5 in the existing CMH, Dundrum to increase bed capacity by 10 to deal specifically with Section 21(2) patients. This increased capacity should have a positive impact on Prison waiting lists.

Approval in principle has been given to the HSE to proceed with the creation of a new CAMHS Forensic Mental Health Team, as part of new developments to be funded under the HSE National Service Plan 2015. Other forensic services should also benefit from the additional 2015 provision, along with the ongoing development of community mental health services generally.

In addition to the foregoing, the remaining recommendations relating to the Health services concern areas where the HSE and the Irish Prison Service operate in close co-operation. These recommendations cover areas such as initial health screening, enhanced GP involvement, medical confidentiality, and issues around the respect for human dignity. These issues will also continue to be addressed at service level and as part of next phase of the work of the Joint Inter-Departmental Group, which is examining the issue of people with mental illness coming into contact with the Criminal Justice system.

The IPS is in agreement with the CPT that there is a limit to the care that can be provided in prisons to persons with severe mental disorders. Prisons are not a therapeutic environment and are not appropriate locations to treat acutely mentally ill patients.

The ongoing development of a 120 National Forensic Hospital, 10 bed Mental Health Intellectual Disability Unit and a 10 bed Forensic Child and Adolescent Mental Health Unit at St Ita's, Portrane, to be open by mid 2018, is a very welcome development in this regard. Any mental health services provided within a prison context should be person- centred, recovery oriented and based on evolved and integrated care plans.

The IPS continues to engage with the HSE and the National Forensic Mental Health Service to ensure the provision of appropriate psychiatric in-reach services across the prison estate. Work on a Memorandum of Understanding between the parties is almost complete.

At present, inreach mental health services are available in all Dublin prisons, in the Portlaoise campus, and in Castlerea Prison through collaboration with the NFMHS (CMH) which provides forensic mental health sessions in these prisons. There are currently eight Consultant Forensic Psychiatrists leading this service, with two appointed on a full-time basis to Cloverhill and Midlands/Castlerea Prisons and the others providing sessional services each week. This provision is

supported by Non-Consultant Psychiatric Doctors (NCHDs), 13 Community Psychiatric Nurses (CPNs) and 2 Social Workers.

In conjunction with the HSE, specialist in-reach services are in place in Cork Prison and Limerick Prison for consultant-led mental health sessions to prisoners in those prisons. A new Consultant Adult Psychiatrist (with a special interest in Forensic Psychiatry) was appointed on a permanent basis to the HSE Mid-West earlier this year and will be providing an inreach service to Limerick prison on a sessional basis.

The IPS, in collaboration with the NFMHS, has established two dedicated areas where high support is provided to vulnerable prisoners with mental illness – D2 wing in Cloverhill Prison (for remand prisoners) and the High Support Unit (HSU) in Mountjoy (for sentenced prisoners). Both units provide a dedicated area for mentally ill and vulnerable prisoners, who present with a risk of harm to self or to others, to be closely monitored in a safer environment. To date, these HSUs have managed vulnerable and mentally ill prisoners in a more effective and humane environment with greater access to care interventions and regular reviews by the prison inreach team. The increase in resource allocation from the HSE/NFMS will facilitate discussions on the development of another HSU in the Midlands Prison, and possibly Castlerea, as part of the agreed Memorandum of Understanding.

The Mountjoy HSU won a WHO-Europe best practice award for innovation in healthy prisons in 2011. The Unit is not a hospital, nor an alternative to one. Neither is it intended to provide psychiatric treatment, counselling or psychological support in any enhanced capacity, other than that provided in any community mental health setting. In effect, therefore, the HSU is merely intended to provide a safer and less stressful environment for those returning to the prisons, after a period of treatment at the CMH.

On the issue of the staffing of HSUs, the position is that a Consultant Forensic Psychiatrist, supported by Community Psychiatric Nurses (CPNs), and the prison healthcare team, provides mental health services to prisoners in a HSU. The psychology services in the prison are also available to prisoners in such units. Specific training is provided to designated prison officers to support the HSU. The matter of the staffing complement and mix and of the provision of structured activities for prisoners in HSUs will be examined further in the context of the development of the HSUs.

The CMH also provides an assessment and liaison service for all other prisons. Clinicians in other prisons (outside of the CMH catchment area) arrange transfers to CMH services, mainly in the Cloverhill or Mountjoy HSUs, in situations where a prisoner requires a forensic assessment or access to an admission bed in the CMH.

A Psychiatric Inreach and Court Liaison Service (PICLS) is delivered by the HSE/CMH at Cloverhill Prison. This diversion system ensures, as far as possible, that those people presenting before the courts, or indeed at an earlier stage of the criminal justice system, where the infraction is a reflection of an underlying mental illness, are referred and treated appropriately. This approach has reduced the number of mentally ill people committed to prison.

In relation to the individual prisoner, who spent considerable time in Special Observation (SOC) and Close Supervision (CSC) cells, the circumstances of the case were such that there was no alternative option available. He was regularly reviewed by the CMH inreach team but refused to leave the SOC and associate with other prisoners. He was ultimately admitted to the CMH. On his return from the CMH, he had four more placements in special cells accommodation of short duration, following incidents of self-harm and threatened self-harm. Various treatment approaches were tried and he was moved from special cells at the first safe opportunity.

At the time of their visit, the CPT reported that there were 26 prisoners awaiting transfer to the CMH. The current average is approximately 15 – 20 prisoners each week. As of 13th July, 2015, the figure was 17. Of those, 8 were on D2 in Cloverhill (HSU). 1 of the 8 was in an SOC, 4 were in CSCs, 2 were in a single cell and the remaining individual was in a treble cell. There was 1 prisoner in a CSC in the Dochas Centre, and 2 others were in single cells. There were 6 prisoners awaiting transfer to the CMH in the Midlands Prison, of which 1 was in a CSC, 3 were accommodated in single cells on the landings and 1 was in a double cell.

In the present staffing situation across HSE mental health services generally, including the scarcity of psychiatrists in some prisons, there is a limit to the care that can be provided in prison to persons with severe mental disorders. However, the HSE is addressing deficits through the following:

- A consultant psychiatrist has been appointed to Castlereagh Prison (0.2 Whole Time Equivalent or WTE post-one day a week) in 2015.
- A consultant psychiatrist attends Wheatfield Prison on one day a week (on a 0.2 WTE basis), rather than every two weeks as stated by the CPT. In addition, there is a CPN resource of 0.8 WTE.
- Consultant psychiatrist sessions at the Midlands/Portlaoise Campus has increased from 0.2 WTE per week to 0.8 WTE per week.

The Mountjoy High Support (HSU) is part of a joint initiative with the IPS to provide a standard of out-patient care for prisoners, equivalent to that provided in the community.

Ireland has a significantly lower level of psychiatric cover generally compared to countries such as the UK, the Netherlands, Germany, Canada or Australia. Furthermore, there are more admissions per bed per annum in Ireland than in the UK, but fewer admissions per 100,000 population.

The HSE remains fully committed to developing its role in providing forensic and prison in-reach mental health services.

8. Other issues:

- a. reception and first night procedures

Comment

During the 2010 visit, the CPT's delegation was concerned that in the prisons visited, with the exception of Midlands Prison, there were no rigorous admission procedures or an induction programme ... The Committee recommended that the Irish authorities introduce proper reception and first night procedures as well as an induction process for newly-admitted prisoners in establishments which are points of entry to the prison system. In response to the report, the Irish authorities stated that dedicated committal areas had been introduced in all committal prisons together with relevant assessment and placement procedures on committal.

The CPT welcomed such a development (paragraph 65).

In the course of the 2014 visit, the CPT's delegation found that all prisoners underwent proper reception and first night procedures which included being provided with information on the establishment and a risk and needs assessment carried out prior to them being allocated to a wing. In this respect, the provision of a comprehensive information booklet to prisoners is positive. Making such information available in other languages than English would be useful, notably at Cloverhill Prison, where foreign national prisoners had to rely on a translation provided by other prisoners...prisoners with reading and writing difficulties complained that they were not provided with any oral explanation of what was contained within the booklets (paragraph 66).

Given the overwhelming impression on a person entering a prison establishment for the first time consideration might be given to phasing the induction programme over several days in order to enable newly-admitted prisoners a greater opportunity to take in the information. In addition, all foreign nationals who do not speak English or a language spoken by staff should be provided with interpretation services.

Recommendation

The CPT recommends that the Irish authorities take steps to ensure that foreign national and prisoners with reading and writing difficulties be provided with information on the regime in force in the establishment and on their rights and duties, in a language which they understand; such information should be provided both orally and in the form of a brochure.

Ireland's Response

The comments on the quality of the reception and first night procedures in the institutions visited are welcome. In regard to the provision of information to newly-admitted prisoners, Prison Information booklets are made available to all such prisoners and every effort is made to ensure that the individual prisoner is informed and understands all relevant information regarding the regimes and their rights and duties etc. This is addressed, where necessary, through the use of interpreters, including prisons officers who speak a range of languages, and IT translating tools are also employed. Arrangements will be put in place to extend the range of language versions of the information booklets used in the prison system.

b. discipline

Comment

In the report on the 2010 visit, the CPT reiterated its major reservations over the effect in practice of the sanction of "loss of all privileges" for a period of up to 60 days ... such a measure can result in inmates being held for prolonged periods in conditions akin to solitary confinement. ... The Committee also underlined that contacts between a prisoner and his/her relatives should under no circumstances be totally withdrawn.

... the CPT recommended that the Irish authorities draw up guidelines for the imposition of disciplinary punishments and ensure that the procedural requirements for the inquiries into breaches of prison discipline are diligently applied (paragraph 67).

In April 2014, the IPS issued Guidelines on the Imposition of Disciplinary Sanctions to ensure uniformity in the application of disciplinary sanctions and procedures throughout the prison system. ... these guidelines should be made public. ... loss of family visits should not be employed as a sanction in response to a breach of discipline, even when the breach occurred during a visit, as the option of screened visits is always available for operational, administrative or security reasons.

.. Challenging Behaviour Units have been established in some of the prisons to accommodate prisoners serving a disciplinary punishment.

During the visit, the CPT's delegation was able to confirm ... that contacts with family were no longer totally withdrawn as part of a disciplinary punishment; prisoners were entitled to receive one visit and one phone call per week. This is a positive development (paragraph 68).

According to the Guidelines on the Imposition of Disciplinary Sanctions, "where the sanction imposed prohibits the prisoner from engaging in authorised activities, the nature of activities prohibited must be specified in the sanction imposed (e.g. prohibited evening recreation for 7 days, prohibited tuck-shop orders for 7 days, restricted gym/library/workshop access for 14 days)". It appears that none of these prohibitions, even when the sanction of "loss of all privileges" is imposed, would result in a prisoner being placed in conditions akin to solitary confinement (i.e. 23-hour lock-up). Indeed, a specific disciplinary punishment of three days of cellular confinement exists in law. However, the findings of the delegation indicate that in reality, prisoners continue to be sentenced to periods of up to 56 days of solitary confinement as a disciplinary punishment.

An examination of the relevant documentation showed that in the majority of disciplinary cases, the sanction imposed according to Article 13.1(d) of the Prisons Act 2007 was one or more of the following: prohibition of evening recreation (i.e. lock-up in the cell after 5 p.m.), ordinary visits (except from family), phone calls, use of gym, using money/credit for periods ranging from 7 to 56 days (paragraph 69).

In numerous cases where the disciplinary sanction involved more than "prohibition on evening recreation", the prisoner concerned would be transferred to the Challenging Behaviour Unit or segregation unit within that prison or to another establishment. The regimes in force in these units consisted invariably of confinement to cell for 23 hours, with only one hour or less of access to outdoor exercise. Certain units, such as A Block in Portlaoise Prison or D Block in Cork Prison, were dedicated punishment blocks. Once the punishment was served, the prisoner would usually return to the establishment from which he had come.

For example, the delegation met a prisoner in the Challenging Behaviour Unit of Mountjoy Prison who had been transferred from Cloverhill Prison after he had received a disciplinary punishment of 56 days of prohibition on evening recreation, personal visits, using money/credit and phone calls. Within the Challenging Behaviour Unit, he was locked in his cell for 23 hours a day, and alleged that during the first two weeks he was not even offered access to the outdoor exercise yard. The delegation met numerous prisoners who were de facto serving a disciplinary punishment of solitary confinement for periods of up to 56 days (paragraph 70).

...it remains the case that the sanction of “loss of all privileges” results in prisoners being held for prolonged periods in conditions akin to solitary confinement. The CPT has made it clear in previous reports that the imposition of such a regime for up to 56 days as a disciplinary sanction is totally unacceptable.

Given the potentially very damaging effects of solitary confinement, the CPT considers that the principle of proportionality requires that it be used as a disciplinary punishment only in exceptional cases and as a last resort, and for the shortest possible period of time. The CPT considers that the maximum period of solitary confinement as a disciplinary punishment should be no longer than 14 days for a given offence. Further, there should be a prohibition of sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period. Any offences committed by a prisoner which it is felt call for more severe sanctions should be dealt with through the criminal justice system (paragraph 71).

Recommendation

The CPT reiterates its recommendation that the Irish authorities take the necessary steps to clarify the legal basis for placing a prisoner in the equivalent of cellular confinement as a disciplinary punishment for more than three days. Further, the Irish authorities should ensure that no prisoner is placed in conditions akin to solitary confinement as a disciplinary punishment for a period in excess of 14 days and that sequential disciplinary sentences do not result in an uninterrupted period of solitary confinement in excess of this maximum period.

Comment

The Challenging Behaviour Unit at Castlerea Prison ... comprises three punishment cells, one close supervision cell and one safety observation cell. The prisoners on punishment at the time of the visit (for a period of up to 56 days) were offered outdoor exercise twice a day either alone or with other prisoner.

The delegation was concerned to learn that prisoners placed in the disciplinary cells were not visited daily by the health-care staff but rather only upon the request of the inmate. The CPT wishes to remind that medical personnel should be very attentive to the situation of prisoners placed under solitary confinement.

Recommendation

The CPT recommends that the Irish authorities amend the relevant legislation and practice in the light of Rule 43.2 of the revised European Prison Rules (paragraph 72).

Comment

At Mountjoy Prison, the Challenging Behaviour Unit, ... consists of eight single-occupancy cells where prisoners are placed under a regime of 23-hour lock-up. The cells, each measuring approximately 7 m², are equipped with a concrete platform and a mattress, a semi-partitioned toilet, a wash basin, a chair, a cupboard, a TV set and a kettle. Access to natural light is sufficient and artificial lighting and ventilation satisfactory. ... a separate exercise yard where prisoners may exercise daily for an hour. There is no staff office and due to staff cuts in recent years the unit is staffed by officers on duty in the committal area who only check the unit every 30 minutes.

On the day of the visit, there were five prisoners in the unit, one for purposes of protection and the other four following a breach of prison discipline, for periods ranging from 14 to 56 days.

At Midlands Prison, the delegation was informed that the establishment had stopped receiving prisoners on punishment from other prisons in 2011. Instead, Midlands Prison now sends its prisoners to Portlaoise Prison as well as to Mountjoy Prison to serve a disciplinary punishment; at the time of the visit, there were reportedly three prisoners from Midlands serving a sanction of “loss of all privileges” for a period of up to 40 days in Portlaoise Prison’s A Block.

The A Block of Portlaoise Prison ... the material conditions remain adequate. Two out of the five eight-cell units in A Block are closed units used to accommodate prisoners transferred from other blocks or from other prisons to serve a disciplinary punishment (10 at the moment of the visit)... according to the prison management, inmates supposedly spent up to four hours out of their cells to exercise in the yard or use the gym with up to two other prisoners; they were entitled to one visit and one phone call per week. There were no educational or other purposeful activities in place. However, it transpired from interviews with a number of prisoners and staff and from records that they were only offered one hour out of cell per day (paragraph 73).

The Committee has reservations regarding the practice of routinely transferring inmates to other prisons to serve a disciplinary sanction. In particular, persons who received a disciplinary sanction of “loss of all privileges” were not only transferred to another prison to serve their punishment but were subsequently held in the segregation block or Challenging Behaviour Unit in conditions akin to solitary confinement for the period of the loss of privileges. As far as possible, a prisoner should serve any disciplinary sanction within the same establishment as that in which the offence was committed. The Committee understands that in some cases it might be necessary to transfer a prisoner for operational reasons to another establishment but this should be a permanent transfer and not merely for the duration of the disciplinary punishment.

Recommendation

The CPT recommends that the Irish authorities end the practice of prisoners being transferred to other establishments solely to serve a disciplinary punishment.

Ireland’s Response

A Guidelines document on the imposition of disciplinary sanctions was agreed in 2014 and disciplinary hearing procedures are discussed at senior management meetings with Governors on a regular basis. Disciplinary Hearing Procedure Training has also been provided for all Governors involved in the disciplinary process to ensure a uniform approach across the prison system. The perception that prisoners are transferred to serve disciplinary punishments is incorrect. The IPS does not transfer prisoners for punishment. Prisoners may, however, be transferred to another prison for operational reasons following a serious disciplinary breach. Prisoners may make a complaint, under the complaints mechanism, in relation to any such transfer. In regard to healthcare services to prisoners in Challenging Behaviour Units, such prisoners have the same access to the range of healthcare interventions and services as all other prisoners. The IPS will, however, examine the recommendation of the CPT for a daily visit by healthcare staff to prisoners in such units.

c. use of special observation cells

Comment

According to Rule 64 of the Prison Rules 2007, a prisoner shall be accommodated in a special observation cell only if “it is necessary to prevent the prisoner from causing imminent injury to himself or herself, or others and all other less restrictive methods of control have been or would, in the opinion of the Governor, be inadequate in the circumstances”. During the 2010 visit, the CPT’s delegation was deeply concerned by the situation of prisoners placed in special observation cells and urged the Irish authorities to clearly identify the purpose of the special observation cells and to ensure that clear operating procedures governing the placement of inmates were in place.

In response to the report, the Irish authorities mandated the Irish Inspector of Prisons to look into the use of the special observation cells (that is both safety observation and close supervision cells). Following the recommendations of the Inspector ... the IPS introduced separate standard operating procedures on the use of safety observation and close supervision cells. ... (paragraph 75).

According to the Standard Operating Procedures on Close Supervision Cells, such cells may be used for managing violent or distressed prisoners and only when alternative and less restrictive methods of control are considered by the Governor as inadequate. A prisoner must be observed by a prison officer every 15 minutes in a close supervision cell. The Governor and doctor must visit each prisoner accommodated in a close supervision cell on at least a daily basis. After the initial period of 24 hours, the measure may be extended by the Governor for an additional 24 hours. If a prisoner is accommodated in a close supervision cell for longer than five days, the Governor shall submit a report to the Director General of the Irish Prison Service, who thereafter must provide written authorisation to a Governor for the measure to be extended.

According to the Standard Operating Procedures on Safety Observation Cells, such cells may only be used when a prisoner poses an immediate threat of serious harm to him/herself and/or others and when all alternative interventions to manage the patient’s unsafe behaviour have been considered. The authority to direct that a prisoner be accommodated in a safety observation cell is irrevocably delegated to medical practitioners and registered nurses only. A prisoner placed in a safety observation cell must be observed by a prison officer at least once every 15 minutes. A registered nurse will review the patient at least every two hours and a medical review must be carried out by a registered medical practitioner every 24 hours. After the initial period of 24 hours, a new order may be issued by a registered medical practitioner, following an examination, for a further period not exceeding 24 hours up to a maximum of three renewals (72 hours). Thereafter, the Director General and the Director of Care and Rehabilitation of the Irish Prison Service must be notified in writing on a weekly basis (paragraph 76).

At Castlerea Prison, one close supervision cell and one safety observation cell were located in the Challenging Behaviour Unit. The cells were suitably equipped, access to natural light was adequate and the artificial lighting and ventilation sufficient.

At Mountjoy Prison, the five close supervision cells ... each measured approximately 8 m² and were equipped with a mattress and a plinth, a table and a chair, a TV in protective casing, a call bell and in-cell sanitation. The artificial lighting was sufficient but there was no access to natural light in the cell in B Base. There was also a problem with ventilation in the cells on C1 Wing with temperatures rising to 35°C in July 2014. There were also two safety observation cells in the medical unit which were lined with a resistant spongy material to prevent prisoners from self-harming and also had a glass safety door to allow better observation.

At Midlands Prison, the four close supervision cells in A and E Wings each measured approximately 9 m² and were suitably equipped. Access to natural light was adequate and the artificial lighting and ventilation sufficient. However, the close supervision cell in B Wing possessed only a mattress on the plinth and had no in-cell sanitation; the prisoner in the cell at the time of the visit had to use a bucket and slop out. ... All close supervision cells should be equipped with in-cell sanitation and, in the meantime, arrangements should be made to ensure that prisoners are able to access the toilet when required (paragraph 77).

Recommendation

The CPT recommends that the Irish authorities remedy this situation accordingly.

Comment

In the report on the 2010 visit, the CPT had stressed that after placing a prisoner in a special observation cell ..., rip-proof clothing should only be provided where necessary, after an individual risk assessment. However, during the 2014 visit, the CPT's delegation found that prisoners placed in close supervision or safety observation cells routinely had all their clothing removed (including underwear) and were provided with rip-proof ponchos. It is noteworthy that the Standard Operating Procedures on Close Supervision Cells require an individual risk assessment as to whether "items or parts of the prisoner's clothing may be used by the prisoner to harm others or to cause significant damage" before an inmate's clothes may be removed.

Recommendation

The CPT recommends that the Irish authorities ensure that there is no routine removal of prisoners' clothes upon their placement in close supervision or safety observation cells. .. the Standard Operating Procedures on Close Supervision Cells should be properly applied and the Standard Operating Procedures on Safety Observation Cells should be amended accordingly (paragraph 78).

Comment

...there was a degree of confusion among prison staff and management as to the specific purpose of each category of cell. It appeared that safety observation cells and close supervision cells were at times used interchangeably.

For example, at both Midlands and Mountjoy Prisons, the records from the close supervision cell logs showed that prisoners were placed in these cells for varying reasons, some of which were contrary to their intended purpose, ... An examination of the relevant documentation and interviews with prisoners and staff seemed to indicate that prisoners who should have been placed in safety observation cells were in fact accommodated in close supervision cells. This is a matter of concern since inmates who pose an immediate threat of harm to themselves should be placed in the safety observation cells where they can benefit from the necessary medical safeguards.

.. as regards the use of the safety observation cells, the delegation came across a few cases in several prisons where, contrary to the requirements of the Standard Operating Procedures, the inmates were not observed by a nurse every two hours and/or visited by the general practitioner every day.

For example, an inmate at Mountjoy Prison was placed in the safety observation cell from 3 a.m. on 11 February 2014 until 6.30 p.m. on 22 February 2014. According to the records, he was only seen by the general practitioner on four of the nine days he was held in the safety observation cell. In addition, no record could be found of his detention having been referred to either the Director General or the Director of Care and Rehabilitation after the initial 72 hours had expired.

Further, the record keeping of placement in the special observation cells at Mountjoy Prison was of poor quality; ...

Recommendation

The CPT recommends that the Irish authorities review the use of close supervision and safety observation cells to ensure that all placements and supervision strictly conform to the Standard Operating Procedures (paragraph 79).

Comment

Furthermore, with the exception of Wheatfield Place of Detention, there were no records regarding outdoor exercise offered to inmates placed in close supervision or safety observation cells; indeed, the vast majority of prison officers, as well as members of the management, were under the impression that such prisoners were not entitled to at least one hour of outdoor exercise per day. At Cloverhill Prison, one prisoner was placed in the close supervision cell and, at the time of the visit, had been held there for five weeks. He claimed that during that period he was not allowed to leave the cell except to go to court.

... All prisoners, regardless of their situation, should be offered at least one hour of outdoor exercise every day.

Recommendation

The CPT recommends that the Standard Operating Procedures be amended with a provision explicitly entitling prisoners to at least one hour's outdoor exercise every day, as from the very first day of placement in either a close supervision or safety observation cell. Immediate steps should be taken to ensure that all such inmates are offered at least one hour of outdoor exercise every day.

Ireland's Response

A Safety Observation Cell (SOC) policy was introduced in June 2012 to provide for a clear distinction between discipline and medical cases to better safeguard the service needs of prisoners presenting with mental health vulnerability. SOC's are only to be used in rare and exceptional circumstances and only in the best interests of the patient when s/he poses an immediate threat of serious harm to self and/or others. Central to the successful application of the policy is the active involvement of clinicians.

A recent internal audit has concluded that alternatives to seclusion are being used when prisoners present with mental health problems but some improvements are required to the documentation underpinning the policy and this issue is being followed up.

An audit of the operation of the Close Supervision Cell (CSC) policy, also introduced in 2012, has also recently been concluded. The purpose of the CSC audit was to establish the level of compliance with the terms of the policy and associated procedures. A high level Working Group has been established to consider the findings and recommendations of both audits and to recommend changes to the existing policies and procedures. The issues raised by the CPT will be considered in the context of this implementation process. In the meantime, every effort is being made to provide inmates in special cells with an hour of outdoor exercise each day. The ventilation issue in certain Mountjoy cells and the upgrading of the Midlands special cell on B Division to provide in cell sanitation are being addressed in the maintenance programme for these prisons. Any occupant of the Midlands cell has access to an adjacent toilet facility and is unlocked as necessary.

d. Complaints procedures

Comment

A well-functioning complaints system ... can serve as a valuable source of information for prison management ... as well as allaying tension among prisoners...

..., the CPT acknowledges the important steps taken by the IPS to address the concerns raised in its report on the 2010 visit regarding the absence of an effective complaints mechanism in prisons. In 2013, the Prison Rules were amended to incorporate a new complaints mechanism and in June 2014 the Irish Prison Service Complaints Policy 2014 was adopted which aimed to provide prisoners with an accessible and effective means to make a complaint.

The policy established six categories of complaints:

- **Category A complaints deal with assault or use of excessive force against a prisoner or ill treatment, racial abuse, discrimination, intimidation, threats or other conduct against a prisoner of a nature and gravity likely to bring discredit on the Irish Prison Service;**
- **Category B complaints are complaints of a serious nature, but not falling within any other category of complaint (e.g. verbal abuse of prisoners by staff, inappropriate searches or any other conduct against a prisoner of a nature likely to bring discredit on the Irish Prison Service);**
- **Category C complaints are basic service level complaints (and may include complaints about visits, phone calls, reception issues, missing clothes, not receiving post on time, not getting appropriate exercise);**
- **Category D complaints are complaints against professionals which, for example, may include medical personnel, legal/financial representatives;**

- **Category E complaints are those made by visitors to the prison;**
- **Category F complaints relate to complaints against decisions made by the Irish Prison Service Headquarters in relation, for example, to such matters as the granting of temporary release, prison transfers.**

In all the prisons visited, the delegation found that complaint boxes and standard complaint forms to cover all categories of complaints were freely available. The boxes were emptied every working day by a delegated officer and the complaints were subsequently categorised by a Governor (paragraph 81).

In the course of the 2014 visit, the delegation focused its attention on the examination of the Category A ... According to the Prison Rules (Amendment) 2013, any allegation of a criminal offence has to be notified to An Garda Síochána and the Governor has to take measures to preserve all relevant material including CCTV recordings; arrange for the prisoner to be examined by a member of the health-care services and any injuries or marks to be recorded and photographed if any physical force is alleged; arrange for the names of all prisoners, staff and others who may be potential witnesses to be recorded. Within seven days of being notified of a Category A complaint, the Governor has to refer the complaint and the evidence gathered to the Director General of the Irish Prison Service and also notify the Inspector of Prisons.

The Director General appoints an investigation team comprising one or more persons from a pool of 22 independent investigators. The investigation team may gather evidence, interview persons and take statements. They are given access to the prison and to all records to which the complaint relates. The investigation of Category A complaints should not, except in exceptional circumstances, exceed three months. If an investigation is not completed within three months an interim report has to be submitted to the Governor and the Director General of the Irish Prison Service documenting the progress made and the reasons why further time is required to complete the report.

Based on the report from the investigators, the Governor takes the decision regarding the complaint. If the complainant is not satisfied with the outcome of the investigation, he/she may write to the Inspector of Prisons and the Director General of the Irish Prison Service. However, the Irish authorities acknowledged that this did not constitute an appeals mechanism and that steps would be taken to rectify this legal lacuna.

Request

The CPT would like to receive information whether the relevant amendments establishing an appeals mechanism for Category A complaints have been adopted (paragraph 82).

Ireland's Response

The acknowledgement by the CPT of the steps taken to address previous concerns regarding the absence of an effective complaints mechanism is welcome. A new serious complaints mechanism was introduced in November 2012 and was subsequently given legislative status in January 2013. The full complaints mechanism was rolled out on an initial basis between January and June 2014. The IPS Complaints Management policy was issued in June 2014.

An amendment to establish an appeals mechanism for Category A complaints is currently being considered by the Department. It is expected that it will be enacted in the coming months. The proposed amendment provides for an independent reviewer to be appointed, from a panel of barristers and solicitors, to consider any appeal by a complainant in relation to a finding in the original investigation of the Category A complaint.

Comment

There were 25 Category A complaints at Mountjoy Prison ... from September 2013 to September 2014. In general, the complaints register was well kept and the relevant records were noted meticulously. The quality of the investigations...varied considerably ... in one case, while investigating a prisoner's complaint on alleged ill-treatment by staff when using control and restraint techniques, the investigators did not even check the CCTV footage.

Further, the delegation detected delays in some cases of up to three and a half months between the lodging of the complaint and the start of the investigation by an external investigator; in one case, the incident happened on 29 January 2014 but the investigator was only mandated by the Irish Prison Service in mid-April and the investigation only started on 14 May 2014. It appeared that, contrary to the Complaints Policy, the whole procedure, from filing of the complaint until the complainant was informed of the result, lasted on average between two and seven months.

At Midlands Prison, in the 12 months prior to the visit, there were 16 Category A complaints registered. ... In all these cases the investigations were still open; the earliest dating back to beginning of June. The delegation was concerned that investigations were not being carried out expeditiously.. in one case, the alleged incident happened on 1 June but the investigator only interviewed the officers in question on 22 August. An incident of 3 June was notified to the Governor on 23 June; the IPS was in turn only notified on 18 July. Investigations into an incident of 10 June started only on 7 August. A case of 8 August, notified to the Governor on 18 August, seemed (on 22 September) to have not yet been assigned to an investigator.

Expeditious investigation is of key importance to the effective functioning of the complaints system... such delays might have a negative impact on the whole investigation and the new complaints system risks losing its credibility.

Recommendation

The CPT recommends that the Irish authorities take measures to ensure the regular training of independent investigators on comprehensive and effective investigation of complaints.

Ireland's Response

The independent investigators were appointed after a competitive recruitment process. All investigators have a background in investigations or are member of the legal profession. On appointment, the investigators received training, in both prison policy and law , from IPS staff. Training on best practice in conducting effective investigations was provided by an external professional training company. The IPS has arranged further one day training and awareness days for the investigators. The IPS notes the CPT recommendation and will ensure that the focus of ongoing training will be on enhancing and improving the comprehensiveness and effectiveness of complaint investigations.

Recommendation

The CPT also recommends that the Irish authorities make additional efforts to ensure that the investigation of Category A complaints takes place and is completed within the time limits provided by the Irish Prison Service Complaint Policy, i.e. within three months (paragraph 83).

Ireland's Response

Category A complaints are one of six categories of complaints provided for in the complaints mechanism. Category A complaints are the most serious categorisation and deal with allegations of assault or use of excessive force against a prisoner or ill treatment, racial abuse, discrimination, intimidation, threats or other conduct against a prisoner of a nature and gravity likely to bring discredit on the IPS.

In regard to delays in commencing Category A investigations, the position is that initial delays occurred due to some uncertainties in relation to procedures. The introduction of the completed IPS Prisoner Complaints policy and a Management of Prisoner Complaints manual, in addition to the underpinning legislation, has alleviated this difficulty to a large degree. There has been a noticeable improvement in the timeline for reporting of Category A complaints in the two prisons mentioned by the CPT (Mountjoy and Midlands Prisons). While the legislation allows for seven days for a serious complaint to be referred to the Director General, and notified to the Inspector of Prisons, most notifications at this stage are received within forty-eight hours.

The IPS is currently conducting a review of the procedural and timeline compliance of all complaints at each prison. While not yet complete, the information to date indicates an enhanced appreciation of, and adherence to, timelines in the context of the importance of expeditious investigation for the effective functioning of the complaints system. Ongoing training of Complaint Liaison Officers and administrative support staff in each prison, and regular monthly engagements with Governors, have also helped address initial administrative and timeline difficulties. There are, however, some circumstances (such as where staff are unavailable for interview because on sick leave) where the three month timeline for the completion of investigations is not achievable. It has been emphasised to investigators that, in such circumstances, an interim report must be submitted in relation to any such case.

Comment

At Midlands Prison, the delegation was concerned to find that some files did not contain clear information on whether the complainant was medically checked following the incident; indeed, certain complainants claimed that they had not been seen by a doctor after the alleged incident.

... The accurate and timely documenting of injuries will greatly facilitate the investigation of cases of possible ill-treatment and the holding of perpetrators to account. Any prisoner who has been involved in a violent episode within prison should be examined by a doctor without delay.

Recommendation

The CPT recommends that the Irish authorities take the necessary steps to ensure that every prisoner involved in a violent episode is subject to a comprehensive health-care assessment by a medical doctor (or a fully qualified nurse reporting to a doctor) as soon as possible after the incident (paragraph 84)

Ireland's Response

There is a requirement under the Prison Rules [Rule 57B (93) (b)] for the Governor , on being notified of a Category A complaint , to arrange for the prisoner in question to be medically examined and any injuries and marks recorded and photographed if any physical force is alleged. The checklist to accompany the complaint form requires a confirmatory statement of the date on which arrangements have been made to have the complainant assessed by medical personnel. In addition, a Healthcare Standard Operating Procedure (entitled: 'Procedure for Dealing with Prisoners who Allege Injury by Assault') requires healthcare staff to respond to all notifications of injury by assault and to objectively document, on the Prison Health Management System (PHMS) database, the nature and extent of the injuries sustained and action taken with specific detail regarding the time, prisoner name, treatment and sequencing of events. The absence of definitive information on the medical assessments in a number of cases is being followed up with the authorities in the particular prison. It should be noted, however, that, while always offered medical assessment and treatment, on occasion a prisoner may refuse the examination and medical assistance.

- e. transport of prisoners

Comment

..., the CPT's delegation again received complaints from prisoners about unsatisfactory conditions of prison transportation. In particular, prisoners stated that they were held in the small individual compartments of transport vehicles for prolonged periods as some courthouses did not possess holding cells ... In some instances, prisoners had spent up to 12 hours in the transport vehicle and, on occasion, had had to urinate in the closed compartment of the transport vehicle as there was apparently insufficient staff to facilitate toilet escorts. This state of affairs was confirmed by prison officers who were alarmed at the way in which escorts were taking place. Further, the delegation learned that prisoners (except for the elderly, disabled and women) were still routinely handcuffed during journeys. ... handcuffing during transportation should be resorted to only when the risk assessment in the individual case clearly warrants it and be done in a way that minimises any risk of injury to the detained person.

Recommendation

The CPT reiterates its recommendation that the Irish authorities review the system of transportation of prisoners ... and examine the possibility of establishing holding cells in those courts where none currently exist (paragraph 85).

Ireland's Response

The IPS policy on the Escorting of Prisoners provides that, as far as is reasonably practicable, prisoners in transit are to be provided with access to toilet facilities at intervals not exceeding two and half hours and at secure locations (i.e. at prisons or Garda stations). Difficulties can occur when prisoners are transported to courts which have no holding cells. Discussions have taken place with the Courts Service to improve facilities for prisoners. As a result of these discussions, new holding cells, with toilet facilities, are to be built in Portlaoise Court House. It is also understood that new Court Houses, with improved facilities, are planned for Wexford, Cork and Limerick. The possibility of moving criminal cases from locations without appropriate facilities to Court Houses with toilet and holding cells is also being discussed with the Court Service.

In regard to the use of restraints on escorts, the position is that prisoners taken outside of closed prisons on escort are generally subject to handcuffing in the interests of community and staff safety. There are exceptions to this general standard, such as mentioned by the CPT, based on an assessment of the individual circumstances of the prisoner concerned.

C. Adult female prison establishments

1. Preliminary remarks:

a. introduction

Comment

Women deprived of their liberty constitute a group with distinctive needs, ... Some female prisoners also have particular vulnerabilities due to their social and cultural roles. In all Council of Europe member States, women inmates represent a comparatively small minority of prisoners. ..., particular care is required to ensure that women deprived of their liberty are held in a safe and decent custodial environment.

Due to significantly different proportions in numbers, there is a risk that gender-specific needs of female prisoners will be disregarded. However, it is important that a number of factors is taken into account when dealing with women offenders, including sexual/physical abuse or domestic violence they might have suffered before the imprisonment, a high level of mental health-care needs, a high level of drug or alcohol dependency, specific health-care needs of women, their caring responsibilities for their children and/or their families, and the high likelihood of post-release victimisation and abandonment by their families (paragraph 86).

Women constitute a very small proportion of the general prison population in Ireland, ... Most female prisoners are committed for short-term prison sentences for non-violent offences, ..., and in general they pose a low risk to society. ... a large proportion of them suffer from mental health problems and/or substance addiction, and come from an abusive family.

All women sent to prison, ..., are sent to either the Dóchas Centre in Dublin or Limerick Prison...there is no open or semi-open prison for women in Ireland, which places women in a less favourable position as compared with male offenders.

In March 2014, the Irish authorities adopted a Joint Probation Service – Irish Prison Service Strategy 2014-2016 “An Effective Response to Women Who Offend”. The Strategy acknowledges the specific needs of women offenders and aims to provide more tailored women-centric interventions, to reduce offending among this group, and to improve opportunities for reintegration. In addition, the Irish Prison Service has established a working group to examine possible locations for a new open centre for female prisoners.

Recommendation

The CPT recommends that the Irish authorities move ahead rapidly with their plans for an open prison for women. Until such time, consideration should be given to enhance the provision of home leaves for female prisoners who would otherwise have qualified for placement in an open prison. Further, the CPT would like to receive information on the implementation of the Strategy 2014-2016 “An Effective Response to Women Who Offend” (paragraph 88).

Ireland’s Response

The Joint Probation Service-Irish Prison Service Strategy 2014-2016 “*An Effective Response to Women Who Offend*” contains a commitment to explore the development of an open centre for women who are assessed as low risk of re-offending. The Government has given its approval, in principle, to pursue options for an open prison for female offenders and a Working Group has conducted an analysis of the female prisoner population in order to establish how many prisoners would be suitable for open centre conditions and to ascertain their geographical locations. The Working Group has also considered a number of possible locations for the proposed open centre. The report, and its recommendations, are under consideration at the present time.

Pending developments in regard to an open centre, women prisoners who are considered suitable for temporary release can be facilitated with short periods of release at the earlier stage of their sentences to spend time with their families. These temporary release arrangements may increase on an incremental basis over the course of the sentence – from a day out of custody, to an overnight, to more than one night, to reviewable temporary release to live in the community while participating in the Community Return scheme or some other structured release plan.

- b. overcrowding

Comment

The Dóchas Centre, opened in 1999, is the only dedicated prison for remand and sentenced females aged 18 years and over; it forms part of the Mountjoy Complex. With an operational capacity of 105, it was holding 122 inmates at the time of the visit (98 sentenced and 24 remand) and two immigration detainees awaiting deportation. The Centre has eight accommodation houses; three of them are declared to be drug-free ...

..to relieve the situation of overcrowding the inmates were also accommodated in recreation rooms and offices in the units that had been converted into cells. The delegation was informed that many women could not make use of the community return or community support programmes, and thus be released earlier, since they had nowhere to go...one of the steps to alleviate this state of affairs is the opening of the centre for homeless women in Finglas, Dublin that would accommodate women released early from the Dóchas Centre.

Request for information

The CPT would like to receive information as to whether the facility in Finglas has been opened to accommodate homeless women (paragraph 89).

Comment

Limerick Prison ... Since the last visit, renovation works were completed in the female section of the prison which provided an additional 14 cells and at the time of the visit, the section was holding 20 inmates for an operational capacity of 24 (four of them remand prisoners).

Although at the time of the visit the unit was not overcrowded, the Governor reported and the documentation confirmed that most of the time the unit was accommodating some 30 to 32 women for 24 places; in such cases, six to eight women had to sleep on mattresses on the floor. Such a situation should not continue. The Irish authorities informed the delegation that the Capital Expenditure Plan 2012-2016 included the construction of a new accommodation block in Limerick Prison for female prisoners, comprising 50 single-occupancy cells and eight “step down” apartments.

Request for information

The CPT would like to receive information on the progress regarding the construction of the new accommodation block in Limerick Prison (paragraph 90).

Comment

The Committee reiterates the importance of drawing up a coherent strategy covering both admission and release from prison, to ensure that imprisonment really is the measure of last resort. Emphasis should be placed on the full range of non-custodial measures ... as well as on measures to accelerate a prisoner's release, including through supervisory means tailored, inter alia, to the prisoner's personality and the nature of the sentence.

This implies, in the first place, an emphasis on non-custodial measures in the period before the imposition of a sentence and the availability to the judiciary, especially in less serious cases, of alternatives to custodial sentences together with an encouragement to use those options. Further, the Committee reiterates that a strategy for the sustainable reduction of the prison population should be guided by relevant Recommendations of the Committee of Ministers of the Council of Europe.

Recommendation

The CPT recommends that the Irish authorities continue their efforts to end overcrowding in female prisons, having regard, inter alia, to the principles set out in Recommendation No. R (99) 22 and other pertinent Recommendations of the Council of Europe's Committee of Ministers (paragraph 91).

Ireland's Response

The Abigail Women's Centre was opened in December 2014. It provides supported accommodation and a wide variety of services to vulnerable women. These include supported housing and related services, including residential, educational and therapeutic facilities and services, as alternatives to custody. The initiative involves a range of agencies including the IPS, the Probation Service, Dublin Region Homeless Executive, Dublin City Council, the Health Service Executive and the City of Dublin Education and Training Board. The centre is being run by De Paul Ireland and Novas Ireland. Tus Nua (De Paul), a Probation funded project working with women leaving prison, or on Probation supervision, relocated to the Centre and increased its capacity to accommodate 15 women. Novas Ireland is also operating a housing unit at the Centre for up to 40 women. This is a particularly important development in the context of the joint Probation Service-Irish Prison Service Strategy and will contribute to improved lives and outcomes for women.

The IPS Capital Expenditure Plan 2012-2016 includes provision for the construction of a new accommodation block in Limerick prison for female prisoners, comprising 42 single-occupancy cells and 8 “ step down” apartments. The project is currently being prepared for the statutory planning procedure and it is expected that construction works will commence in mid 2016 with a 2 year build programme. The building of the female unit is part of a larger construction project involving the demolition of A and B wings which will be replaced by the building of a new 150 accommodation wing for male prisoners.

Since the last CPT visit in 2010, a building conversion project was completed in the Dochas in 2012 and now provides an additional 20 spaces for prisoners on an enhanced regime. Renovation works were also completed in Limerick with additional cell accommodation being provided. However, it is the case that pressure of numbers remains a challenge in the Dochas and in the female wing of Limerick Prison. As stated above, a major development of Limerick Prison, to include the construction of a new accommodation block for women prisoners comprising 42 cells and 8 apartments, forms part of the IPS Capital Expenditure Plan 2012-2016.

As also adverted to, the Government has given its approval, in principle, to pursue options for an open prison for female offenders. The Probation-Irish Prison Service Joint Women Strategy contains a number of actions to provide effective alternatives to custody, enhance integration of women prisoners and to reduce offending. The Community Return and Community Support Schemes have facilitated the structured release of women prisoners and, by doing so, helped to reduce the number of women in custody. The recently opened Abigail Women’s Centre is another key development which will provide alternative options to incarceration and improve the resettlement opportunities for women leaving custody. The IPS will continue to make every effort to reduce the pressure of numbers in our female institutions

2. Ill-treatment:

Comment

The CPT’s delegation gained the impression that relations between female inmates and staff were, on the whole, positive and of a constructive nature in both establishments visited. However, a few complaints were received about officers using more physical force than was necessary.

For example, at the female section of Limerick Prison, an inmate claimed that ... after wrecking the flower bed in the yard and refusing to return to her cell, she was physically assaulted by prison officers. The prisoner alleged that the officers had pinned her to the ground and sat on her head; as a consequence, she had received a black eye. After the incident the prisoner was examined by a nurse who registered “minor bruises” in her medical record (paragraph 92).

Recommendation

The CPT recommends that Irish authorities reiterate to prison officers that no more force than is strictly necessary and proportionate should be used to bring an agitated and/or violent prisoner under control.

Ireland's Response

The acknowledgement by the CPT of the generally positive and constructive nature of the relations between female inmates and staff in both prisons visited is welcome. In relation to the use of force in particular situations the comments set out in our response to the CPT comments and recommendation at paragraph 25 above are relevant. As stated therein, any unnecessary use of force or other ill-treatment of prisoners is not tolerated. All prison officers receive comprehensive training in Control and Restraint techniques and such responses are only to be employed as the last stage of a process of intervention.

Comment

At Dóchas Centre, the delegation received a few allegations concerning sexual relationships between male officers and female prisoners, and that one particular officer regularly made inappropriate comments to female prisoners. The delegation was unable to confirm the veracity of the allegations ... nevertheless the CPT encourages the Irish authorities to remain vigilant with regard to inappropriate behaviour and sexual relationships between prison staff and female inmates, and that any allegations be taken seriously (paragraph 93).

Ireland's Response

Allegations of inappropriate relations have been investigated extensively by prison management in the Dochas Centre. The Gardai have also been involved in the investigative process. Prison management are ever cognisant of the issue of possible inappropriate behaviour and the matter is the subject of regular management discussion and monitoring.

Comment

At Dóchas Centre, the delegation received many allegations of inter-prisoner bullying and violence. A high number of low level incidents created an atmosphere of tension among inmates which was exacerbated by a high prevalence of drugs ... Although there were no prisoners on protection, the delegation met two inmates who were afraid to leave their cells ... and who, subsequently, had not been receiving warm food for several months. The delegation was concerned by the passive approach of staff, who took no proactive measures to tackle the inter-prisoner bullying. This state of affairs was confirmed by several female prisoners met by the delegation in Limerick Prison who had until recently been accommodated in the Dóchas Centre.

Recommendation

The CPT recommends that the Irish authorities take the necessary steps to put in place a robust strategy for tackling inter-prisoner violence and intimidation in the Dóchas Centre. Further, proactive steps should be taken to ensure that all inmates benefit from out-of-cell activities and are able to access warm food (paragraph 94).

Ireland's Response

As stated in the reply to the comments on inter-prisoner violence and intimidation in paragraph 26 above, no levels of inter-prisoner violence and bullying is acceptable and a range of actions have been taken to limit the scope of such activity.

In the Dóchas Centre, any instances of inter-prisoner violence and bullying are addressed through the disciplinary process, or restoratively, and perpetrators are encouraged to participate in appropriate programmes to address their behaviour. Every effort is made to encourage and motivate prisoners to attend constructive activities and participate in the communal dining facilities. Prisoners who refrain from doing so are approached and any issues identified by them inhibiting their attendance are dealt with. The specific comments of the CPT regarding the approach of staff to such incidents in the Dóchas has been addressed by local prison management and staff have been reminded of their responsibilities in this regard.

3. Conditions of detention:

- a. material conditions

Comment

At Dóchas Centre, the majority of prisoners were accommodated in single-occupancy cells of an adequate size, suitably furnished and with in-cell sanitation, including a shower. The cells had good access to natural light and the artificial lighting and ventilation were sufficient. Single-occupancy cells in the Willows House (a self-contained unit for prisoners on the enhanced level of the incentivised regime) were bigger (approximately 16 m²) and equipped to a higher standard.

However ...some inmates were accommodated in recreation rooms and offices converted into cells. ...one former recreation room in Rowan House accommodated four to six women. The room had a separate shower and a toilet and was equipped with six beds, four chairs and two tables and a TV set but no lockers for personal items, which had to be stored under the beds (paragraph 95).

Recommendation

The CPT trusts that recreation rooms and offices will no longer be used for accommodation purposes once the occupancy levels fall below 105.

Ireland's Response

We welcome the positive comments on the accommodation facilities in the Dóchas Centre and particularly in relation to the Willows House, a self-contained accommodation unit for prisoners on an enhanced regime which was constructed since the last visit in 2010. The IPS can confirm that offices are no longer being used to accommodate prisoners and every effort will be made to minimise the use of Recreation Rooms. Accommodation requirements below the 105 capacity agreed with the Inspector of Prisons can be met through the dedicated accommodation units.

Comment

The female section in Limerick Prison consisted of 12 double-occupancy cells. The cells (each approximately 9m²) were furnished with a bunk bed, a table, a cupboard, a sink and a toilet. They had good access to natural light and the artificial lighting and ventilation were sufficient. However, they were dilapidated and cold (paragraph 96).

Recommendation

The CPT recommends that the Irish authorities pursue the refurbishment of the female section.... Further, the CPT emphasises that, ideally, cells measuring 9 m² should be used to accommodate only one prisoner.

Ireland's Response

The comments on the accommodation for female prisoners in Limerick are noted. The Irish Prison Service Capital Expenditure Plan 2012-2016 includes provision for the construction of a new accommodation block in Limerick Prison for female prisoners, comprising 42 single-occupancy cells and 8 "step down" apartments. The new accommodation block will provide enhanced modern accommodation for women prisoners and facilitate single- cell occupancy.

b. regime

Comment

At Dóchas Centre, prisoners were offered a wide range of activities. There were 15 workshops ... Work training activities were also available ... For recreation and sports activities, inmates had access every day to a sports ground and a fitness gym equipped with cardio-vascular workout machines.

However, at the female section in Limerick Prison ... Due to lack of space and poor material conditions, the inmates had restricted access to meaningful activities. The classroom for arts and crafts was located in an underground area and there was no natural light in the room. Access to other educational and vocational activities was often problematic ... Women also could not work in the prison's kitchen, as only male inmates were working there (paragraph 97).

Recommendation

The CPT reiterates its recommendation that the Irish authorities make additional efforts to provide female inmates at Limerick Prison with better access to meaningful activities.

Ireland's Response

Due to spatial and other considerations it is not possible to provide access by women prisoners in Limerick Prison to a full range of constructive activities in the current circumstances. Every effort is made to facilitate access to work training, education and other activities but, as stated in the CPT comments, such access can be restricted because of coordination requirements with the timetabling of access by male prisoners in the prison. Additional classrooms were provided for women prisoners as part of the refurbishment project on the female section of the prison since the last CPT visit in 2010. In addition to Arts and Crafts, the women prisoners have access to the Education Centre and the gym facility. Work Training is provided in Industrial Cleaning and Catering. Accredited training of female prisoners in Laundry skills is to commence shortly. A Hairdressing course is also run on a weekly basis for the female prisoners. The construction of the new accommodation block for female prisoners will provide the opportunity to fully resolve the difficulties identified. It is envisaged that women prisoners will have the opportunity to avail of a wide range of constructive activities on the completion of the building project.

4. Health-care services:

- a. staff and facilities

Comment

The health-care team at Dóchas Centre consisted of a chief nurse officer, six registered nurses and one medical orderly. While one of the nurses was a registered midwife, there were no registered mental health nurses. A general practitioner attended the establishment for four hours every weekday morning, while at weekends a locum general practitioner was on call and attended as required. ...such health-care staff levels are adequate.

Access to health care seemed to be good.

..., a consultant psychiatrist visited for two half-days each week; an optician and chiropodist attended the prison as well. A dentist attended once every two weeks but during the few months before the CPT's visit the dentist had been present every week.

A multidisciplinary team meeting took place once a week ... The medical member of the delegation, who was present during a team meeting, was impressed with the quality of the multidisciplinary discussion; however, there was no detailed record of that discussion or any multidisciplinary written care plan (paragraph 98).

Request for information

The CPT would appreciate the observations of the Irish authorities on this matter.

Ireland's Response

The positive comments on the range of healthcare services available to women prisoners in the Dochas and the quality of access to medical intervention are noted. In regard to the maintenance of records of multidisciplinary discussions, the practice is that each service representative takes their own records at multidisciplinary meetings and medical notes are subsequently entered on the Prison Health-Care Management System (PHMS) database.

Comment

The staffing of the health-care team at Limerick Prison (including the female section) was one chief nurse officer and eight fully qualified nurses/nurse officers. At the time of the CPT's visit, 2.5 nursing posts were vacant. The general practitioner usually attended the prison for around one hour every weekday morning which was totally inadequate ... A locum doctor attended on Saturdays and was often in the prison for up to three hours at a time. ... nursing staff resources, they can be considered as sufficient. However, a prison of this size should have the equivalent of one full-time general practitioner.

Access to health care seemed to be inadequate ... The records showed that it was often the case that many of the prisoners who were listed to see the general practitioner were not in fact seen or were examined in a very cursory manner. For example, on 19 September 2014, the general practitioner is recorded as having arrived at the prison at 08:05 and having left at 08:55. During that time, twenty-one persons attended the health centre including four groups that could not mix with each other as they had to be kept separate for safety reasons. The output of the general practitioner would seem to imply that the doctor could not cope with the commitment of providing medical services at Limerick Prison.

Recommendation

The CPT recommends that the Irish authorities take measures to ensure that the general practitioner employed at Limerick Prison is suitably motivated, spends more time in the prison on consultations and that prisoners are able to have proper access to health care, in the light of the above remarks. Further, steps should be taken to ensure that the prison has the equivalent of a full-time general practitioner (paragraph 99).

Ireland's Response

The findings and recommendation of the CPT in regard to the healthcare services at Limerick are noted. The IPS has taken action to address the deficiencies identified.

- b. medical assessment on admission

Comment

Women inmates entering the Dóchas Centre received a comprehensive medical examination upon admission. Newly-admitted prisoners were seen by a nurse within a few hours of their admission and by the general practitioner the following day. Both the notes of the nurse and of the general practitioner were particularly detailed.

At Limerick Prison, the review of a number of prisoners' records showed that, in general, the nurse committal pro forma was well annotated, whereas the general practitioner's admission notes were particularly scant, to the extent that little inference could be drawn as to the state of health of the individual (paragraph 100).

Recommendation

The CPT recommends that the Irish authorities take steps at Limerick Prison to ensure that every prisoner benefits from a full clinical assessment of the prisoner's physical and mental health, and that the findings are duly recorded (paragraph 100).

Ireland's Response

The positive findings by the CPT regarding the carrying out and recording of medical examinations of newly committed prisoners on admission in the Dochas Centre are noted. In regard to the issues raised in relation to record keeping and medical examinations in Limerick, the IPS will address this finding with the general practitioner concerned.

- c. drug related issues

Comment

At Dóchas Centre, drug misuse, ...was a serious problem; .., accessibility to drugs was one of the factors fuelling the inter-prisoner violence and intimidation in the establishment. The substitution therapy, i.e. methadone, was prescribed for prisoners with opiate addiction– 43 at the time of the visit – who had their urine checked weekly to ensure compliance.

At Limerick Prison, there was a "methadone doctor" who attended the prison twice a week. The prison general practitioner, even though he was a "methadone doctor" in Limerick City, did not prescribe methadone in the prison. The result was that, if a prisoner taking methadone was committed to Limerick Prison on a Friday afternoon, it would be the following Wednesday afternoon, at the earliest, that s/he could have this prescription continued. This is totally unacceptable.

Recommendation

The CPT recommends that the Irish authorities continue to pursue vigorously the drug strategy programme designed to put an end to drug misuse in prisons. Further, it recommends that the Irish authorities take steps at Limerick Prison to enhance harm reduction programmes, including substitution treatment, and to ensure appropriate continuation of community-based methadone treatment upon imprisonment (paragraph 101).

Ireland's Response

See response at paragraphs 56-57 above.

- d. mother-and-baby unit

Comment

In Ireland, women sentenced to a term of imprisonment who have children under the age of one may be allowed to keep their babies with them in prison until they turn one year, based on an assessment of the best interest of the child. Such prisoners are accommodated in the mother-and-baby unit in the Dóchas Centre which made a positive impression on the delegation.

The ... unit had four individual rooms...measuring approximately 16 m², were suitably equipped ..., and each had an adjoining sanitary annexe with a shower, a sink and a toilet. Large windows in the rooms provided good access to fresh air and natural light, however, the women complained about the low temperature in the rooms, as there was no central heating (paragraph 102).

The prison doctor sees the pregnant prisoners as a general practitioner and provides ante-natal care. The women receive shared care and are also referred to obstetricians outside the prison. Infants receive vaccinations at two, four and six months. A public health nurse comes once a week for the first six weeks after the childbirth and sees the infant (paragraph 103).

Recommendation

The CPT trusts that this deficiency will be remedied.

Ireland's Response

The positive comments on the mother-and-baby unit facilities in the Dochas are welcome. In relation to the temperature issue, the heating in the unit is provided by underfloor heating controlled via a Building Management System (BMS). The temperatures can be adjusted for the zone referred to and, in addition, stand alone heaters have been provided to further enhance the temperature in the unit.

5. Other issues:

- a. reception and first night procedures and information to prisoners

Comment

At Dóchas Centre, the delegation gained a positive impression of the reception and first night procedures. Newly-admitted prisoners were provided with an information brochure in English which contained first night information as well as house rules and daily routines. However, the brochure was available only in one foreign language, Polish. The prison management informed the delegation about the plans to put in place a proper induction programme by the end of the year that would also provide assistance for persons with reading and writing difficulties entering the prison. This would be a welcome development. In addition, all foreign nationals who do not speak English or a language spoken by staff should be provided with interpretation services.

At Limerick Prison, on the contrary, there was no information on the establishment and the house rules were not provided to the newly-admitted female prisoners.

Recommendation

The CPT recommends that the Irish authorities take the steps to ensure that all newly-admitted prisoners, including foreign national and prisoners with reading and writing difficulties, be provided information on the regime in force in the establishment and on their rights and duties, in a language which they understand; such information should be provided both orally and in the form of a brochure (paragraph 104).

Ireland's Response

The welcome comments on the quality of the reception and first night procedures in the Dochas Centre are noted. Prison information booklets are made available to newly-committed prisoners at both locations and every effort is made to ensure that the individual prisoner is informed and understands all relevant information regarding the regimes and their rights and duties etc. Any comprehension difficulties are addressed, where necessary, through the use of interpreters, including prison officers who speak a range of languages. Information technology (IT) translating tools are also employed. Arrangements will be put in place to extend the range of language versions of the information booklets used in the two institutions.

- b. disciplinary/security measures

Comment

At Dóchas Centre, the delegation received many complaints regarding the application of the disciplinary procedures. The inmates alleged that the punishment system was arbitrary and lacked transparency, ... Such a perception by prisoners undermines the operation and trust in the system and fuels tension among the inmates. The CPT recalls that it is in the interests of both prisoners and prison staff that clear disciplinary procedures be both formally established and applied in practice; ... The prisoners should clearly know what punishment could be awarded for different breaches of prison discipline. The Committee does not criticise the fact that good relations exist between staff and inmates in custodial settings – far from it. However, there is a very real difference between the situation where good relations are based on mutual respect for the rights and obligations of all staff and inmates and one where they are based on favouritism towards a privileged minority.

Furthermore, the delegation was concerned to discover that, on occasion, prisoners were sent from Dóchas Centre to Limerick Prison to serve a disciplinary punishment. For example, a prisoner who received a disciplinary sanction in Dóchas Centre – 28 days of prohibition of evening recreation – was transferred to Limerick Prison for that period of time. The Committee has reservations regarding the practice of routinely transferring inmates to other prisons to serve a disciplinary sanction under Article 13.1(d) of the Prisons Act 2007. As far as possible, a prisoner should serve any disciplinary sanction within the same establishment as that in which the offence was committed. The Committee understands that in some cases it might be necessary to transfer a prisoner for operational reasons to another establishment but this should be a permanent transfer and not merely for the duration of the disciplinary punishment (paragraph 105).

Recommendation

The CPT recommends that the Irish authorities ensure that the application of the disciplinary procedures at Dóchas Centre operate in a transparent and fair manner, the CPT recommends ending the practice of prisoners being transferred to other establishments solely to serve a disciplinary punishment.

Comment

Rule 62 of the Prison Rules allows for the removal of a prisoner from structured activity or association with other prisoners on grounds of order, subject to certain safeguards. Nevertheless, at Dóchas Centre, the delegation came across several cases where inmates were held in the segregation unit from four to 20 days without a clearly stated legal basis and with the prisoners concerned not being informed of the reasons for such a placement. The Governor of Dóchas Centre gave the impression that such placements were based on “gut feeling” or to give a prisoner some time for “reflection”. However, this deprived prisoners of the legal safeguards provided by the legislation, namely the right to be informed of the reasons and to provide their views as well as the right to have the decision regularly reviewed.

Recommendation

The CPT recommends that the Irish authorities ensure that the removal of a prisoner from structured activity or association with other prisoners on grounds of order at Dóchas Centre strictly adheres to the Prison Rules 2007 and the safeguards contained therein (paragraph 106).

Ireland’s Response

A Guidelines document on the imposition of disciplinary sanctions was agreed in 2014 and disciplinary hearing procedures are discussed at senior management meetings with Governors on a regular basis. Disciplinary Hearing Procedure Training has also been provided for all Governors involved in the disciplinary process to ensure a uniform approach across the prison system. The perception that prisoners are transferred to serve disciplinary punishments is incorrect. The Irish Prison Service does not transfer prisoners for punishment. Prisoners may, however, be transferred to another prison for operational reasons following a serious disciplinary breach. Prisoners may make a complaint, under the complaints mechanism, in relation to any such transfer. Following discussions with the CPT, at the time of their visit, management at the Dochas Prison have ensured that any removals from the association with other prisoners is strictly in accordance with the terms of Rule 62 and prisoners so removed are informed of the reasons for their removal and their comments are noted and recorded.

c. use of special observation cells

Comment

At Dóchas Centre, there was one close supervision cell and one safety observation cell, each of which measured approximately 9 m². ... Access to natural light was adequate and the artificial lighting and ventilation sufficient. The cells were lined with a resistant spongy material to prevent prisoners from self-harming; the safety observation cell also had a glass safety door for better observation. There was also one cell called the High Support Room (identical to the other two but not lined with a resistant spongy material) which, according to the prison management, was used to temporarily accommodate inmates who needed extra care.

The delegation was informed that there were many instances of self-harm among the population at the Dóchas Centre. Prisoners who self-harmed were often relocated to one of the above-mentioned three cells. In this respect, the delegation gained the impression that there was an over-use of the close supervision cell and a relative under-use of the safety observation cell due to the fact that the nursing resources did not permit nurses to engage every two hours in a meaningful way with prisoners placed in the safety observation cell. For example, a prisoner known to the prison management for numerous suicide and self-harm attempts was placed in the close supervision cell after she was once again found with a ligature around her neck.

Furthermore, due to the confusion with the nomenclature of the cells, staff struggled to record the use of special observation cells accurately, making it impossible to understand which cell the prisoner had been held in at any given time and for how long (paragraph 107).

Recommendation

The CPT recommends that the Irish authorities review the use of close supervision and safety observation cells at Dóchas Centre to ensure that all placements and supervision strictly conform to the Irish Prison Service Standard Operating Procedures 2014.

Comment

The female section of Limerick Prison had one special observation cell which was used both as a close supervision cell and as a safety observation cell. It was adequately equipped, access to natural light was adequate and the artificial lighting and ventilation sufficient. The records for this cell did not provide information as to whether prisoners were allowed to have a minimum of one hour of outdoor exercise per day.

Recommendation

The CPT recommends that the Irish authorities take steps to ensure that all inmates placed in either a close supervision or a safety observation cell are offered at least one hour of outdoor exercise every day.

Ireland's Response

As stated in our reply to paragraphs 75-80 above, a Safety Observation Cell (SOC) policy was introduced in June 2012 to provide for a clear distinction between discipline and medical cases to better safeguard the service needs of prisoners presenting with mental health vulnerability. SOC's are only to be used in rare and exceptional circumstances and only in the best interests of the patient when s/he poses an immediate threat of serious harm to self and/or others. Central to the successful application of the policy is the active involvement of clinicians.

A recent internal audit has concluded that alternatives to seclusion are being used when prisoners present with mental health problems but some improvements are required to the documentation underpinning the policy and this issue is being followed up.

An audit of the operation of the Close Supervision Cell (CSC) policy, introduced in 2012, has also recently been concluded. The purpose of the CSC audit was to establish the level of compliance with the terms of the policy and associated procedures.

A high level Working Group has been established to consider the findings and recommendations of both audits and to recommend changes to the existing policies and procedures. In relation to the impression gained by the CPT that the close supervision cell was overused because of nursing resource issues, the IPS does not accept the accuracy of this comment. Local prison management are unaware of any instances when this approach occurred and the healthcare team are not aware of any cases where availability of nursing staff constrained application of the Special Observation Cell admission procedures. Prison management has taken steps to address any confusion regarding the nomenclature of the cells. The maintenance of records of exercise being offered to and availed of by prisoners temporarily located in the Limerick special cell is being actioned.

d. contact with the outside world

Comment

...it should be recognised that a high percentage of female prisoners are mothers and the primary caretakers in the family. Thus, separation from families and children can have a particularly detrimental effect on both the female prisoners and their families and children. ..., female prisoners are often located far away from their homes which impacts negatively on contacts with their families (paragraph 109).

At both the Dóchas Centre and Limerick Prison, female inmates could, as a rule, enjoy open visits with their families.prisoners on enhanced regime could use video links to other prisons where their partners/relatives might be detained and inmates from Dóchas Centre were offered the possibility to visit their partners/relatives within the Mountjoy Complex. Depending on the level of the incentivised regime, inmates were allowed from three to 14 phone calls per week, each six minutes long.

Some female prisoners complained ... that they had not seen their families, including children, for up to three months. The fact that there are only two establishments in Ireland where women may serve a custodial sentence inevitably means that some female prisoners will be incarcerated several hours away from their homes. ..., making regular family visits very difficult and sometimes impossible... This not only affects the women negatively, but it also impacts on the children's contact with their imprisoned mothers.

The Committee recognises the critical importance of maintaining family relationships for female prisoners and supports the application of Rule 26 of the UN Rules for the Treatment of Female prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules) which requires that female prisoners' contact with their families, including their children, and their children's guardians and legal representatives should be encouraged and facilitated by all reasonable means (paragraph 110).

Recommendation

The CPT invites the Irish authorities to examine the possibility of providing financial assistance to those female prisoners who do not have the necessary means to maintain regular contact with their dependent children.

Ireland's Response

The Department of Social Protection under the supplementary welfare allowance (SWA) scheme, may make a single exceptional needs payment (ENP) to help meet essential, once-off expenditure, which a person could not reasonably be expected to meet out of their weekly income. An ENP is a means tested payment payable at the discretion of the officers administering the scheme taking into account the requirements of the legislation and all the relevant circumstances of the case in order to ensure that the payments target those most in need of assistance. Financial support towards the cost of travel to visit family members in prison can be considered under the ENP scheme based on the circumstances of the case.

The Department of Social Protection, under the supplementary welfare allowance scheme (SWA) may award a travel supplement in any case where the circumstances of the case so warrant. The supplement is intended to assist with ongoing or recurring travel costs that cannot be met from the client's own resources and are deemed to be necessary. Every decision is based on consideration of the circumstances of the case, taking account of the nature and extent of the need and of the resources of the person concerned.

- e. complaints procedure

Comment

At Dóchas Centre, the complaints register revealed that since April 2013 there had been three Category A complaints ... Upon receiving a Category A complaint, the complainant is immediately sent to see the doctor; the prison also informs the liaison officer at Mountjoy Garda station.

As regards Limerick Prison, there were two Category A complaints by female prisoners in the six months prior to the visit. Both cases were still under investigation.... The delegation got the impression that independent investigators, appointed by the IPS, visited Limerick Prison only every two to three months and cases took longer than three months to be concluded.

In one case, the prisoner CJ lodged a complaint on 7 April, 2014 regarding the incident that had happened on 5 April 2014 (the prisoner alleged that she had been physically assaulted by a prison officer). An external investigator was assigned on 14 April 2014. The file checked by the delegation contained the photo of the black eye taken after the incident; however, it did not contain any note of an outcome nor of any investigative steps undertaken by the investigator, such as the questioning of the officer or witnesses, nor of a request to secure CCTV footage (paragraph 111).

Recommendation

The CPT recommends that the Irish authorities take steps to ensure that the investigation of Category A complaints takes place and is completed within the time limits provided by the Irish Prison Service Complaint Policy, i.e. within three months. The CPT would also like to receive information on the outcome of the complaint from prisoner CJ, including the investigative steps that were undertaken.

Ireland's Response

The outcome of the investigation was that the allegation of assault was unproven and there were no reasonable grounds for sustaining the complaint. Delays did occur in the investigation process for a number of reasons. In the first instance, the complaint was submitted in the Dochas Centre but related to events in Limerick Prison. As this was an early complaint, during the introductory phase of the complaints system, there was some uncertainty between the prisons as to which prison had the responsibility to lead and manage the complaint. This issue has been subsequently addressed through the introduction of a protocol requiring the prison in which the complaint is lodged to manage the process through close liaison with the other prison. Further delays in the particular case arose due to the unavailability of the complainant for a period of time due to hospitalisation in respect of an unconnected matter. The steps involved in the investigation were as follows:

- appointment of investigator
- review of file
- completion of investigation plan
- viewing of CCTV footage
- interview with complainant
- submission of interim investigation plan to IPS HQ
- interviews with various prison staff
- administration work on CCTV footage and witness statements
- review of evidence and consideration of findings
- preparation of report
- submission of final report to IPS.

Comment

.. there was a continued scepticism among female prisoners as to the effectiveness of the complaints system.

Recommendation

The CPT recommends that the Irish authorities take steps to promote the complaints system and enhance the trust in it among the prisoners (paragraph 111).

Ireland's Response

The IPS has distributed posters on the complaints procedures to prisons. Details of complaints procedures are included in prisoner handbooks and are also on the IPS website. Complaint forms and complaint boxes are openly displayed and freely available around the prisons - as confirmed by the delegation in their findings (as set out in Paragraph 82 above). The IPS commits to further communications with all prisoners and will further seek to enhance their trust in the complaints system by dealing with complaints in a timely fashion and in an open and transparent manner. Based on the level of complaints received across all categories since prison monthly returns were instituted in April 2014, it is evident that prisoners are using the complaints system to raise issues of concern.

D. Juvenile detention

Preliminary remarks:

...juveniles should only be subjected to a measure of deprivation of liberty as a last resort and for the shortest possible period of time. ...juveniles who are deprived of their liberty ought to be held in detention centres specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with the young.

In Ireland, following the adoption of the Children's Act 2001, the official policy is to place children in custody only where no alternative is appropriate. Further, the Criminal Justice Act 2006 made provision for all juveniles under 18 years of age to be placed in Children's Detention Schools. The Committee is pleased to note ..that the detention of all juveniles is now placed under the responsibility of the Ministry of Children and Youth Affairs (paragraph 112).

In April 2012, the Irish government announced a three-year programme to end the detention of 16 and 17 year old boys in the much criticised St. Patrick's Institution and to expand the capacity of the Children's Detention Schools at Oberstown. As from 1 May 2012, all newly remanded and sentenced 16 year olds have been detained at the Children's Detention Schools. Further, the Minister of Justice decided to close down St. Patrick's Institution and, as an interim measure pending the completion of the new units at Oberstown, all sentenced 17-year-olds were transferred to a dedicated unit at Wheatfield Place of Detention in December 2013. In February 2014, the remaining 18 to 20-year-olds at St. Patrick's were also transferred to Wheatfield Place of Detention. For legal reasons, it has been deemed necessary to continue to hold 17-year-olds on remand at St. Patrick's Institution until such time as the new units at Oberstown become operational (paragraph 113).

In the course of the 2014 visit, the CPT's delegation visited the Children's Detention Schools at Oberstown, the dedicated unit at Wheatfield Place of Detention for sentenced 17 year olds and the wing at St. Patrick's Institution where 17-year-olds on remand were being held.

At the time of the visit, the three schools which comprised the Children's Detention Schools were holding nine children on remand and 26 sentenced children, including three girls, for an operational capacity of 46.

- **Trinity House School had three eight-bed units, one of which was closed due to staffing shortages, and was holding four boys on remand and 10 sentenced boys;**
- **Oberstown Boys School had three eight-bed stand-alone units (Ardgillan, Baldongan and Cuan Beag) and was accommodating five remand and 13 sentenced juveniles;**
- **Oberstown Girls School was accommodating three sentenced juveniles for a capacity of six.**

There were nine sentenced 17-year-olds being held at Wheatfield Place of Detention and five remand 17-year-olds accommodated at St. Patrick's Institution. The CPT's delegation visited these units and provided feedback to the authorities at the end of the visit on the conditions of detention for 17-year-olds. As the units were scheduled to close down in early 2015, the report will focus on the situation found in the Children's Detention Schools in Oberstown (paragraph 114).

Request for information

The CPT wishes to receive confirmation that the juvenile units at St. Patrick's Institution and Wheatfield Place of Detention have now been closed down and that all remand and sentenced juveniles are being held in the Children's Detention Schools.

Ireland's Response

The stated policy, that children will only be detained where there is no alternative, is also to make provision that where the Children Court requires a child (i.e. aged under 18 years) to be detained that the child would be placed in the Children Detention Schools. As stated in the CPT's report work is on-going to ensure that this becomes the reality for all children. In that regard since the CPT's visit to Ireland the following further steps have been taken:

- The first five units of new residential accommodation of the NCDF have been handed over by the building contractor. The units are now being finished to ensure they are safe, secure and meet health and safety standards. New equipment and fittings are being tested and staff training is taking place. Three of the units became operational on 30th March 2015 with the further two on 27th April 2015. The final phase of the project is on target and is projected for last quarter of 2015 with the construction of one further residential unit. The new education building has also been completed and it is being fitted out. It is intended that it will be used for school from the start of the next academic year in September 2015.
- A further step towards the closure of St. Patrick's Institution was taken from 30th March 2015 when the Minister for Children and Youth Affairs brought forward statutory instruments which allow that, from that day, the Children Detention Schools may take 17 year old boys remanded in custody. It is planned that the full transfer of responsibility for all 17 year olds (on remand or committal) is due to come into force later in 2015.

The Department of Children and Youth Affairs has progressed a Bill to amend the Children Act 2001 to provide the legal basis for the new campus at Oberstown. The Children (Amendment) Act 2015 will also enable the full transfer of responsibility for 17 year old boys to the Children Detention Schools. This is in line with the commitments which were made in this regard in the Programme for Government. Government approval to publish the Bill and to present it for reading in the Oireachtas (Irish Parliament) was given on 6th May 2015. The Children (Amendment) Act 2015 will also delete all references in the statute book to the possibility of detaining children in the adult prison system.

Finally, the Department of Justice and Equality has published Heads of a Bill to allow for the complete closure of St. Patrick's Institution. This legislation when it is brought into operation will mean that the courts will no longer have the power to remand or sentence any person to detention in St. Patrick's and the Institution can then be closed in full.

Comment

It should be stated at the outset that the visit occurred during a time of transition. The existing three Children Detention Schools at Oberstown were in the process of merging into one institution. Further, the six new detention units, each with a capacity to hold ten juveniles, were still under construction.

Once completed, the Children's Detention Schools would have an operational capacity of 90 places, 84 boys and six girls. The CPT is mindful of the necessity to have a step by step carefully managed process in the opening up of the new Children Detention School units and that it is more important that the transition happens smoothly with the management procedures and staff in place than a rushed timetable that may lead to the juveniles being placed in an unstable environment. The CPT noted positively that the number of juveniles in detention had significantly declined over the past four years.

In this context, it trusts that the intended capacity of 90 places will not be immediately filled given that, at the time of the visit, there were less than 50 remand and sentenced juveniles in detention in Ireland (paragraph 115).

Ireland's Response

At the present time there are 3 separate Children Detention Schools based at Oberstown namely Trinity House School (for boys), Oberstown Boys School and the Oberstown Girls Schools. It is planned that the services provided by these schools will be transferred to a centralised facility which is presently being constructed. The CPT has recognised the transitional nature of the current situation with the capital development of the new National Children Detention Facility (NCDF). The CPT's comments on the need for a managed approach to the opening of the new facility are noted.

The acknowledgement by the CPT of the official policy as set out in the Children Act 2001 that children will only be detained where there is no alternative is noted.

The full operation capacity of the Campus will be 90 on full completion of the building programme. Capacity needs will be reviewed as staff become available and having regard to the needs of the Courts. Detention in the Campus will continue to be used as the measure of last resort with the continued emphasis on diversion.

2. Ill-treatment:

Comment

The CPT's delegation did not receive any allegations of ill-treatment of children by staff. On the contrary, many children spoke positively about staff and the atmosphere in the various units was generally positive, and the delegation noted that there was a young-person centered and caring approach in place (paragraph 116).

In the course of the visit, the delegation met several young persons who alleged that they had been the victim of excessive use of force at the time of apprehension, at the beginning of September 2014. The child protection officer had been informed of the cases and intended to speak with the parents and to inform them about the existence of the Garda Síochána Ombudsman Commission. However, he told the delegation that in most cases, parents apparently do not want to pursue the matter as there is a perception that making a complaint will not achieve anything and might merely serve to raise local tensions.

Further, staff claimed that on occasion newly-arrived boys would display clear markings around their wrists caused by handcuffs; this was confirmed by the nurse.

The CPT considers that every allegation of ill-treatment should be brought to the attention of the relevant authorities directly and not be left to the parents or relatives of a juvenile to decide whether or not to pursue a complaint. The response of the Irish authorities of 6 January 2015 states that where allegations of ill-treatment of a child arise, the designated liaison person will report the matter directly to the Garda Síochána Ombudsman Commission (GSOC). This approach is to be welcomed. To this end, it would be beneficial if there was a dedicated child liaison officer within GSOC to whom any reports of alleged ill-treatment by Gardaí could be sent (paragraph 117).

Request for information

The CPT would appreciate the comments of the authorities on this matter.

Ireland's Response

As stated in the response of 6th December, 2014 to the CPT's written account of the oral observations, and as now acknowledged in the CPT report, it is now the practice that where on admission to the schools there are any allegations or suspicions of ill treatment of a child, these are reported to the Designated Liaison Person (DLP) who records the matter and reports it to the *Garda Síochána Ombudsman Commission* (GSOC).

As to the CPT comments regarding whether, "*it would be beneficial if there was a dedicated child liaison officer within GSOC to whom reports of alleged ill-treatment by Gardaí could be sent*". Please note that following consideration of this it has been agreed that complaints from the Children Detention Schools will continue to be submitted to GSOC in the normal fashion and in addition will be copied to GSOC's Child Welfare and Protection Officer and also the GSOC's Deputy Child Welfare and Protection Officer (who deputises when the CWPO is absent).

3. Living conditions:

Comment

Material conditions in the various units were of a varied standard, ..., although they all attempted to offer a personalised environment: juveniles had their own rooms in small living units of up to a maximum of eight residents.

The Cuan Beag unit consisted of six bedrooms (each measuring 10m²) which were appropriately furnished ... with good access to natural light and sufficient ventilation. The adjoining sanitary annexe consisted of a shower, toilet and wash basin. The rooms were also equipped with a call bell. The unit was bright and airy with the bedrooms looking out onto an open inner-courtyard which was equipped for playing games or for passing the time. There was also a small garden and gym at the back of the unit. The unit contained an open-plan kitchen ... and spacious, homely, dining and living areas ..., as well as a "quiet" room equipped with video games. Two former classrooms were also used as individual bedrooms but they will revert to their original purpose or be used for other association activities when the unit reverts to a girls' facility.

The three Trinity House Units were of a similar design: the common areas ... two "quiet" rooms with video games and a communal kitchen. In sum, they reflected the homely supportive environment that the establishment aimed to promote. However, the bedrooms (each measuring 8m²) were rather austere and ... had insufficient access to natural light ...

The living conditions in the two other Oberstown Boys School units (Ardgillan and Baldongan) were of a similar standard to that of Trinity House except that the bedrooms had no in-room sanitation and televisions were only provided to boys at night (paragraph 118).

Recommendation

The CPT recommends that steps be taken to render the bedrooms in the Trinity House School units less austere and to provide greater visual stimuli for the children.

Comment

The children detention school model is based on individualised care, education and rehabilitation to reduce the risk of re-offending and promote the positive reintegration of each child into his/her community...the emphasis during the week is for all the residents to take part in a full day of structured activities: ...

All children undergo a formal educational assessment in order to establish a learning programme for each student. Students are encouraged to study for Junior Certificate examinations and Further Education and Training Awards Council (FETAC) modules. ..., each weekday consisted of five 50 minute lessons with an emphasis on literacy and numeracy, promoting life skills ... and encouraging creativity through arts and crafts The intensive nature of the classes with only three students per teacher allowed individual coaching and it was clear from the results that children were motivated to study for, and succeed in, their examinations. This is positive. Nevertheless, efforts should be made to expand the number of vocational places on offer, ..., which will become even more important once 17-year-old remand and sentenced juveniles are held in the Children Detention Schools.

Physical education played an important part of the daily programme. Juveniles could use a variety of indoor and outdoor sports facilities ... They generally had the possibility to exercise outdoors for at least one hour a day, often for longer or several times a day. Outdoor physical excursions ... in the community were organised from time to time (paragraph 119).

Recommendation

The CPT recommends that efforts be made to increase the number of vocational places on offer. Further, it would like to be informed whether there has been any change in the educational approach towards juveniles following the opening of the new Children Detention School buildings and the arrival of 17-year-old remand and sentenced juveniles.

Comment

The delegation received many complaints from juveniles that they had at times in recent months been effectively confined to their rooms until after midday and, on occasion, longer apparently due to insufficient staff being present to unlock them. For example, in Trinity House 3, the boys' rooms were apparently only unlocked at 2.30 p.m. on 8 August 2014. The designated liaison person for children had been informed of this matter. It is essential that arrangements be put in place to ensure that a minimum regime is in force even when staffing levels fall below their ideal ... In the response of 6 January 2015, the Irish authorities state that "all managers and staff in the Children's Detention Schools have been directed that the practice of confining children to their rooms until after midday is to cease with immediate effect." (paragraph 120).

Request for information

The CPT welcomes this action and would be interested to learn about the results since the introduction of this policy and, if necessary, of any consequent measures taken.

Ireland's Response

As stated earlier the new NCDF is being developed. The progress to date has allowed both the Ardgillan Unit and the Baldongan Unit to be demolished. Children previously accommodated in these units have now moved to the new state of the art accommodation in the NCDF. This accommodation will address the issues which were of concern to the CPT. It is intended, as part of the NCDF project, that the units in the Trinity House School, which have now been vacated, will be refurbished. Such refurbishment will include addressing their austere nature and the other shortcomings identified by the CPT.

In relation to education, the CPT found that the Children Detention Schools' low student to teacher ratio and the results gained indicated the young people's motivation to study and succeed in examinations. Moving to the area of vocational training places, it will be noted that with the NCDF project, it is intended that the range and number of vocational opportunities will increase. The NCDF project includes the development of a new education facility. This facility has recently been handed over and is now being fitted out. In addition, a new education strategy for 2015 to 2018 is being finalised with the Dublin & Dún Laoghaire Education & Training Board (DDLETB), who are responsible for the provision of education and vocational training on the Campus, and the Department of Education and Skills (DES). In accordance with the CPT's request it is agreed that the CPT will be informed of any changes in the educational approach towards juveniles following the opening of the NCDF and the arrival of 17 year old remand and sentenced juveniles.

With regard to the practice of confining children to bedrooms until midday it will be noted that this has ceased on foot of the instruction which issued to the Children Detention Schools (as referred to in Ireland's response of 6th January 2015 to the CPT).

4. Staff:

Comment

A positive aspect at the Children's Detention Schools was that the small living units were, in principle, well-staffed; ... This permitted supportive relationships to be developed between care workers and the juveniles...classes in the schools were set up to ensure that there was one teacher to work with three juveniles; a very favourable ratio for providing individualised support. It was also positive that the Children's Detention Schools had a speech and language therapist to assist children with verbal expression.

The favourable staffing levels combined with the fact that the majority of staff were care workers with practical experience, reflected the commendable emphasis the Children's Detention Schools placed on education and rehabilitation rather than on control and security.

However, there was some concern among staff about the impact of the Children's Detention Schools taking on the care of remand and sentenced 17-year-olds. The integration of the 16-year olds had progressed smoothly but the older boys would arrive at the same time as the schools merged into one establishment and expanded from a capacity of 46 places to a capacity of 90 places. These changes required ensuring the recruitment and training of additional staff and ensuring that the current approach and ethos were maintained. To this end, those staff working with 17 year olds will require additional supervision and support.

Request for information

The CPT would like to be informed of the staff developments in terms of staffing numbers and staffing ratios for the various units (paragraph 121).

Further, at the time of the visit there appeared to be a progressive reduction in the number of staff on long-term sick leave and in the number of sick days. Nevertheless, it is important that the management has a clear understanding behind the reasons fuelling staff absences and that they take measures to debrief staff after managing challenging behaviour and consult with staff on a regular basis, particularly during the transition period.

Request for information

The CPT would like to receive information on the current trend of staff absences and on the measures in place to support staff (paragraph 122).

Ireland's Response

The CPT's concerns regarding the transition of 17 year old boys to the Children Detention Schools are noted. This transition of 17 year old boys to the Campus is being managed in a controlled manner on a cross agency basis. The template and the experience from the managed transition of 16 year old boys to the Campus which took place in 2012, is being used to ensure this also works smoothly.

The CPT will be aware that a staff recruitment campaign commenced in 2014. This incremental recruitment campaign is continuing in 2015. To date 37 people have been recruited by the Children Detention Schools from the campaign, bringing the staff complement to 240 people, an increase of 18%. The recruitment of staff is considered as a critical factor in allowing the increased number of places that will be available with the completion of the NCDF to be utilised. The new staff who are being recruited are required to be highly qualified and experienced. On taking up their posts, new staff members are provided with formal induction and training on site. On joining a unit new staff are supported and advised by their Unit Manager. Also, an experienced staff member is assigned as a mentor to provide on the job training to each new staff member. Such training continues until the new staff member is fully competent in his/her role. Each new staff member is subject to a 12 month probation period during which time there are formal reviews and progress assessments undertaken.

With regard to the information sought on staff developments, it will be noted that there are six units in operations for boys on the Campus with a current cap of eight young people per unit in place since the beginning of 2015. Each unit has a staff team of 15 Residential Social Care Workers (RSCW) working between the hours of 8 a.m. and 10.30 p.m. In situations where a unit has no young people detained (e.g. this happens commonly with the Oberstown Girls School) the staff team of RSCWs are dispersed across the campus to support other care teams.

The Children Detention Schools have advised that the number of staff members on long-term sick leave has reduced from 11 to 7 between April 2014 and April 2015. In relation to the number of sick days taken, the Children Detention Schools have advised that this has remained constant. A number of developments have been taken to support and maintain these trends. In January 2015, a Support and Development Consultant was recruited to assist in the implementation of the staff policies and to develop an approach to support staff. A training schedule has been developed with an internal and external training mechanism established to support staff. Within the staff policies, a defined approach to managing sick leave has been outlined and the Support and Development

Officer is working with managers to ensure the policies are operated. The campus is proactive in providing employment assistance programmes and providing counselling services to staff following times of crisis. A psychotherapist has been secured on a sessional basis to meet with and to review the impact of incidents on individuals and teams. The Children Detention Schools' Human Resource Department are maintaining up to date data on the level of sickness and this is used by managers in the supervision and management of staff teams.

5. Health care:

Comment

At the time of the visit, the Children's Detention Schools employed a full-time registered nurse. In addition, a general practitioner visited three times a week. Juveniles may access the nurse every day when she carries out her rounds on each unit and the doctor will see everyone who has requested to see her. The Assessment, Consultative Therapeutic Services (ACTS) of Tulsa, the Child and Family Agency were engaged in addressing the mental health needs of juveniles in detention; it included the presence of a psychologist every weekday as well as a drug addiction counsellor, and a speech and language therapist. A psychiatrist visited primarily for the purpose of writing court reports but did provide some support in assessing juveniles.

All juveniles are medically assessed upon arrival in the Children's Detention Schools by the nurse on the day of admission and by the doctor when she next visits. The screening consists of a full medical history and a physical examination, including the use of body maps to note down any injuries or marks (paragraph 123).

As regards the recording of injuries, the practice was to note down all injuries and scars on a body map and to enquire how the injuries occurred. If a child alleges that he or she has been assaulted, the doctor takes a statement from the child and documents the injuries and then passes the information to the child protection officer or to the child's solicitor. If the allegations concern excessive use of force by the Gardaí, the child protection officer will inform the parents and it is up to them whether or not to pursue the matter. The delegation noted that the medical service did not keep a register for allegations or signs of injuries noted on children nor any record of allegations forwarded to the child protection officer.

The CPT has consistently pointed out that health-care services can make a significant contribution to the prevention of ill-treatment of detained persons through, inter alia, the systematic recording of injuries, whether vis-à-vis new arrivals or following a violent episode in an establishment.

Recommendation

In addition to the current practice of recording any injuries on a body chart and taking a statement from the juvenile concerned, the CPT recommends that measures be taken to ensure that the record drawn up after the medical examination of a juvenile contains the doctor's observations indicating the consistency between any allegations made and the objective medical findings.

Further, injuries should be photographed and filed in the medical record of the juvenile and all types of injuries should be recorded in a special trauma register. Whenever injuries are recorded which are consistent with allegations of ill treatment made by a juvenile (or which, even in the absence of allegations, are indicative of ill-treatment), the report is immediately brought to the attention of the Garda Síochána Ombudsman Commission regardless of the wishes of the young person concerned or of his/her parents (paragraph 124).

Comment

Upon admission ..., every juvenile was screened using the MAYSI-2 questionnaire to see whether he or she may have special mental health needs. Thereafter, individual mental health and communication interventions for juveniles were available. The main issue brought up by members of the ACTS team was the high rate of drug misuse ... and the need to have in place individual consultations by the drug addiction counsellor as well as control and preventive measures across the Children's Detention Schools. Care staff also needed to be aware that in managing behavioural problems among juveniles, the influence of drugs was not overlooked and to this end care staff could benefit from more training on methods of effective communication and work with juvenile addicts. In this respect, the CPT considers it important not only to provide psychological help to those who score high on the MAYSI-2 questionnaire but that group support sessions be provided to all juveniles. Further, it is important that care staff and members of the ACTS team have a regular opportunity to meet and reflect on their work (paragraph 125).

Request for information

The CPT would appreciate the comments of the Irish authorities on the above remarks, especially in light of the on-going re-evaluation of the level of psychology and psychiatric service input.

Ireland's Response

The CPT's recommendations are noted.

The Department of Children and Youth Affairs has discussed these recommendations with the Campus Manager of the Children Detention Schools and they are being put into place.

The Children Detention Schools have put in place, as part of the admissions process, a procedure to report to GSOC any allegations or suspicions of ill treatment of a child. The Department of Children and Youth Affairs has requested the Children Detention Schools to examine this procedure to ensure that it is fully in accordance with the comments made in the CPT report.

With regard to the need for "*individual consultations by the drug addiction counsellor as well as control and preventive measures across the Children's Detention Schools*". Please note that both of these measures are currently in place in the Children Detention Schools.

The CPT comments relating to:

- the provision of more training to care staff on effective communication and working with juvenile addicts,
- the psychological help to children with high MAYSI-2 scores should include group sessions, and
- the provision of regular opportunities for care staff and Assessment, Consultative Therapeutic Services (ACTS) team members to meet and reflect on their work.

have been examined with the Children Detention Schools' Campus Manager. In order to progress these matters it will be necessary for the Children Detention Schools and the ACTS to examine and act jointly. This is in the context that the ACTS are provided, on an in-reach basis, to the Children Detention Schools by Tusla – the Child and Family Agency, in accordance with Tusla's statutory role in this area. The ACTS service was a recommendation of the Ryan Implementation Plan (please see: http://www.dcy.gov.ie/documents/publications/implementation_plan_from_ryan_commission_report.pdf).

It was developed, following consultation between the IYJS and Tusla – the Child and Family Agency (which at the time was part of the Health Service Executive), as a national specialist multidisciplinary team for children in special care and detention. The Campus Manager and the Director of the ACTS meet monthly and these matters will be raised and progressed via this forum.

6. Other issues:

- a. admission and induction

Comment

Proper admission and induction procedures are essential...and, if performed properly, will permit any specific care issues to be identified and taken into consideration when allocating the juvenile to a unit and putting in place a personalised programme. At the time of the visit, upon admission to the Children's Detention Schools, all juveniles were interviewed by the admissions officer and provided with a detailed information brochure which explained the day-to-day operation of the establishment. The juvenile was allocated to a unit where he/she spent half a day in his/her room acclimatising to his new environment and being observed by the care workers, before integrating with the rest of the group.

With the opening up of the new detention units, the delegation was informed that Trinity House School would operate as the unit for juveniles on remand and for the general admission of all juveniles (paragraph 126).

Request for information

The CPT would like to be informed about the admission procedures for all newly-admitted juveniles to the Children's Detention Schools.

Ireland's Response

As an interim arrangement, pending the completion of the NCDF, all children arriving to the Children Detention Schools are admitted through the Trinity House School. It is intended that this arrangement will be reviewed following completion of the NCDF. As part of the admission and orientation process, each child on arriving at the school meets with a Residential Care Worker. The

child also meets with the Manager of the unit where the child will be detained. Relevant information is sought from the child and recorded. In turn, information is provided to the child relating to the school and its day to day operation. The child is provided with an information booklet. Each child is assigned a key worker. By degrees, the child is introduced to the other children in the unit and engages with the daily routine of the unit and the school.

b. discipline, security and use of force

Comment

As regards the use of physical restraint, the CPT found that staff were provided with clear guidance on how to manage young people's challenging behaviour and that physical interventions were to be used only as a last resort. Key factors stressed with regard to physical interventions include: they are never to punish or coerce, are intended to be pain free, should involve the use of the least amount of force necessary and for the least amount of time. Further, "following a restraint the young person should be offered medical treatment if required [...] and afforded the opportunity to reflect, learn and recover from the experience." Staff appeared to have a clear understanding of the policy and how to apply it. Further, a review of the records indicated that there had been a decrease in the application of physical restraint from 58 times in 2009 to 41 in 2013, which is to be welcomed.

...it was not clear to what extent young persons were properly debriefed following the application of physical restraint nor whether the care workers involved and any witnesses (young persons) were also debriefed with a view to recovering from the experience as well as to learning lessons for the future (paragraph 128).

Recommendation

The CPT would appreciate the comments of the authorities on this matter of debriefing and learning lessons following the application of physical restraint. Further, the CPT noted that on 13 August 2014, one young person had apparently been handcuffed to take him to his room following an assault on a staff member. The Committee considers that mechanical restraints such as handcuffs should not be deployed in a children's detention school and **recommends that the Irish authorities take the necessary steps to ensure that they are no longer resorted to at the Children's Detention Schools.**

Ireland's Response

The management of young people during times of crisis, particularly in the context of the need for physical restraint, continues to be reviewed by the senior management team of the Children Detention Schools. With the completion of new policies and also with the refinement of current policies, this will lead to greater understanding and better implementation. It is also expected that the move to the new buildings will assist in the management of challenging behaviour. This is in the context of the architecture and design of the new buildings which will allow crisis situations to be managed differently. For example, a proportion of the physical incidents occurring on the current campus were aligned to the movement of young people at night in the Oberstown Boys School to use toilet facilities external to their bedrooms. All bedrooms in the new buildings have in-room sanitation.

In the Children Detention Schools, more effective systems are being developed for the collation of information pertaining to single separation and restraints. Since October 2014, information has been gathered to determine patterns and more analysis of this information and the information system itself is being undertaken.

On the issue of debriefing and learning gained following the application of physical restraints, the Children Detention Schools have in place a published behaviour management policy and procedure which may be accessed at the following website:

<http://www.iyjs.ie>

This behaviour management policy is currently being reviewed. The purpose of the policy is to ensure that the management of behaviour in the Children Detention Schools is “*carried out to the highest safety standards, promoting care, welfare, safety and security for all young persons and staff*”. The policy has been developed in conjunction with the Crisis Prevention Institute (CPI) of Milwaukee, Wisconsin, USA (European HQ: Cheshire, UK) who are internationally recognised for their expertise in this area. This policy encompasses behaviour management of the young person from early intervention strategies through to physical interventions and debriefing techniques. Children Detention Schools’ staff are provided with formal training in the management of actual or potential aggression (MAPA) which is undertaken by the CPI organisation. An integral part of MAPA training is debriefing i.e. reviewing an event to examine how it might be managed differently were similar circumstances to arise in the future. The focus of such debriefing is on both staff and children. Children Detention Schools’ staff are advised to have debriefing sessions after an event where physical restraint was required to be employed. Staff have access to a Psychotherapist to assist with debriefings. In addition, the Children Detention Schools have in place a Serious Incident Review Group which meets each month to review incidents and ensure that learning is applied throughout the schools.

The current policy in relation to the use of handcuffs is that they are only used in exceptional circumstances. This policy is currently being reviewed and as part of that review the CPT’s recommendation on the use of handcuffs in the Children Detention Schools will be considered.

Comment

The delegation received many complaints from boys about what they perceived to be an excessive use of separation, ...An examination of the records seemed to indicate that the reason for separation was not always in line with the criteria referred to above. Separation was sometimes imposed for smoking, for not taking directions or verbal abuse towards staff and therefore resembled an informal disciplinary measure. Further, finding contraband does not fall within the criteria for separation and together with other issues of drug misuse should form part of a distinct policy for managing drugs within the Children’s Detention Schools. Moreover, from the records examined, it was not always clear as to why the separation of a boy continued beyond a certain period.

In their letter of 6 January 2015, the Irish authorities informed the CPT that the Children’s Detention Schools had developed a strategy to address the concerns raised by the delegation in the course of the visit. Further, additional training was being provided to staff to ensure compliance with legal and best practice requirements, and a review of the separation policy would be undertaken during the first quarter of 2015. The Committee welcomes the measures taken by the Irish authorities (paragraph 130).

Request for information

The CPT would like to be informed of the outcome of the review of the separation policy and to receive detailed information on the oversight of each measure. Further, it trusts that the use of separation in the Children's Detention Schools conforms strictly to the criteria laid out in the Irish Youth Justice Service policy and that every measure of separation is properly recorded, including the reasons for any extension. The Committee reiterates that a measure of separation should never be applied as an informal disciplinary measure.

Comment

In each of the boys' units, apart from Cuan Beag, there was a small room (measuring less than 5m²) which was used for carrying out searches of boys upon admission and for the purpose of single separation, and was known as "protection room". The rooms were unfurnished and had minimal access to natural light and did not possess a toilet. Under such conditions it is not surprising that young persons found the experience of being placed in one of these rooms to be stressful. The rooms did not meet their intended purpose of protection. Moreover, several allegations of lengthy placement in these rooms were received. In one case, a boy stated that he had been kept in the room in only his boxer shorts and a T-shirt overnight and had had to sleep on a mattress on the floor (paragraph 131).

Recommendation

The CPT recommends that any room used for separation purposes should provide access to natural light and have sufficient ventilation. Further, it should possess a means of rest and young persons should be provided with appropriate clothing. Placement in such rooms should be for the shortest possible time.

Ireland's Response

The review of the separation policy, by the Children Detention Schools' Policy and Operations Consultative Committee, which commenced during the 1st quarter of 2015 has not yet concluded. The Department of Children and Youth Affairs undertakes to advise the CPT on the completion of this review and provide a copy of the finalised policy document. The review exercise has included consultation with staff representative organisations to consider a number of staff concerns particularly relating to the management of risks to staff.

As part of the review process, Children Detention Schools' Management have engaged the services of an external expert in the area of policy development to draft a policy for consideration and which takes particular attention of relevant national and international law and good practice. A draft has been submitted to the Policy and Operations Consultative Committee for consideration prior to making final recommendations to the Board of Management. Among the issues which the review is examining are: examination of the current policy; definition of separation; appropriate use of separation; nature of separation; the separation room; training; information recording and monitoring; the review of usages of separation.

Pending the completion of the policy review, a number of actions have been taken under the following headings:

Use of separation: The appropriateness of using separation is now considered by staff in the context of the nature and the level of the risk which is presented in any given situation. Also, the appropriate duration of each separation is to be considered and is subject to review while it is ongoing. It has been underlined by management that separation should not be used to resolve operational issues. The Children Detention Schools' "*Drugs, Alcohol and Substance Use/Misuse*

Policy” is being reviewed to ensure that it incorporates appropriate criteria to deal with issues around suspected possession of contraband drugs.

Authorisation: In situations where the use of separation is being considered, the Unit Manager’s authorisation is required to be given where it is to be for a period of over 15 minutes. A second Unit Manager is required to authorise separation if it is considered that it will be required for a period of time over 1 hour. Where a period of separation is being considered in excess of 8 hours then, the authorisation of the School’s Director is required.

Recording: From October 2014 a central record system has been put in place which records all incidents of separation. Further management information developments, and the potential for these to be supported by technology based information systems, are being examined with a view to allowing further improvements in data gathering and analysis.

Monitoring: Unit Managers are now physically based in their unit and can more closely monitor the use of separation in real time. Also the use of separation is reviewed by the Unit Manager and staff of each unit at weekly team meetings. A member of the senior management team of the Children Detention Schools has been assigned particular responsibility to review situations where separation is used in a unit, to meet with the Unit Manager and ensure the reasons supported the use of separation. Each month a report on the use of separation is generated from the system which is reviewed by the Director. A copy of the report is also provided to each member of the Board of Management. The report is reviewed at the Board’s monthly meeting and where questions are raised these are followed up on and addressed.

Training: Problem solving and other alternative solutions to the use of separation and the potential for using such alternatives are examined by Unit Managers and staff at the weekly unit meetings. When the new policy and subsequent procedures are finalised it is intended that all staff will be taken through the policy to ensure there is full understanding and in addition there will be staff supports and supervision to ensure compliance.

Separation rooms: In the new NCDF each unit has 2 designated separation rooms. Each has access to natural light, sufficient ventilation and bathroom facilities are adjacent to each of the designated rooms. Additionally each unit has a time-out room which has access to natural light and sufficient ventilation, is fully furnished and has in-room sanitation. These rooms will be used as considered appropriate with reference to the nature of each particular situation and the risk level which the child is presenting (e.g. potential for self-injury from furniture if a child is acting out etc.). The CPT’s comments regarding the use of separation in the Children Detention Schools have been noted and brought to the attention of the Children Detention Schools’ Campus Manager and the Policy and Operations Consultative Committee for consideration when reviewing the current policy.

c. contacts with the outside world

Comment

Contacts with the outside world were generally satisfactory. ... Many young persons stated that they did not receive visits because they found it too difficult or the time and cost for the family was too great, ...

Recommendation

.. the CPT encourages the Irish authorities to consider steps to facilitate children in the Children's Detention Schools receiving visits from family and other appropriate persons (paragraph 132).

Ireland's Response

In relation to further steps which might be taken to facilitate visits by family to children detained in the Children Detention Schools, it is agreed that this will be given further consideration.

d. complaints and inspections

Comment

The CPT considers that juveniles should have avenues of complaint open to them within the Children's Detention Schools and should be entitled to address complaints – on a confidential basis – to an independent authority. Complaints procedures should be simple, effective and child-friendly, particularly regarding the language used. Juveniles should be entitled to seek legal advice about complaints and to benefit from free legal assistance when the interests of justice so require.

At the Children's Detention Schools, the Irish Youth Justice Service policy for Complaints Procedure from December 2010 envisages two types of complaints: informal which are resolved within the accommodation units by the care worker with support from his or her line manager if necessary; and a formal complaints procedure consisting of a preliminary assessment by the unit manager, an investigation by the deputy director and a possible appeal to the director. However, very few if any complaints were ever registered as the figures for 2012 and 2013 illustrate, with a total of just five complaints for all three schools during these two years, three of which concerned the Girls' School (paragraph 133).

As of March 2014, a designated liaison person for children (formerly Child Protection Officer) was appointed who was charged with safeguarding all children in the establishment and investigating any complaints and who was independent of the management of the establishment. In the six months following his appointment, 15 complaints were referred ... to him ... of which nine were complaints or allegations made by young persons. The designated liaison person investigated each allegation and .. was able to make a number of general recommendations to improve current policies. For example, staff should be aware of whether a young person is likely to react violently if touched by another person; or communication among staff should be such as to ensure that two young persons in conflict with each other do not come face to face shortly after an incident.

The appointment of a designated person to address complaints is positive. Further, all young persons were informed about the complaints procedure and green complaints forms were present in all the units. However, not one of the green forms had been submitted in the months prior to the visit. Indeed, none of the young persons met by the delegation had any confidence in the complaints procedure, ... It is important that efforts be made to develop trust among both staff and juveniles in the complaints procedure.

In their letter of 6 January 2015, the Irish authorities informed the CPT that the Complaints and Reporting System was being reviewed ... and that a refresher programme had been put in place to ensure that all staff were fully informed and understood the system and their role. Steps to establish a database to allow for analysis and trend identification in the complaints submitted were also envisaged. In addition, young persons entering the Children's Detention Schools would be made aware of the Complaints and Reporting System by their key worker and the support of the NGO "Empowering People in Care" (EPIC) would be sought to enhance the young people's understanding of the complaints system. The Office of the Children's Ombudsman (OCO) would also visit the Children's Detention Schools to explain the rights of all young persons to make complaints directly to the OCO. These are positive steps (paragraph 134).

Request for information

The CPT would appreciate receiving information on the number, type and outcome of complaints submitted during the first six months of 2015. It would also like to receive a copy of the new Campus handbook.

Ireland's Response

From January 2015 to the end of April 2015 there have been 36 complaints made to the Designated Liaison Person (DLP). These complaints were made by 16 people with the majority coming directly from young people through the internal complaints system. The complaints related to a range of issues including the availability of recreational facilities during the move to the new buildings, the implementation of rules by staff and treatment by staff. None of these concerns were deemed of significant concern by the DLP. Some of the concerns were addressed at source by managers and closed out. Other complaints required investigation by the DLP and he identified some areas of improvement.

In addition to these complaints there were 20 child protection concerns noted for the same period. Of these concerns, 4 remain open and under investigation, with 3 relating to allegations pertaining to An Garda Síochána and 1 relating to bullying by another young person. Protective measures have been taken to address the matters reported and/or noted including notification to relevant authorities.

The information sought by the CPT on the number, type and outcome of complaints submitted during the first six months of 2015 will be provided in due course.

The new Campus handbook will be forwarded to the CPT when it is completed.