



CPT/Inf (2011) 4

## **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 25 January to 5 February 2010**

The Government of Ireland has requested the publication of this response. The report of the CPT on its 2010 visit to Ireland is set out in document CPT/Inf (2011) 3.

Strasbourg, 10 February 2011



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 25th January to 5th February, 2010.



## **Introduction**

### ***Background***

The Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) made its fifth visit to Ireland from 25th January to the 5th February, 2010 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 27th November, 2009 announcing that a delegation of the CPT would visit Ireland sometime in 2010. On 12th January, 2010, the CPT indicated that the visit would begin on 25th January, 2010 and end on 5th February, 2010. On 20th January, 2010 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 9th July, 2010 and sent to Ireland on 23rd July, 2010.

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 25th January to 5th February, 2010 is set out in this document. For ease of reference and reading this response report follows the format of the CPT's report on the visit contained in its report of 9th July, 2010 apart from some instances where it was considered necessary to quote from the main body of the CPT report rather than from the summary of recommendations in the interest of context and for completeness.

### ***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 comments 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 invoked the provisions of Article 8, paragraph 5, of the Convention to raise concerns about the use of Special Observation Cells in prisons and recommended that a review be undertaken and that steps be taken to ensure an appropriate temperature in these cells and where the risk to self injury warrants the removal of normal clothing, prisoners be provided with rip-proof clothing and footwear. The CPT also recommended that an independent review of medical treatment provided to prisoners at Cork, Midlands and Mountjoy Prisons receiving medication (with priority being given to methadone treatment) and, thereafter, to assess

the healthcare needs of all prisoners be undertaken; the outcome of a Garda investigation into the alleged sexual abuse of a resident at St. Joseph's Intellectual Disability Service, Portrane was also sought and provided by the Department of Health and Children.

In two letters of the 17th May, 2010 the Irish authorities provided information on the actions being taken in response in the light of the delegation's immediate observations.

**Response to Recommendations, Comments and Requests for Information arising from the Visit by the CPT to Ireland from 25th January to the 5th February, 2010.**

**1. INTRODUCTION**

**D. Co-operation between the CPT and the Irish authorities**

***Comment***

**The degree of co-operation received during the visit from the Irish authorities was very good, both at central and local levels. (paragraph 5)**

***Response***

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

**II FACTS FOUND DURING THE VISIT AND ACTION PROPOSED**

**A. Law enforcement agencies**

**1. *Preliminary remarks:***

**In their preliminary remarks following on their findings following their 2010 the CPT notes that whilst the legislative framework governing detention by the police remains essentially unchanged since previous CPT visits.... There have been several legislative developments since the 2006 visit which impact on policing. Notably, the Criminal Justice Act, 2007 has expanded the circumstances under which inferences from silence can be drawn in relation to all arrestable offences .. the 2007 Act also broadened the categories of offences for which people can be held in Garda custody for up to seven days... The CPT note the powers of the Garda Síochána Ombudsman Commission ...proposals to amend section 94 of the Garda Síochána Act, 2005 ...the length of time taken to investigate complaints (paragraphs 9, 10,12 and 13)**

***Response***

The Criminal Justice Act, 2007 was enacted to provide a necessary and proportionate response to the threat faced by Ireland in relation to, inter alia, organised crime. In relation to the expansion of the circumstances in which inferences from silence can be drawn the provisions enacted in 2007 by and large replace rather than expand previous provisions. The new provisions are in line with ECHR jurisprudence in this area. Several conditions and safeguards apply. For example, an inference can only be drawn from silence in relation to a fact that “clearly” calls for explanation and the person may not

be convicted solely or mainly on the inference; the failure to respond can only be treated as corroboration for other evidence on the matter. Safeguards regarding access to a solicitor and electronic recording of the interview also apply.

The categories of offences for which people can be detained in Garda custody for up to seven days is restricted to a limited number of serious offences that are frequently linked with gangland activity and the extended detention time is necessary in the view of prosecuting authorities. Detention under these provisions is subject to judicial authorisation and supervision after the first 48 hours. The existing Regulations on custody and electronic recording of interviews etc also apply in cases coming within the 2007 Act.

The criticisms of the CPT in relation to the time taken to investigate complaints against the Garda Síochána have been noted. In this regard it is pointed out that since it became operational in 2007 the Garda Síochána Ombudsman Commission has investigated or is still investigating over 2,000 criminal allegations and over 350 alleged breaches of discipline of a serious nature. It is in this context that the Ombudsman Commission has made proposals for amendments to the Garda Síochána Act 2005, including the proposal to permit it to refer a wider range of complaints to the Garda Commissioner for investigation. The Ombudsman Commission, being mindful of the CPT comments in relation to sending complaints to the Garda Síochána for investigation, does not propose to send to the Garda Síochána matters where it believes a criminal offence is disclosed but rather those where, on balance, the likely conclusion will be under the disciplinary procedures rather than through the criminal process.

These proposals are still under consideration. No decision has been taken as to whether, or to what extent, any such changes might be made. In coming to a decision, the Government will bear fully in mind both the case made by the Ombudsman Commission for the changes and any counterbalancing considerations such as the issues raised in the report.

### **Requests for information**

**The CPT would like confirmation that all persons detained by the police are physically brought before the judge tasked with examining a request for the extension of their detention (paragraph 10)**

### ***Response***

The Garda Síochána complies fully with the relevant legislative provisions governing the arrest, detention and treatment of a person while in custody.

In the case of detentions following arrest under section 4 of the Criminal Justice Act 1984, extensions to the initial period (6 hours) must be authorised by a Garda Superintendent (further 6 hours) and by a Chief Superintendent if extended again by up to a further 12 hours. The total period permitted under the 1984 Act is 24 hours.



Provisions for the extension of a person's detention in Garda custody are also contained in the Offences Against the State Act 1939, Criminal Justice (Drug Trafficking) Act 1996 and the Criminal Justice Act 2007. In each case the legislation requires that the initial periods of detention must be authorised by a senior Garda and thereafter, it requires that a detained person must be physically brought before the court where application for the extension of the person's detention is made.

### **Request for information.**

**The CPT would like to have the comments of the Irish authorities on concerns expressed as regards the proposal to amend section 94 of the Garda Síochána Act 2005 outlined in paragraph 13, as well as on criticism concerning the length of time taken to investigate complaints, the independence of Garda investigations into complaints of a less serious nature and the possibility of information concerning complaints which is entered into the PULSE (Police Using Leading Systems Effectively) database being accessible to all Gardaí (paragraph 13).**

### ***Response***

Please see the earlier note in relation to the time taken to investigate complaints and the proposals for amendment of the Garda Síochána Act 2005.

With regard to PULSE, the Garda Síochána has detailed procedures and instructions in place on the operation of the system. To prevent misuse or abuse of the system it incorporates an accurate audit trail which records all record creations, updates and inquiries made on the system. The audit record includes the date and time of the update or inquiry and includes details of the user signed onto the system at that time. These audit records can only be accessed centrally and are not available or visible to the users.

## **2. Allegations of ill-treatment:**

### **Comment**

**The majority of the persons met by the CPT's delegation made no complaints about the manner in which they were treated while in the custody of the Gardaí....many people .....stated that the treatment by the Gardaí had improved in recent years... However, a number of persons did allege verbal and/or physical ill-treatment by Gardaí (paragraph 14) ....the delegation gathered little medical evidence of ill-treatment. However, this should not be interpreted as undermining the credibility of the allegations made (paragraph 15)**

## **Recommendation**

**The CPT recommends senior police officers to remind their subordinates at regular intervals that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions (paragraph 16).**

## **Response**

The recommendation of the CPT is being taken on board by the Garda Síochána and a further instruction will issue from Garda Headquarters on the matter.

All detentions in Garda custody are covered by the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987 and 2006. Those regulations make comprehensive provision for the treatment and care of detained persons.

It should be noted, however, that the Garda Síochána has been proactive in this area since the fourth visit of the CPT and a similar recommendation in 2006. A directive from Garda Headquarters was issued in 2007 and comprehensive Guidance Notes on the Implementation of the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987 and 2006 issued to each member of the Garda Síochána in 2008.

Furthermore, a revised "Information for Persons in Custody" – Form C.72(s) was issued by the Commissioner following the approval of the Minister for Justice and Law Reform. This Form must be read over and given to each detained person to notify them of their rights and also to inform the detainee that the Garda Síochána shall at all times respect their personal rights and dignity as a human being and shall not subject them to ill treatment of any kind.

In addition, a revised Custody Record was issued in 2009. This provides for a risk assessment for each detained person and provides for all the necessary requirements in relation to a detained person. It acts as a safeguard both for the detained person and the members of the Garda Síochána.

Finally, all operational Garda Directives now make reference to the relevant human rights principles applicable to the instruction concerned.

### **3. Safeguards against ill-treatment of detained persons:**

#### **Comment**

**The CPT delegation report that generally speaking, the main safeguards advocated by the CPT continue to operate in a satisfactory manner .. That said, the CPT continues to consider that a detained person should, in principle, be entitled to have a lawyer present during any interviews**

conducted by the police (paragraph 17)..... The CPT encourages the authorities to pursue their stated intention to equip all police stations with CCTV cameras (paragraph 18)

### **Requests for information**

The CPT seeks the current thinking of the Irish authorities concerning the possibility for detained persons having a lawyer present during any interview conducted by the police, having regard in particular to the most recent case law of the European Court of Human Rights concerning access to a lawyer (paragraph 17);

The CPT also seeks information on whether there are security features surrounding all video-recordings, such as running time and date stamp, to counter any manipulations of recordings (paragraph 18).

### **Response**

The sixth report of the Tribunal of Inquiry into Complaints concerning some Gardaí of the Donegal Division (the Morris Tribunal), in 2008, included a recommendation that a Committee be established to oversee policy on interviews in Garda custody and changes in law and practice as required. In the light of this recommendation the Minister for Justice and Law Reform established an Advisory Committee on the interviewing of suspects in Garda custody earlier this year. The Committee is chaired by a judge of the High Court and includes members of the legal profession and the Irish Human Rights Commission. The terms of reference for the Committee are to keep under review the adequacy of the law, practice and procedure relating to the interviewing of suspects detained in Garda custody, taking into account evolving best international best practice. The Committee will also advise the Minister and the Garda Commissioner on any changes that may be necessary.

One of the issues to be considered by the Committee will be the right of access of a detained person to legal advice. Recent jurisprudence has highlighted once again that all persons detained in Garda custody are entitled to consult a solicitor (on as many occasions as the person wishes), including instances when inferences might be drawn from a failure or refusal to account for suspicious circumstances. In these instances, the suspect has a right to consult a solicitor before replying or refusing to reply. The Supreme Court in a recent judgement of 9 December, 2010 in DPP -v- McCrea, which concerned a road traffic prosecution for a minor offence, upheld the applicant's entitlement to consult with a solicitor. In Ireland, solicitors do not attend the Garda interviews; it is the view of the Irish authorities that a lawyer is not required to be present during the interview of suspects. Recent case law of the European Court of Human Rights in this area is being examined to establish its implications, if any, for Irish law and practice.

In relation to CCTV the Garda Síochána has developed specifications for an Electronic System to provide Audio Video Recording in Custody Areas and a

Code of Practice for CCTV in Garda Stations. Custody CCTV has already been installed in a number of Garda stations and the provision of a Custody CCTV system is included in the Brief of Requirements for new Garda Stations. It is the intention of the Garda Síochána to install systems in other Garda Stations, commencing with Divisional Headquarters stations.

The audio visual recording of persons detained in custody in Garda Síochána Stations is governed by the Criminal Justice Act 1984 (Electronic Recording of Interviews) Regulations 1997. The Regulations are strict in terms of their operation particularly in relation to any interruption or discontinuance of electronic recording of interviews. The Regulations provide for the recording of the interruption/proposed interruption and the sealing and labelling of the master tape. These Regulations must be followed by members of the Garda Síochána. All video recordings have a running time date stamp to counter any manipulations of the recordings. Any interruption in a recording is clearly evident on a review of the tape.

#### **4. Conditions of detention:**

##### **Comment**

**Material conditions at police facilities visited were in general satisfactory for the periods of detention involved; usually less than 24 hours and only rarely exceeding 48 hours. The cells were of adequate size, equipped with toilet facilities, possessed adequate artificial lighting and sufficient ventilation and could be properly heated (paragraph 19).**

##### **Recommendations**

**The CPT recommends that the deficiencies observed in the cells at Bridewell and Mayfield Garda Stations in Cork and at Coolock Garda Station in Dublin be remedied (paragraph 19).**

**The CPT recommends that the necessary measures to be taken to ensure that persons detained by the Garda for more than 24 hours are offered the opportunity of outdoor exercise every day (paragraph 20).**

##### **Response**

The Garda Síochána has conducted a survey of the cells in certain Garda stations and is to commence a cell refurbishment programme in 2011 to ensure that all cells provide a place for the detention of persons in Garda custody that is as safe as possible for the detained person and for Garda members.

The cells at Mayfield and Bridewell Garda stations in Cork have been prioritised under this programme and the issues highlighted by the CPT in relation to the lack of call bells will be addressed in the context of this refurbishment programme.

The cells at the Bridewell Garda station Cork are cleaned every morning and it is considered that the condition of the cells encountered by the Committee on the day of their visit was an isolated incident.

In relation to outdoor exercise where the detention period is extended beyond twenty-four hours, the position is that, by and large, such detentions follow on from planned operations and, insofar as is possible, Garda Stations where reasonable access to exercise can be provided are selected for the detention of such prisoners. The provision of a dedicated prisoner exercise yard is included in the Brief of Requirements for new Garda stations, and prisoner exercise yards have already been provided in new Garda stations in Finglas, Ballymun and Buncrana. Also, where a custody area in a Garda station is being refurbished, the feasibility of providing a prisoner exercise yard is explored.

## **B. Prison establishments**

### ***1. Preliminary remarks***

#### **(a) Overcrowding**

##### **Comment**

**Since the CPT's 2006 visit the prison population has expanded considerably; as was the case in 2006, the de facto overcrowding, combined with the conditions in certain of the old and dilapidated prisons, raises real concerns as to the safe and humane treatment of prisoners. (paragraph 21) The Irish authorities have long recognised the necessity to modernise and expand the prison estate .....the primary project to increase capacity of the Irish Prison system remains Thornton Hall prison complex ... (paragraph 22)**

**..the CPT strongly encourages the Irish authorities to invest the necessary resources into the existing prison estate to ensure that all prisoners are kept in decent conditions of detention, pending the construction of Thornton Hall prison complex (paragraph 22)...the impact of overcrowding in the prisons visited was not limited to cramped accommodation space but had considerable repercussions on hygiene, out-of-cell activities and other services provided by the prison...(paragraph 24)**

## Response

There has been a consistent increase in the total prisoner population in Ireland over recent years, with dramatic increases in the number of sentenced prisoners, those being committed on remand and a trend towards longer sentences. This situation is particularly apparent over the past 6 months where the total prison population exceeded 5,000 for the first time. However, the Irish Prison Service must accept all prisoners committed by the Courts into its custody.

At the time of the last visit of the CPT to Ireland in October 2006, the number of persons in custody on a daily basis was in the region of 3,180. At the time of the 2010 visit, this figure had risen to 4,145. This represents an increase of 30% in less than 3½ years. The October, 2010 figure of 4,430 represents an increase of almost 40% in 4 years.

Ireland traditionally has had a low rate of imprisonment. The Council of Europe annual penal statistics, which measure imprisonment rates by prison population per 100,000 inhabitants, indicate that the European average is 109 prisoners per 100,000. In 2008, the latest year for which full statistics are available, Ireland had a rate of 84.8, below that average.

The Irish Prison Service has been engaged in an extensive programme of investment in prisons infrastructure which has involved both the modernisation of the existing estate and the provision of extra prison spaces. Since 1997 in excess of 1,930 new prison spaces have come on stream in the prison system.

In addition to the Thornton Hall project which is currently proceeding, the Irish Prison Service plans to commence construction on a new accommodation block in the Portlaoise/Midlands prisons complex which will provide 300 prison spaces in the medium term. The contract to construct the new block has been awarded and construction is due to commence shortly.

Also in the short term, an administrative building on the Dóchas site will be converted into a new accommodation block which will provide 70 spaces. It is hoped that these spaces will become operational in May, 2011. In addition, renovation works in Limerick's female prison, completed in September 2010, will provide an additional 14 cells in that prison. These spaces became operational on the 8th November 2010.

Furthermore, the Government are considering the creation of 150 additional spaces at Castlerea Prison and Shelton Abbey. The accommodation at Shelton would increase by 50 spaces while at Castlerea an additional 100 spaces would be provided in a setting which will provide regime incentives to prisoners whilst remaining within the secure perimeter of the prison. By way of observation on prison accommodation and sanitation facilities, it should be noted that prisoners, with the exception of some protection prisoners, benefit from periods of out of cell time during the day in order to participate in education, recreation and work activities. In general, prisoners have available

to them in each of the prisons exercise and recreational facilities which they can avail of during the day. As part of the building works to provide a committal area in the C Base area of Mountjoy Prison, it is intended to install in-cell sanitation in the entire C Block. These works are being carried out on a pilot basis and in order to test the structural capacity of the building. This work is due to be completed in May 2011 and the outcome of this project will determine our capacity to extend to other parts of the Mountjoy complex.

### **Request for information**

**The CPT has sought details on the design and future functioning of the Thornton Hall complex as well as information on whether planning for staffing levels and activity programmes is being carried out under the assumption of the design capacity or the much greater figure of operational capacity (i.e. more than 2,000 inmates) (paragraph 23)**

### **Response**

The Irish authorities welcome the positive comments by the CPT in relation to the provision of new accommodation in Castlerea, Loughan House, Portlaoise, Shelton Abbey, Wheatfield and Mountjoy Prisons. The Irish Prison Service is committed to the prison capital programme, which has the full support of the Government, and will result in the replacement and/or refurbishment of nearly 40% of the entire prison estate.

The Government is also fully committed to developing a new prison campus at Thornton Hall, County Dublin. The new prison facility will provide 1,400 cells with operational flexibility to accommodate up to 2,200 in a range of security settings.

In 2006, the Irish Prison Service launched an EU wide tender competition for the design, construction, finance and maintenance of the new prison development by way of a value for money Public Private Partnership. The Léargas Consortium were subsequently appointed preferred bidder for the project in April, 2007. The programme of pre-contract negotiations on all aspects of the project, including legal, technical and financial, culminated in February 2009 when the Léargas consortium was asked to submit its best final offer for the development. Following a detailed evaluation of this final financial offer from Léargas by the Irish Prison Service and its advisers, the offer was deemed to be not affordable in light of the significant increase in the cost of finance.

However, the Government re-affirmed its commitment to developing a new prison campus at Thornton Hall last year (2009) deciding that the development should now proceed on a phased basis, with phase one comprising essential preliminary works e.g. the access road, off-site works and perimeter wall. Detailed discussions have taken place with the Department of Finance and the National Development Finance Agency.

Adopting a phased approach to the development will enable the Irish Prison Service to provide good quality, regime focussed prison accommodation at Thornton Hall prison campus as quickly as possible. Work is already under way on the construction of the dedicated access route and the Irish Prison Service hope to award the contract for the installation of the off-site services to serve the prison development shortly. Work on the installation of the off-site services will take approximately eight months to complete. The procurement process for the design and construction of the perimeter wall is also in progress and construction is scheduled to commence in the first quarter of 2011 and will take just under a year to complete.

The next phase of the work will see the procurement of the first prison accommodation blocks and related support facilities commencing in the New Year. This phase will provide an initial 400 cells capable of accommodating up to 700 prisoners.

Building new prison facilities at Thornton Hall on a green field site will open up new opportunities for the development of structured regime activities that support rehabilitation and resettlement of prisoners which are not currently possible at Mountjoy due to the limitations of the prison infrastructure.

In developing its design concept for Thornton the Irish Prison Service sought and continues to seek to deliver a modern, operationally efficient and cost effective facility which will provide appropriate living conditions for prisoners with support programmes including the provision of modern facilities for prison staff. The Irish Prison Service will also be taking into consideration reports from the Inspector of Prisons, the CPT and international best practice in relation to prison design and the need to provide purposeful regime activity for prisoners.

One of the key concepts underpinning the design of the new prison campus at Thornton is the need to provide good quality regime focussed accommodation for prisoners in order to prepare them for resettlement back into society on release from prison. Each prison cell will be 11m<sup>2</sup> with in-cell sanitation and a shower facility in the cell. This is now the standard for all new prison building projects in this jurisdiction.

While the design of the new facility is not yet finalised – technical advisors have recently been appointed for the revised project – the IPS is currently developing a master plan for the site to reflect the requirements of the Service in terms of security, operational efficiency, provision of purposeful regime activity, support services, etc. In developing the master plan, it is not intended to develop one single prison that has the potential to accommodate up to 2,200 prisoners but instead to provide a campus style prison development with different zones that reflect various security considerations while endeavouring to provide appropriate regime activities and other supports for a diverse prisoner population. A campus style development with differing security levels and regimes can play an important role as part of Integrated Sentence Management (ISM) for each prisoner with prisoners progressing to enhanced regimes as they progress through their ISM plan.



The new prison at Thornton Hall will not be a single large prison (super prison), but rather a campus style development that will allow for appropriate separation of prisoners and will be regime focussed.

### **Request for information**

**The CPT has sought the comments of the Irish authorities on devising programmes for persons sentenced to less than six months to serve their sentence in the community (paragraph 24).**

### **Response**

The Irish authorities continue to look at ways of reducing the numbers being committed to the prison system serving shorter prison sentences for relatively minor offences. The Fines Act, 2010 provides for an innovative, balanced and more humane approach to the determination and collection of fines. Capacity to pay, equality of impact and payment by instalment are key features of the legislation. The Act addresses the issue of capacity to pay by requiring the court to examine the financial circumstances of the person before determining the amount of the fine. The person on whom the fine has been imposed will be entitled to make an application to the court to pay by instalments.

This Act also provides for alternatives to imprisonment in the event of non-payment of a fine. In such circumstances, a recovery order can be activated and a receiver will be entitled to recover the fine or to seize and sell property from the person and recover the fine from the proceeds. A community service order is also an option. Imprisonment in the event of default will be a last resort. The provisions of the Act will be commenced on a phased basis from early in the New Year.

Furthermore, a proposal from the Minister for Justice and Law Reform to draft a Criminal Justice (Community Service) (Amendment) Bill was approved by Government on the 9th November, 2010. An amendment to existing legislation will require courts to consider imposing a community service order in any case where they had envisaged imposing a prison sentence of 6 months or less.

### **Recommendation**

**The CPT recommends that the Irish authorities continue to pursue vigorously multi-faceted policies designed to put an end to overcrowding in prisons, having regard inter alia to the principles set out in the Recommendations referred to in paragraph 25 (paragraph 25).**

### **Response**

See response to paragraphs 21 to 24 above.

**(b) Juveniles**

**Recommendation**

**The CPT recommends that the Irish authorities take the necessary steps to ensure that juveniles deprived of their liberty are held in appropriate detention centres for their age group (paragraph 26).**

**Response**

The Irish authorities are pleased to advise that the position in relation to the development of the new 167 place National Children Detention Facilities at Oberstown, Co. Dublin is that planning approval is now in place and it is anticipated that enabling works should commence in December, 2010. The first phase of the main construction project (80 spaces) is scheduled for completion in late 2013 with the second phase (60 spaces) expected to be completed in mid-2015. The balance of the spaces (27 spaces) will be met from within the existing facilities on the site. It should be noted that tendering for the construction of the main project will be subject to Government approval and to the necessary funding being made available.

**c. prisons visited**

**Comment**

**Cork prison.....At the time of the visit, the prison was holding 309 male prisoners for an operational capacity of 257 (paragraph 28)**

**Response**

The Irish authorities would like to clarify that the bed capacity in Cork Prison at the time of the CPT visit was 272.

**Comment**

**Mountjoy Prison .....a separate unit (E Wing) was expected to become operational in the near future to accommodate prisoners on protection.... (paragraph 28)**

**Response**

The Irish authorities wish to advise that the renovated Separation Unit was opened in March, 2010 and houses 54 protection prisoners. The Unit is comprised of 6 single cells and 24 double cells, all with in-cell sanitation. There are three exercise yards, a gymnasium and library and the Unit has its own surgery. This building has good natural lighting.

## Comment

**St. Patrick's Institution is part of the Mountjoy Complex.... It accommodates young persons between the ages of 16 and 21.....(paragraph 28).**

## Response

The Irish Youth Justice Service took over responsibility for the detention of boys under the age of 16 (at the time of remand or committal) and girls under the age of 18 years (at the time of remand or committal) from the Department of Education and Science with effect from 1<sup>st</sup> March, 2007. Planning for the redevelopment and replacement of the existing children detention facilities is now in place and the new facilities will provide accommodation for 16 and 17 year old boys. When the Irish Youth Justice Service is in a position to take responsibility for this group of boys, they will be detained in children detention schools entirely separate from adult prison facilities.

In the interim the separation of children and young adults in St. Patrick's Institution has taken place in so far as is possible given the physical limitations of the St. Patrick's site. The Special School (B Division) was opened in April, 2007 specifically for this purpose. It has a bed capacity of 44 and is self contained. Inmates aged 16 and 17 now have a residential area, communal dining area, and education, work training and recreational areas that are separate from young adults. This has created a separate and enhanced regime for them. A small number of 17-year-olds with specific individual needs are kept in the young adult part of the institution. These include sex offenders (C Unit) and vulnerable inmates (C3 landing) who for their own protection are accommodated separately.

It should be noted that Part 156A of the Children Act 2001, which became operational with effect from 1 March 2007, designated St Patrick's Institution as the sole institution within the Irish Prison Service to which 16 and 17 year old males could be committed on remand or sentence. However, it has not been possible to guarantee the immediate placement of all such committals in the Special School (B Division). When the number of such prisoners exceeds 44, priority is given to 16-year-olds and those 17-year-olds who cannot be accommodated in the Special School are accommodated in the drug-free D Division of the main institution.

## **2. Allegations of ill-treatment and accountability issues**

### ***Comment***

**The CPT are of the view that the majority of the inmates interviewed by the delegation considered that they were being treated correctly by prison officers, and the atmosphere and relations between staff and prisoners seemed, on the whole, to be relaxed and quite positive in most of the prisons visited.**

**However, in certain of the prisons visited, the delegation received a number of allegations of verbal abuse and of physical ill-treatment of inmates by certain members of the prison staff (paragraph 29).**

### **Response**

The Irish authorities are pleased to note that the majority of inmates interviewed by the CPT delegation considered that they were being treated correctly. Nevertheless the authorities recognise that there is no room for complacency and acknowledge that there is a constant need to review existing arrangements to bring about improvements where deemed necessary.

Under existing arrangements prisoners have a number of avenues open to them if they wish to make a complaint, i.e., they can make a complaint to a member of staff, the Governor, the Prison Visiting Committee, the Gardaí, the Prison Chaplain, the Prison Doctor, the Minister and the Courts. Prisoners may also write, of course, to the CPT. In addition, they may request to meet with officials from Irish Prison Service Headquarters to discuss any issue of concern.

Furthermore, the Prison Rules 2007 provide for enhanced grievance procedures for prisoners. Under Rule 57, prisoners have the right to request a meeting with an officer of the Minister. The Governor is obliged to forward the request to the Director General of the Irish Prison Service who will designate an officer to visit the prisoner and hear any request or complaint. Subject to requirements of security, good order and the government of the prison, a meeting with the prisoner will take place within the view but out of hearing of a prison officer (unless the officer of the Minister requests the meeting be out of view also). The officer can make a recommendation to the Governor or bring the complaint to the attention of the Governor for him or her to deal with. The Director General can give a direction to the Governor in the matter and the Governor must comply.

Where there is any allegation of assault or ill-treatment the Irish Prison Service contacts the Garda Síochána and prisoners are always facilitated in making complaints to the Garda Síochána.

In relation to the allegations of verbal abuse made by prisoners in Cork Prison, the Irish Prison Service wish to point out that no such complaints have been made to Management, Staff or the Visiting Committee in Cork Prison.

Staff are made fully aware that any form of ill-treatment of prisoners, including verbal abuse, is not tolerated. The Irish Prison Service will continue, as recommended, to deliver this message. All allegations of ill-treatment are thoroughly investigated and if warranted, disciplinary measures against staff would follow. The Prison (Disciplinary Code for Officers) Rules, 1996 and the Prison Rules, 2007 address this issue.

Prison officer training emphasises concepts of humane treatment and awareness of international instruments, as well as an appreciation of the ethical context within which prisons must be administered. All technical skills that are taught are underpinned by a belief in the dignity and humanity of everyone involved in prisons. All training programmes emphasise the need to treat prisoners as individuals with humanity and respect and to act within the law at all times.

Since September 2007, all Recruit Prison Officers complete an accredited two year Higher Certificate in Custodial Care programme which replaced the nine week induction training. The course includes modules on Communications and Interpersonal Skills; Human Rights; Pro Social Modelling; Health and Safety in Prisons; Prison craft; Professional Development and Practice; Sociology of Irish Society; Equality and Diversity Awareness; Health Care in a Custodial Care Setting; Introduction to Social Psychology; Prison Law; Drugs, Drug Abuse and Communicable Diseases; Custodial Care: Policy and Practice; Education and Mentoring in Custodial Care; Criminology and Sociology and Ethics for Custodial Care.

Recruit Prison Officers take modules in pro-social modelling to raise awareness of the value of promoting positive behaviours in addition to extensive interpersonal communication skills training. Training emphasises that human rights instruments provide a set of rules to help prison staff perform their duties through policies and practices that are lawful, humane and disciplined. Incorporating such principles into daily conduct strengthens the dignity of the profession. Respect for human rights is incorporated in the Irish Prison Service Mission Statement and is also addressed in sessions relating to Intercultural Awareness and Racism and threaded through all procedural and prison craft training so that the concepts of humane treatment and awareness of international instruments are embedded through all elements of training, not only those specifically directed towards human rights.

Control and Restraint techniques are employed only as the final stage of a process of intervention. Using force unnecessarily or using undue force constitutes a breach of discipline under the Prison (Disciplinary Code for Officers) Rules, 1996 (First Schedule, Section 11). Rule 93 of the Prison Rules 2007 deals specifically with this matter. The relevant provisions include a requirement on prison officers to report each incident which involved the use of force to the Governor (specifying the circumstances that gave rise to force

having to be used and, also, the nature and degree of force used) and a requirement on the Governor to ensure, where required, that the prisoner concerned is examined by a healthcare professional.

The Irish Prison Service has a very advanced Control and Restraint training programme which is on a par with and exceeds international best practice. All officers are required to undertake this training as part of their basic training and officers undertake a refresher course at specified periods during their service.

### **Comment**

**One incident relates to the forced removal of four prisoners from separate holding cells on the first floor of A Block at Portlaoise Prison, on 30 June, 2009 ....(paragraph 30)**

### **Response**

The Inspector of Prisons was asked to look into this alleged incident by letter of the 2nd March, 2010. The Inspector provided his report to the Minister for Justice and Law Reform on 11th November, 2010. The Director General of the Irish Prison Service and the Commissioner of the Garda Síochána have been asked for their observations on the report.

### **Comment**

**In another case, a prisoner at Mountjoy Prison alleged that on 15 October, 2009 he was physically assaulted in his cell by several prison officers.....(paragraph 30).**

### **Response**

The Director General of the Irish Prison Service is personally reviewing the file in relation to this case.

### **Comment**

**At Cork Prison, the delegation received allegations that a prisoner was punched in the face and body by several prison officers while being held in a cell in the reception area on 16 December 2009 (paragraph 30)**

### **Response**

This incident was investigated internally by the Irish Prison Service and also by the Garda Síochána. The Gardaí advised that there would be no prosecutions in this case.

The internal Irish Prison Service (IPS) investigation found that the prisoner's claim that he was assaulted was not substantiated. The prisoner subsequently appealed the outcome of the internal investigation (under rule

57 (4) of the Prison Rules, 2007 prisoners may appeal the decision of a Governor in relation to a complaint to an Officer of the Minister) and a senior member of the Operations Directorate in Irish Prison Service Headquarters is carrying out a further investigation. The findings from this review are expected shortly. This investigation has not yet been concluded due to the number of witnesses from different locations that need to be interviewed. The Irish Prison Service will communicate the outcome of this investigation to the CPT.

#### **Comment**

**At Midlands Prison, an inmate alleged that on 7 November 2009, after a heated exchange, a prison officer had deliberately slammed the gate of B2 wing into his face while he was exiting the landing, and thereafter punched him several times. The results of an x-ray from Portlaoise Hospital five days later showed that he had a fracture of the nose (paragraph 30).**

#### **Response**

The Director General is personally reviewing the file in relation to this case.

#### **Recommendations**

**The CPT urges the Irish authorities to continue to deliver at regular intervals the message that all forms of ill-treatment of prisoners, including verbal abuse, are not acceptable and will be the subject of severe sanctions. Prison officers to be made fully aware that the force used to control violent and/or recalcitrant prisoners should be no more than is strictly necessary and that once a prisoner has been brought under control there can be no justification for him being struck (paragraph 31).**

#### **Response**

The Irish Prison Service will continue to deliver the message at regular intervals that all forms of ill-treatment of prisoners are unacceptable.

#### **Comment**

**The CPT is also very concerned when it discovers a culture which is conducive to inter-prisoner intimidation and violence.....the situation in Mountjoy Prison remains worrying and the prison, in the view of the CPT's delegation, remains unsafe for prisoners and prison staff alike (paragraph 32).**

#### **Response**

The Irish Prison Service welcomes the positive comments from the CPT in relation to the measures taken in St. Patrick's Institution to address safety concerns.

While acknowledging the difficulties posed by inter-prisoner violence the Irish Prison Service does not consider any of our prisons to be unsafe. The prison regime is designed to limit the scope of acts of violence. However, it is not possible to completely eliminate the possibility of such acts in prisons holding a high number of violent and dangerous offenders without introducing a regime that would be unacceptable. The Irish authorities acknowledge that the CPT has rightly identified a level of violence in some Irish prisons; while not accepting that within a prison context Mountjoy prison could be classified as unsafe (see further comment at paragraph 33 below) it is accepted that continuous efforts are required to address the issue of inter-prisoner violence stemming, in general, from external influences brought into the prison on committal. In this regard the Irish Prison Service continues to invest in more stringent security measures to thwart the incidents of such violence.

In 2009 the Irish Prison Service provided over 1.4 million bed nights to predominantly young males. There were a total of 814 incidents of violence among prisoners during the year 2009 and this includes very minor incidents. This amounts to an average of 2 incidents a day among a population at the time of more than 3,800.

In relation to Mountjoy Prison, the records show that there were 142 incidents of prisoner on prisoner violence in Mountjoy Prison in 2009. Of that 19 incidents involved the use of a weapon.

Attacks by prisoners on prisoners are not usually random acts of violence – they are related to matters on the outside – such as drug debts, gang rivalries, etc.

In relation to the number of prisoners on protection, this is regarded by the Irish Prison Service as an indicator of the steps taken in individual prisons to ensure, in so far as possible, the safety of prisoners. The fact that prison management immediately separates prisoners seeking protection from the general prison population or from specific prisoners identified as presenting a threat, clearly demonstrates prison management's commitment to ensuring safety and security.

### **Comment**

**The CPT must stress once again that the duty of care, which is owed by the prison authorities to prisoners in their charge, includes the responsibility to protect them from other prisoners .....Addressing the phenomenon of inter-prisoner violence requires that prison staff must be alert to signs of trouble ...(paragraph 33)**



## **Recommendation**

**The CPT recommends that the Irish authorities intensify efforts to tackle the phenomenon of inter-prisoner violence in Mountjoy Prison, in the light, inter alia, of the remarks outlined in paragraph 33 (paragraph 33).**

## **Response**

Protection prisoners are those prisoners who would be considered to be under threat or “at risk” in the general population. It is at the committal stage that the majority of prisoners who seek protection express their wish. External influences imported to the prison on committal include gang rivalry, drug debts and perceived cooperation with the police. On committal, all prisoners are interviewed by the Governor and based on all the information available, a decision is made as to where a particular prisoner will be accommodated. In some instances, prisoners are transferred to other establishments.

A number of Irish prisons have significant numbers of what would be regarded as protection prisoners accommodated on separate landings who have access to a wide regime of activities including school, workshops, gym facilities, probation service and chaplaincy service.

In addition, the recently refurbished Separation Unit in Mountjoy Prison has now opened and provides 50 spaces with in-cell sanitation and secure exercise yards for this category of prisoner. The Unit provides enhanced accommodation for prisoners including in-cell sanitation and prisoners have access to a range of services including medical, gym facilities, probation and chaplaincy services.

However, there are a cohort of protection prisoners who are subject to a more restricted regime.

<b>Prison/Place of Detention</b>	<b>Number of Prisoners on 23 hour lock up</b>
Arbour Hill Prison	0
Castlerea Prison	23
Cloverhill Prison	1
Cork Prison	14
Dóchas Centre	0
Limerick Prison	6
Loughan House	0
Midlands Prison	26
Mountjoy Prison (male)	153
Portlaoise Prison	0
Shelton Abbey	0
St. Patrick's Institution	40
Training Unit	0
Wheatfield Prison	45
<b>Total</b>	<b>308</b>

The majority of these prisoners are located in our older prisons which because of constraints on space, resources, staffing levels and the number of factions which have to be kept separate from each other, are not in a position to offer enhanced regimes to these prisoners.

As indicated earlier the number of prisoners on protection is regarded by the Irish Prison Service as an indicator of the steps taken in individual prisons to ensure - in so far as possible - the safety of prisoners. The fact that prison management immediately separates prisoners seeking protection from the general prison population or from specific prisoners identified as presenting a threat, clearly demonstrates prison management's commitment to ensuring safety and security.

It is fully acknowledged by the Irish authorities that the emergence in recent years of criminal gangs has had significant implications for the management of Irish prisons. Prison management have to ensure that the various factions are kept apart and, as far as possible, that gang members do not have influence over other inmates or criminal activities outside the prisons. Gang members are being managed on a daily basis through segregation and separation throughout the prison system. Membership or allegiance to these criminal gangs fluctuate on a continuous basis with some persons breaking links and others becoming affiliated.

Significant measures have been introduced in recent years to limit the scope for violence in our prisons. These include:

- Tighter control and monitoring of prisoner visits in all closed prisons;
- New visiting arrangements in all prisons, with visitors required to be pre-approved by the Governor and required to provide identification on each visit;
- Greater vigilance in examining mail by 'prison censors' and searching of other items entering the prison;
- Increased random searching of cells and their occupants;
- Stricter searching of all persons committed to custody and prisoners returning from court, temporary release, after visits or on receipt of intelligence;
- Use of modern cameras and probe systems which assist in searching previously difficult areas such as hollow chair or bed legs, under floor boards and other cavities; and
- Installation of nets over exercise yards to prevent access to contraband items, including mobile phones and drugs.

In addition, a number of new security initiatives have been introduced in all closed prisons including:

- The introduction of enhanced security screening for all persons (visitors and staff) entering our prisons;
- The establishment of a drug detection dog service within the Irish Prison Service involving approximately 30 handling teams;
- The establishment of Operational Support Units dedicated to and developing expertise in searching and gathering intelligence on illicit material being hidden inside our prisons; they will be available in addition to the normal prison staff and can target specific security problem areas; and
- The Body Orifice Security Scanner (BOSS) chair was introduced by the Irish Prison Service in early 2008 and to date eight chairs have been installed.

The security screening at prison entrances and the measures introduced have had considerable success in preventing the flow of and assisting in the capture of contraband such as weapons and illicit drugs. The Irish authorities further advise that there will be no easing off in relation to the security measures already in place and enhancements and improvements will continue to take place as necessary in the future.

### **Request for information**

**The CPT would like to be informed of the outcome of the investigations carried out into 67 allegations of ill-treatment of prisoners by staff at Mountjoy Prison made between 1 January 2008 and 14 May 2009 (paragraph 34).**

### **Response**

The Irish authorities wish to advise that the Garda authorities decided to investigate all reports by prisoners of alleged misconduct against prison officers at Mountjoy Prison for the period 1st January, 2008 to 26th February, 2009 following concerns raised by the Inspector of Prisons. A total of 46 investigation files, involving 43 prisoners, were conducted by the Garda investigation team. All investigations have now been completed and in 44 cases no prosecution was directed. The remaining 2 files are with the Director of Public Prosecutions awaiting a direction.

The Irish Prison Service initiated an internal investigation into the matters raised by the Inspector of Prisons. The report made a number of recommendations in relation to the investigation of complaints and these have all been implemented.

The Irish authorities have recently published a report from the Inspector of Prisons setting out "Guidance on Best Practice relating to Prisoners' Complaints and Prison Discipline". This is being examined by the Department of Justice and Law Reform in conjunction with the Irish Prison Service.

### **Request for information**

**The CPT would like information on the ongoing investigations concerning each of the cases set out in paragraph 35 and, in due course, on the final outcome (paragraph 35).**

### **Response**

The Irish authorities advise that the Irish Prison Service issued Standard Operating Procedure in 2009 which outline the procedures to be followed in the event of a prisoner alleging injury or assault. It states that 'photographs of injuries will be taken by the healthcare staff, with the patient's permission, it may be necessary to re-photograph the following day when contusions may be more visible. If a patient refuses to have photographs taken, this should be recorded and witnessed. All surgeries are now equipped with a camera for the purpose of recording injuries.

### ***Portlaoise Prison - 30th June, 2009***

The Inspector of Prisons was asked to look into this alleged incident at **Portlaoise Prison** on 30th June, 2009 as cited in the CPT's report by letter of the 2nd March, 2010. The Inspector provided his report to the Minister for

Justice and Law Reform on 11th November, 2010. The Director General of the Irish Prison Service and the Commissioner of the Garda Síochána have been asked for their observations on the report.

***Mountjoy prison - 15th October, 2009***

The Irish authorities wish to advise that this alleged incident was investigated by the Garda authorities. A file was submitted to the Director of Public Prosecutions who subsequently directed that no prosecution be initiated.

***Mountjoy prison - 12th January, 2010***

With regard to the alleged incident of the 12th January 2010, this matter has been investigated by the Governor who came to the determination that there was insufficient evidence to uphold the prisoner's claim. This included the viewing of CCTV footage of the area at the time the alleged incident took place. The prisoner concerned has appealed the Governor's decision and the Director General is in the process of considering this appeal.

***Midlands prison - 7th November, 2009***

The Garda investigation file on this alleged incident was forwarded to the Director of Public Prosecutions who subsequently directed that no prosecution be taken.

**Recommendation**

**The CPT recommends that when allegations of ill-treatment by prison staff are brought to the attention of the prison management, the staff members concerned should be transferred to duties not requiring day-to-day contact with prisoners, pending the results of the investigation (paragraph 35).**

**Response**

The Irish authorities advise that officers are not routinely moved from duties involving contact with prisoners when an allegation is made against them unless the Governor deems it necessary. Automatically moving an officer in all such situations could be manipulated by prisoners to target staff who are carrying out their tasks correctly. Furthermore, it could lead to staff feeling they are being prejudged. In the same way, unless the Governor deems it necessary a prisoner would not be moved when he/she has made a complaint until it can be investigated. However, this matter will be kept under review.

**Comment**

**The CPT acknowledge that the Irish Prison Service issued a new policy document on the Investigation of Prisoner Complaints /Allegations, which is effective from 20th January, 2010 (paragraph 36).**

## **Recommendation**

**The CPT recommends that a timeframe for the internal investigations is incorporated into the new policy on prisoner complaints/allegations and that the effectiveness of the new policy be assessed after an appropriate interval (paragraph 36).**

## **Response**

The Irish authorities welcome the positive comments made by the CPT regarding the complaints policy. The complaints outlined by the CPT occurred prior to the introduction of the new Irish Prison Service complaints procedures. These new procedures will ensure the more effective and impartial investigation of complaints. The Irish Prison Service will be monitoring the new procedures to ensure they are being fully implemented and undertake to conduct a review of the procedures after they have been in operation for 12 months.

The recommendation that a timeframe for internal investigations be incorporated into the new policy has already been adopted by the Irish Prison Service. The initial investigation must be concluded within four weeks of the complaint being made.

## **Comment**

**From the cases examined by the CPT's delegation, it appeared that prison management was reluctant to take action against prison officers when, according to the evidence available, they were implicated in acts of ill-treatment of inmates....the Inspector of Prisons had been requested to examine the effectiveness of the investigation into the alleged incident at Mountjoy Prison..... The Inspector concluded that the internal Irish Prison Service investigation had not been thorough....(paragraph 37)**

## **Response**

The Inspector of Prisons, as well as concluding that the file prepared for the Director of Prosecutions was of a high standard, was satisfied that the decision of the Director of Public Prosecutions that no prosecution be taken against any prison officer was correct.

## **Request for information**

**The CPT would like to get information on the adoption of any new procedures to ensure effective and impartial investigation of serious complaints (paragraph 37).**

## **Response**

See reply to paragraphs 34 and 36 above.

### **3. Staffing issues**

#### **Request for information**

**The CPT welcomes the comments of the Irish authorities on the staffing matters referred to in paragraph 39 (paragraph 39).**

#### **Response**

The Irish authorities advise that the Irish Prison Service has received sanction from the Department of Finance for considerable levels of recruitment in both 2009 and 2010. However, the sanctioned levels of recruitment have not kept pace with (a) the level of retirements experienced, which was considerable in both 2009 and to date in 2010 and (b) the additional staffing required to support the opening of new prisoner accommodation at Portlaoise, Castlerea, Mountjoy and Wheatfield Prisons. The Irish Prison Service, in common with all other areas of the public service, is subject to the Moratorium on Public Sector recruitment which was instituted by the Government in early 2009.

The IPS has prioritised the filling of frontline prisoner interaction positions and key management positions. In the main, vacancies are arising in some management grades and notably at the Assistant Industrial Supervisor (AIS) grade (these staff supervise prisoner work and training workshops). However, a competition for the filling of vacancies at this grade is currently underway.

Following the breakdown of public service pay talks and the imposition of pay reductions in late 2009, prison officers engaged in limited industrial action which impacted on the delivery of services to prisoners. However, a further round of public pay talks in early 2010 resulted in agreement and the eventual lifting of the industrial action. The basic premise of the deal reached (Public Service Agreement 2010 - 2014) is that in the current financial situation there is an onus on all elements of the public service to do more with less. Through the transformation programme agreed with the staff representatives as part of the Public Service Agreement 2010 - 2014 the Irish Prison Service will be developing and implementing new, leaner, staffing structures that will support the ongoing operation of the prison system on a more efficient basis. The Irish authorities are confident that this new staffing structure will not result in any diminution in security and will be developed and implemented in a manner that will support progressive prison regimes.

The positive relationship between staff and prisoners contributes enormously to the smooth running of the prisons. Opportunities for further enhancement of relations reside in the Transformation Agenda and in the development of Integrated Sentence Management (particularly as regards the role of personal officers assigned to prisoners and the interaction with prisoners as regards sentence plan formulation and implementation).

## **Recommendation**

**The CPT recommends that the Irish authorities take necessary steps to ensure that a rigorous selection and training programme is in place for all staff allocated to St. Patrick's Institution (paragraph 40).**

## **Response**

The Irish authorities advise that staff in St. Patrick's Institution who wish to work with under-18s are invited to express their interest in the area and are appointed to the posts after careful assessment.

Specific training in working with juveniles is provided. For example, training was provided in 2007 when the dedicated facilities for under-18s were opened. Additional training was given in 2009 in the context of sentence planning. Further training is planned in the near future in association with the Irish Youth Justice Service (IYJS) and the Irish Prison Service Training and Development Centre. The training will entail, among other things, placement of IYJS staff alongside prison officers and joint training. The placements will serve two main purposes: they will give IYJS staff valuable experience in the safe and secure custody of 16 and 17 year-olds prior to their taking over statutory responsibility for that age cohort, planned for 2013. They will also help strengthen the child care ethos among prison officers and expose policy and practice to external questioning. Areas to be included in the training include child protection, children's rights, understanding juvenile behaviour, and building and maintaining positive relationships with young people. Sentence planning initiatives in St. Patrick's provide for mentoring of young offenders by prison officers, a role which will further enhance guidance and motivation of the young offenders.

## **4. Conditions of detention**

### **a. Material conditions**

#### **Comment**

**The CPT invites the Irish authorities to consider increasing the frequency of showers for inmates, in the light of Rule 19.4 of the revised European Prison Rules (paragraph 41).**

#### **Recommendation**

**The CPT recommends that the 7.5 m<sup>2</sup> cells at Cork Prison no longer be used to accommodate more than one prisoner and efforts be made to avoid as far as possible placing two prisoners in the 9 m<sup>2</sup> cells; none of the cells should hold three inmates; furthermore, that Cork Prison be kept in a satisfactory state of repair (including adequate lighting in the cell i.e. sufficient to read by outside of sleeping hours) and prisoners to be provided with the necessary cleaning products to maintain their cells in a suitably hygienic state (paragraph 41)**



## Response

The Irish authorities advise that the Irish Prison Service is not in a position to implement the CPT's recommendation that the 7.5m<sup>2</sup> cells be used to accommodate no more than one prisoner as this could not be achieved without releasing sizeable numbers of prisoners considered unsuitable for early release. It is a matter for the Director General and the management of the Irish Prison Service to set the bed capacity of each institution.

The development of a new prison facility at Kilworth, Co. Cork to serve the Munster region is a key element of the prisons modernisation programme. However, the development is subject to the availability of the necessary capital resources. Resource limitations at present do not allow the implementation of the entire prisons modernisation programme.

In the interim, a number of measures have been taken in Cork Prison including:

- The Workshops in the Prison have been renovated, Industrial cleaning has been set up and the Computer Print shop has been established;
- Prisoners on a restricted regime for protection purposes now have access to a dedicated exercise yard following the redevelopment of the exercise yard in the prison earlier this year; and
- The refurbishment of the showers at the "A1", "A2", & "A3" wing landings in Cork is currently at tender stage as an addendum to the tender for the proposed new healthcare facility at Cork prison. It is expected that these works will be completed in February 2011.

In relation to personal hygiene:

- Chamber pots are issued to all prisoners and there has never been a shortage of chamber pots. Furthermore, a "toilet unlock" operates in the "A" and "B" block in the evening time. A new camping style toilet is being tested in Mountjoy, Cork and Limerick Prisons (see response to 45);
- Cleaning products and disinfectant are readily available to all prisoners; and
- Prisoners that use the Gym or who work in the kitchen can have a shower daily.

## Recommendation

**The CPT recommends that efforts be made in the female unit of Limerick Prison to avoid as far as possible placing two prisoners in a "single-occupancy cell"; none of the cells should hold three inmates; and in the female unit of Limerick Prison, the other deficiencies highlighted in paragraph 42 to be remedied (paragraph 42).**

## Response

See response to paragraph 43 below.

### **Request for information**

**The CPT requests information on the date when the extension to the female unit of Limerick Prison was opened, its current occupancy levels and of any additional facilities it possesses (paragraph 43).**

### **Response**

The Irish Prison Service has re-commissioned 14 female cells in Limerick prison. These cells were completed recently and were opened on 8<sup>th</sup> November 2010. The cells are single occupancy and have been fitted with a toilet and wash hand basin combination unit. Two additional class rooms have also been provided as part of the refurbishment. In addition, a new laundry facility has been created using a number of old cells in the basement of "E" wing. This facility has been fitted out with industrial washing machines and is currently in use. A new prisoner reception and prisoner's property store was also provided as part of the upgrade of the wing.

The Irish authorities also advise that a new laundry with industrial machines which provides more than adequate capacity has recently become operational.

### **Comment**

**The cellular accommodation in the Midlands Prison provides good living conditions: all cells were suitably equipped, of an adequate size<sup>1</sup>, and possessed partitioned in-cell sanitation; cells had good access to natural light and the artificial lighting and ventilation were sufficient. Moreover, the state of repair on the detention wings was good and the landings were kept clean (paragraph 44).**

### **Response**

The Irish authorities welcome the positive comments from the CPT in relation to the cellular accommodation available in Midlands Prison. Similar accommodation is available in Wheatfield, Portlaoise (C Block), Cloverhill, Limerick (C + D Wings) and Castlerea Prisons, the Dóchas Centre and in the open centres at Shelton Abbey and Loughan House.

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<sup>1</sup> Cells designed for single occupancy measured 9m<sup>2</sup> and were accommodating only one person.

## Recommendation

**The CPT recommends that at Mountjoy Prison, efforts be made to avoid as far as possible placing two prisoners in a cell (8m<sup>2</sup>) designed for single occupancy; furthermore, greater efforts be made to keep Mountjoy Prison in an appropriate state of repair, including as regards hygiene in the landings and toilet areas (paragraph 45).**

## Response

The Irish authorities advise that the construction of the new prison campus at Thornton is the only viable long term solution to the problems identified by the Committee. The construction of this new regime focussed facility to replace the Mountjoy prison campus will ultimately resolve these issues. However, in the interim, the Irish Prison Service has stepped up its efforts to deal with these issues.

A new camping style toilet is being piloted in Mountjoy Prison and is to be rolled out across the prison by the end of the year. Modesty screens have been installed in each cell and the initial feedback from the prisoners is positive.

A new regime and hygiene policy has also been introduced for all areas of Mountjoy Prison, which incorporates:

- The introduction of standard operation procedures regarding cleaning;
- The availability of **new** resources, e.g. cleaning machines, cleaning equipment, etc.;
- The introduction of new cleaning schedules;
- The appointment of an Industrial Supervisor with responsibility to oversee hygiene and cleaning;
- The introduction of hygiene training for staff and prisoners;
- Daily inspections by Governor grades take place;
- The Introduction of painting parties are operating on all of the wings; and
- All necessary repairs are being dealt with by IPS Trades staff.

As part of the building works to provide a committal area in the C Base area of Mountjoy Prison, it is intended to install in-cell sanitation in the entire C Block. These works are being carried out on a pilot basis and in order to test the structural capacity of the building. This work is due to be completed in May 2011 and the outcome of this project will determine our capacity to extend to other parts of the Mountjoy complex.

### **Recommendation**

**The CPT recommends that the necessary measures be taken at Portlaoise Prison to keep E Block in a suitable state of repair (paragraph 46).**

### **Response**

Maintenance issues on the E-Block are dealt with by trades staff on a daily basis and a painting party is also in operation.

See also response to paragraph 48 below.

### **Comment**

**At St. Patrick's Institution, cells were suitably equipped .....nevertheless there is a need for a rolling programme of refurbishment (paragraph 47)**

### **Response**

A rolling programme of refurbishment is ongoing in St. Patrick's Institution.

### **Recommendation**

**The CPT calls on the Irish authorities to eradicate “slopping out” from the prison system. Until such time as all cells possess in-cell sanitation, the CPT recommends that concerted action be taken to minimise the degrading effects of slopping out; the authorities to ensure that prisoners who need to use a toilet facility are released from their cells without undue delay at all times (including at night), and the implementation of this measure is monitored by senior management (paragraph 48).**

### **Response**

There has been major progress in recent years in terms of addressing, and eliminating the problems presented by slopping out and 72% of our accommodation now has in-cell sanitation. New spaces at Castlerea, Portlaoise and Wheatfield Prison have been made available. In addition, the proposed extension in Midlands Prison is due to open in 2012. With these developments, the proportion of prisoners with access to full sanitation facilities will have risen to in excess of 80% of the total prisoner population. The final elimination of the remaining outdated accommodation, mainly at Mountjoy and Cork Prisons, and to a lesser degree at Portlaoise and Limerick is dependent on the progress of the Thornton Hall and Kilworth Projects.

As indicated earlier a new camping style toilet is presently being tested, on a trial basis, in Mountjoy, Limerick and Cork Prisons. The initial feedback from the prisoners is positive and the Irish Prison Service intends to roll out this initiative to all areas where prisoners currently slop out.

The Irish Prison Service also has toilet patrols in operation until late evening in Mountjoy, Cork and Limerick Prisons. Staff are rostered to provide this function after final lock in the evenings. Prisoners requesting to use toilet facilities after these times are accommodated where possible.

The Irish authorities also advise that the possibility of extending toilet patrols will be examined in the context of the Croke Park Agreement.

## **b. Regime**

### **Comment**

**The CPT is conscious of the investment made by the Irish Prison Service to develop the opportunities for education, work, recreation and sport for prisoners .....in the academic year 2009/2010, the Department of Education and Science provided for an allocation of 220 whole time teacher equivalents for the prisons...as regards work and vocational training ...some 250 prison officers ..run over 90 workshops catering for in excess of 800 prisoners each day (paragraph 49).**

**The delegation observed that the general regime within the Irish Prison Service continues to provide for reasonable out-of-cell time of some seven-and-a-half hours per day (paragraph 50).**

### **Response**

The Irish authorities welcome the comments of the CPT. In the prisons where services to prisoners are not ideal, notably in Mountjoy and Cork Prisons, the Irish Prison Service capital programme will address these shortcomings.

The Irish Prison Service places a strong emphasis on access to educational services and on the provision of work and training activities for prisoners. Educational services are available at all institutions and are provided in partnership with a range of educational agencies in the community, notably the VECs. Literacy, numeracy and general basic education provision is a priority and broad programmes of education are made available which generally follow an adult education approach.

Education programmes are adapted to take account of the diversity of the prisoner population and the complex nature of prison life, including segregation requirements and high levels of prisoner turnover. Educational courses and curricula, which are based on individuals participating in one or more subject areas for an academic year and sitting terminal examinations, are only appropriate for a small number of prisoners. Junior and Leaving Certificate courses are available but increasing numbers of prisoners require a more flexible curriculum which has multiple entry and exit points that take account of prior educational attainment. FETAC accreditation is therefore widely used with assessment by portfolio compilation. All prison Education Units meet the quality assurance standards demanded by FETAC.

Training activities are chosen to give as much employment as possible in prison and to give opportunities to acquire skills which will help prisoners secure employment on their release. A wide range of training workshops operate within the institutions, e.g. printing, computers, Braille, woodwork, metalwork, construction, industrial contract cleaning, craft, horticulture and electronics. In addition, formal training is also provided in prison services such as catering and laundry.

The most recent full year statistics available are for 2009. Over the course of 2009, an average of 39% of the prison population attended education classes. This figure is based on weekly returns from the education units in each prison and excludes normal school holidays, when a reduced service is available. In the same period an average of 20% of the prison population attended workshop sessions each day. This understates workshop participation somewhat since the prisoners attending morning and afternoon sessions may vary.

Participation rates vary with factors such as facilities, availability of alternative activities, population turnover and segregation.

Every effort is made to keep workshops open. Where it is necessary to re-assign certain staff members to frontline areas for security and operational reasons this is done on a rotational basis to ensure minimum disruption.

Possibilities to lengthen the hours during which constructive activity is available are being examined in the context of the Croke Park agreement. Possibilities include earlier starting and later finishing times as well as evening and weekend availability.

### **Recommendation**

**The CPT recommends that the Irish authorities strive to develop the prison regimes at Cork and Mountjoy Prisons by offering a broader range of purposeful activities and to increase at Midlands Prison the number of prisoners engaged in such activities (paragraph 51); additional efforts to be made to provide female inmates at Limerick Prison with a range of diverse and meaningful activities (paragraph 51).**

### **Response**

The Irish authorities advise that the provision of additional purposeful activities in Mountjoy and Cork Prisons is curtailed by the physical restrictions of their sites. This will be addressed by the Prison Service capital programme referenced earlier.

Proposals have been made - in the context of the Midlands extension - to develop new workshops to include Industrial Cleaning, Industrial Skills, PC/TV maintenance, Training Kitchen, Building Skills, and Garden Equipment/Cycle Repair. Subject to the provision of the necessary resources, it is envisaged

that over 90 additional workshop places will be made available for Midlands prisoners.

The Irish authorities acknowledge that curtailment of activities due to inadequate availability of escort staff occurs from time to time due to staff absences and/or the need to re-assign certain staff to other posts for operational reasons. As mentioned above (paragraph 50) possibilities to lengthen the hours during which constructive activity is available are being examined in the context of the Croke Park agreement.

It is regretted that it is not feasible to develop additional vocational training workshops in Cork due to spatial restrictions. However, in terms of new regimes initiatives, Cork is one of the sites selected to roll out the multi-disciplinary soft skills initiative during the current academic year. An agreed suite of interpersonal skills courses with FETAC accreditation will be delivered on a group basis during the year.

In Limerick Prison, every effort is being made to increase the amount of access the female prisoners have to the recently constructed, purpose-built education block. Efforts are also continuing to encourage these prisoners to participate in the activities offered.

Activities available to women prisoners in Limerick have recently been expanded. Current activities include kitchen work and cleaning, art/ceramics, crafts, home economics, computers and gym. The art/ceramics room in the women's area doubles as a recreation room and the women have access to their own exercise yard. They can also now attend Mass and the tuck shop on a Sunday morning in the main prison.

Two new work/training areas are due to become operational in the near future as part of the refurbishment and expansion of cell accommodation and, as already stated, every effort is being made to increase access to workshops in the main prison.

In relation to Mountjoy as stated earlier the construction of the new prison campus at Thornton is the only viable long term solution to the problems identified by the Committee and will ultimately resolve these issues. However, in the interim, the Irish Prison Service has stepped up its efforts to improve the situation, in so far as is possible.

In developing the revised master plan for the new prison campus development at Thornton Hall, County Dublin, the Irish Prison Service will be taking into consideration reports from the Inspector of Prisons, the CPT and international best practice in relation to prison design and the need to provide purposeful regime activity for prisoners.

There are currently 16 vacancies out of a total work training staff complement of 50. New computer, building skills and industrial cleaning workshops were developed in Mountjoy during 2009. The new multi-disciplinary soft skills initiative was successfully piloted in Mountjoy during the last academic year,

whereby an agreed suite of interpersonal skills courses with FETAC accreditation are delivered on a group basis during the year.

The work and training figures for the first 3 quarters of 2010 are below. The table outlines the percentage of the prison population which attended workshop sessions each day.

	average % of prison population attending workshops per session
Quarter 1	17.9%
Quarter 2	16.7%
Quarter 3	16.5%

The most recent full year statistics available for the education area in Mountjoy are for 2009. Over the course of 2009, an average of 18.9% of the prison population attended education classes. This figure is based on weekly returns from the education unit and excludes normal school holidays, when a reduced service is available.

New shelters for the exercise yards are being installed.

### **Request for information**

**The CPT requests information on the work and vocational opportunities currently available to prisoners in C Block of Portlaoise Prison and the numbers of prisoners engaged in such activities (paragraph 51).**

### **Response**

A laundry and an industrial cleaning workshop are currently operating in the C Block of Portlaoise Prison. In addition a number of other workshops are planned including a computer workshop, a print workshop, an industrial skills workshop and a training kitchen. It is anticipated that these workshops will become operational once the required staff are assigned following the ongoing Assistant Industrial Supervisor (AIS) competition.

### **Recommendation**

**The CPT recommends that the Irish authorities take appropriate measures to provide young offenders at St Patrick's Institution with a full regime of activities (particularly as regards educational and vocational training) and other rehabilitative services, and to actively encourage their participation in these activities (paragraph 52).**

### **Response**

The Irish authorities advise that the regime in operation in St. Patrick's Institution has been reviewed and new rosters for the provision of education, work/training and other activities have been introduced to ensure that all inmates have the highest level of access to the services available.



Education is the main activity in the special school (B Division). Prisoners are interviewed the day after committal and steered to education. A flexible curriculum has been developed to take account of their needs and abilities, with an emphasis on literacy and more practical, less academic work. Whilst education is not compulsory a high level of engagement is achieved through persuasion, adaptation to need and flexibility. A wide range of subjects are taught in the school, including art, literacy, PE, woodwork, craftwork, computer skills, English, maths, CSP, history and drama. In addition, the computer workshop is being made available to under 18 year olds on a scheduled basis.

In addition, management in the Prison has held meetings with a number of outside organisations to introduce a more varied set of programmes to include life skills programme, drama, therapy programme, personal hygiene and sexual health programmes. These will come on stream over the next few months and will be run in conjunction with existing programmes

A resource room in the new school will also be opening and it is intended to bring in voluntary adult learning people to facilitate this along with library staff and "B" division staff.

### **Recommendation**

**The CPT recommends that a sentence plan to 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 (paragraph 53).**

### **Request for information**

**The CPT requests information on whether the Integrated Sentence Management system will be extended to all prisons in 2011, as foreseen (paragraph 53).**

### **Response**

Integrated Sentence Management (ISM) is being rolled out progressively and is now in place in ten prisons for new committals serving sentences of one year and upwards. It is intended to roll out ISM to the remaining four institutions before the end of 2010. The formal ISM system is being introduced for all newly committed prisoners from various start-up dates. The existing system of sentence and pre-release planning, centred on bilateral contact with services and multi-disciplinary reviews, continues to operate for prisoners already in custody on those dates. The scope for incorporating such prisoners serving life or lengthy sentences in the formal ISM system will be kept under review but the priority, with limited resources, is to ensure its establishment on a sound footing for new committals.

### **c. Prisoners on Protection**

#### **Comment**

**The CPT recognises that it may, at times, be necessary to remove prisoners from the general prison population and place them in separate accommodation for their own protection ...(paragraph 54).**

#### **Response**

See response to paragraph 33 above.

#### **Request for information**

**The CPT request information on the number of prisoners held in the dedicated unit for prisoners on protection in the basement of B Wing at Mountjoy Prison and the regime in place (including the opportunity for purposeful out-of-cell activities) (paragraph 55).**

#### **Response**

The renovated Separation Unit was opened in March, 2010 and houses 54 protection prisoners. The Unit is comprised of 6 single cells and 24 double cells, all with in-cell sanitation. There are three exercise yards, a gymnasium and library and the Unit has its own surgery. This building has good natural lighting.

It was not possible to convert the B Base into a committal area because of the continued high number of protection prisoners in Mountjoy Prison. The area in question continues to operate in order to provide accommodation to protection prisoners who would not be safe in other areas of the prison. Plans are underway to provide a committal area in the C Base area of the prison and work is expected to start in early 2011.

#### **Comment**

**At Portlaoise Prison, the fifth unit of A Block accommodated up to eight prisoners....(paragraph 56).**

#### **Response**

The A Block in Portlaoise Prison is a segregation unit that is used to house prisoners who for operational reasons cannot be housed with the general prisoner population.

### **Comment**

**At St. Patrick's Institution, 41 inmates were being held on protection, 27 on C3 and 14 in the basement unit of C Block (paragraph 56).**

### **Response**

The Irish authorities advise that the regime for prisoners on C3 has been reviewed and they now have access to education 5 days a week and the periods of exercise have been extended; their out of cell time has also been extended, with the factions being reviewed on a daily basis in order to reduce the groupings to ensure the maximum out of cell time.

### **Comment**

**The CPT recognises that a primary duty of the prison authorities is to prevent harm coming to the prisoners under their ward, and that the need to take protective measures in favour of certain inmates may inevitably have negative repercussions on the activities they can be offered (paragraph 57).**

### **Recommendation**

**The CPT recommends that the Irish authorities to take appropriate steps to provide prisoners placed on protection for more than a short period with purposeful activities and proper support from the health-care service (paragraph 57).**

### **Response**

The Irish authorities refer to the response to paragraph 33 above.

## **5. Health-care services**

### **a. staff and facilities**

### **Comment**

**A prison health-care service should be able to provide medical treatment and nursing care, as well as physiotherapy, rehabilitation, or any other necessary special facility, in conditions comparable to those enjoyed by patients in the outside community.....the findings of the 2010 visit illustrate that efforts made to improve the provision of health-care in Irish prisons .....have slowed (paragraph 58).**

**The CPT comment that the compiling of an annual report on the state of the medical services in the Irish Prison Service would be beneficial (paragraph 59).**

### **Comment**

**One particular concern of the delegation was the length of time it takes in an emergency for an ambulance to access Portlaoise Prison and transport E Block inmates to Portlaoise General Hospital (paragraph 62).**

### **Recommendation**

**The CPT recommends that the necessary procedures to be put in place to facilitate the timely emergency transfer to hospital of inmates in E block at Portlaoise Prison as required (paragraph 62).**

### **Comment**

**Regrettably, the delegation came across many cases of prisoners not receiving proper health care, particularly at Cork, Midlands and Mountjoy Prisons...(paragraph 63).... The CPT was pleased to note that nursing staff no longer came under the authority of a senior prison officer and that a nursing manager had been appointed in each prison to coordinate the work of nurses. However, in a number of the prisons visited the health-care service was not operating smoothly and relations between the nursing team and doctors were strained...(paragraph 64).**

### **Recommendations**

**The CPT recommend that the Irish authorities review the resources of the health care services in the prisons visited, particularly at Cork, Midlands and Mountjoy Prisons, in the light of the remarks in paragraph 64 (paragraph 64); and**

**that the time of attendance of the general practitioners at Cork, Mountjoy and Portlaoise Prisons and at St Patrick's Institution be increased and appropriate action taken to ensure that the two general practitioners at Midlands Prison effectively work there on a full-time basis. An accountable line-management and support system for general practitioners working in prisons should be put in place (paragraph 64).**

### **Response to paragraph 58 and paragraphs 62 to 64**

The Irish authorities note the CPT delegation's comments at paragraph 58 that the compilation of an annual report on medical services in the Irish Prison Service would be beneficial. In response the Irish authorities refer to the fact that the annual report of the Irish Prison Service (IPS) dedicates a specific chapter to healthcare services which seeks to give a comprehensive overview of healthcare provision in the prison system. 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.

The IPS Healthcare Directorate has endeavoured to improve the provision of healthcare in all Irish Prisons in order to meet this objective of equivalence of care through a number of recent initiatives including, inter alia, the introduction of nurse managers and of nurse led initiatives such as health screening, diabetic and vaccination clinics, the further development of in-reach services including addiction counselling services, the provision of a professional pharmaceutical service, the establishment of clinical multi disciplinary teams and providing enhanced throughcare processes back to community services.

As CPT invoked Article 8, Paragraph 5 of the Convention and recommended that action be taken to review the treatment of all prisoners at Cork, Midlands and Mountjoy Prisons receiving medication (with priority given to those inmates receiving methadone) and, thereafter, to assess the health-care needs of all other prisoners, the IPS commissioned a number of independent reviews at the above mentioned prisons. These include a review of primary care at Midlands, Cork and Mountjoy Prisons, a review of prescribing practice at Midlands Prison and a review of drug treatment services at Midlands, Cork and Mountjoy Prisons. It is expected that all reports will be finalised very shortly. The IPS will consider all findings and seek to implement those findings on a priority basis by way of an action plan and subject to the procurement of the necessary resources that may be required.

With regard to the recommendation in relation to the attendance arrangements of the general practitioners at Cork and, Mountjoy (paragraph 64) , the IPS have been engaging with the Irish Medical Organisation on a number of issues of which non compliance with contracted hours by certain doctors has been paramount. The IPS has engaged with a number of individual doctors in the context of a disciplinary process specifically for the non performance of their contract. The issue of non compliance with the prison doctors' contract of service was referred to the Labour Relations Commission in September 2010 without any resolution; the matter has now been referred to the Labour Court. The IPS position in this matter is resolute and continued non compliance with hours of attendance by prison doctors will not be accepted. The IPS expects to be further informed by the findings of the primary care reviews at Cork and Mountjoy in relation to attendance patterns by the prison doctors.

With regard to the current resourcing of prison doctors the IPS are conscious that in the context of the increase in prisoner numbers in certain institutions there is a requirement to review current provision. It is anticipated that the reviews referred to above will provide further guidance on medical resources and recommendations will be examined having regard to existing financial constraints and the moratorium on recruitment.

The prison doctor in Cork has been absent on long term sick leave for some time and it has been necessary to engage locum doctors. The IPS has provided a replacement locum doctor on a consistent basis to Cork.

Two doctors currently provide 29 hours of primary care in Portlaoise prison. Structured afternoon GP clinics have been introduced to the Midlands Prison for the purpose of detailed patient review, follow up and screening programmes.

The IPS is committed to improving the synergy between nursing and different medical specialities for the enhancement of healthcare delivery to prisoners. A clinical governance framework is being developed to facilitate an accountable line management support system for general practitioners working in prisons. The framework will inform all involved in managing the healthcare of prisoners along with the structures for communicating and reporting. Issues such as patient care, risk management processes and clinical audit will be addressed.

With regard to Child and Adolescent Mental Health service provision for children detained in St. Patrick's Institution the IPS are awaiting a proposal on the development of a multidisciplinary team from the Health Service Executive.

### **Recommendation**

**The CPT recommends that the principle of medical confidentiality be respected, taking due account of the remarks in paragraph 65 (paragraph 65).**

### **Comment**

**The CPT invites the Irish authorities to establish secure rooms in the hospitals to which prisoners are routinely sent (paragraph 66).**

### **Response**

The Irish authorities advise that it is the policy of the IPS that privacy and confidentiality is maintained during clinical consultations as it would be in the community. The Irish Medical Council, An Bord Altrains and the Pharmaceutical Society of Ireland highlight the fact that medical confidentiality is a time honoured principle of professional healthcare ethics. This principle is instilled with the healthcare provision offered by the Irish Prison Service through the Healthcare Standards 2007. One of the principles of this policy is that clinical interviews and examinations should be conducted privately.

In relation to confidentiality of new committal/transfer assessments; Mountjoy Prison has augmented its facilities in the reception area to ensure compliance with the administrative policy on confidentiality. In the prisons where the reception area does not have adequate facilities to ensure confidentiality, arrangements have been made to carry out committal assessments in the consultation room in the surgery. At Cork Prison the proposed new healthcare facility will ensure that the principle of medical confidentiality is respected.

With regard to external medical consultations, the IPS recognises the principle of privacy and confidentiality. However, 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 achieved. Where it is considered that a prisoner poses a potential risk to medical/healthcare staff or a flight risk, those risks are managed in line with standard operating procedures.

In relation to the CPT's comments at paragraph 66 following on from work initially commenced under the Prisoner Healthcare Working Forum, which saw collaboration between the Health Service Executive and acute hospitals to better manage safe effective quality healthcare inputs for prisoners, a secure room has been provided at Portlaoise Hospital. The IPS is in communication with the Health Service Executive seeking similar provision in other specific acute hospitals.

### **Comment**

**The CPT's delegation noted that the quality of the medical records remained in too many instances inadequate .... there is no single comprehensive medical record for prisoners as some data is held electronically, and other information is held within the prisoner's paper medical file, while many hospital records and test results appear to be simply ignored for the purposes of medical records (paragraph 67).**

### **Recommendation**

**The CPT recommends that in order for a single comprehensive health-care record to be maintained, steps be taken to ensure that all relevant medical information pertaining to a prisoner is incorporated within the prisoner medical record system (PMRS), and that paper copies of a prisoner's hospital records and test results are scanned into PMRS. In addition, PMRS should include the functionality to generate a report on all injuries(paragraph 67); and**

**The CPT further recommends that doctors be reminded of the importance of recording their findings following a consultation with a patient (paragraph 67).**

### **Response**

The Irish authorities advise that the Prisoner Healthcare Management System (PHMS) was launched on 31<sup>st</sup> May 2010 and replaced PMRS. It provides for a complete and traceable medical record system. PHMS contains tabs for the documentation of injuries, self harm, accident & injuries and any other incidents. PHMS has the capacity for the generation of templates for care planning, medical examination and recording of external communications. The recording of external communications is to be addressed by the introduction of scanning. A scanning system is currently being piloted and if successful, will be rolled out during 2011. Subsequent to the CPT visit, the

Director General informed all prison doctors of the critical importance of recording their findings following a consultation and that the standard of medical notation must be clear, comprehensive and outline the treatment and follow up care for each patient.

#### **b. medical examination on admission and recording of injuries**

##### **Recommendation**

**The CPT recommends that the necessary steps be taken to ensure that all prisoners admitted to prison (whether as new committals or transfers) are subject to a comprehensive medical examination by a medical doctor (or a fully qualified nurse reporting to a doctor) as soon as possible after their admission (paragraph 68).**

##### **Response**

Standard Operating Procedures (SOP) are in place to ensure all committals undergo healthcare screening as outlined in Healthcare Standard No. 1. There is a continued effort to ensure these proceed in line with the standard and a continuous audit of practice is being implemented. All Nurse Managers have been instructed to randomly review 10% of all committals on a weekly basis to ensure compliance.

The Director General of the Irish Prison Service (IPS) also reiterated to all prison doctors the critical importance of timely and comprehensive committal assessments as a core element of good clinical practice and in line with the provisions of the Healthcare Standards and the Prison Rules.

##### **Recommendation**

**The CPT recommend that the 2009 health-care standards relating to screening upon admission be systematically applied in all prisons (paragraph 69).**

##### **Response**

Committal screening for ill health and risk factors takes place in all prisons uniformly using the tool on the Prisoner Healthcare Management System (PHMS). Increased access to viral screening is a strategic aim of the Healthcare Directorate. To this end all Nurses in the IPS have been trained in Phlebotomy and a core group have had training in pre test discussion techniques. The GUIDE services in Ireland no longer recommend pre test counselling prior to testing. Professor Fiona Mulcahy & Dr. Fiona Lyons who are leading STI consultants at St. James' Hospital advise the IPS on international best practice on such matters.



The initial health screen is used as an opportunity to offer advice on Hepatitis vaccination, sexually transmitted diseases, infectious diseases and carrying out of a mental health assessment all of which can be used in devising a care plan.

All known HIV patients are appropriately referred to specialist services and community links are established prior to discharge to ensure appropriate care pathways in the transition from prison to community. A consultant led Hepatitis C Service in collaboration with St. James's Hospital is being piloted in Mountjoy and Wheatfield Prisons since 1 September 2010.

### **Comment**

**The CPT remains concerned that injuries upon arrival as well as those sustained in prison were often not correctly recorded, or even recorded at all in the prisons visited (paragraph 70).**

### **Recommendations**

**The CPT recommend that steps be taken to ensure that the record in PMRS drawn up following a medical examination of a newly admitted prisoner contains:**

- **an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment);**
- **an account of objective medical findings based on a thorough examination; and**
- **the doctor's conclusions in the light of i) and ii) (paragraph 71).**

**The CPT also recommends that the result of the medical examination referred to in paragraph 71 be made available to the prisoner concerned (paragraph 71).**

### **Response**

It is Irish Prison Service (IPS) healthcare policy that all clinical interventions be recorded on the Prisoner Healthcare Management System (PHMS). The PHMS is now in operation in all prisons and places of detention and in the main all clinical involvement or interaction with patients is being recorded. The move from a paper based medical record system to the electronic (PHMS) system has led to an improvement in the overall standard of recording.

In line with good medical practice, the Healthcare Standards (1.1.7,1.3.5,4.2.2) advise that 'any necessary or appropriate physical examination' be undertaken by the doctor at the time of initial reception on committal or transfer. Significant improvements have taken place to the Nursing Committal assessment process and it is intended that further system enhancements will incorporate an evidenced documentary structure for medical examination.

### **c. drug-related issues**

**The CPT's delegation observed that drug misuse remains a major challenge in all the prisons visited.....the CPT recognises that providing support to persons who have drug-related problems is far from straightforward, particularly in a prison setting ..(paragraph 72).**

**Since the CPT's 2006 visit further investment has been made... notably through initiatives such as the provision of detoxification, methadone maintenance, education programmes, addiction counselling and drug therapy programmes .....(paragraph 73).**

#### **Recommendation**

**The CPT recommends that all necessary steps be taken to ensure the implementation of the various elements of the drug strategy programme throughout the prison system (paragraph 73).**

#### **Request for information**

**The CPT requests information on the steps being taken to set up drug-free units (paragraph 73).**

#### **Response**

The Irish authorities advise that one of the aims of the Irish Prison Service Drugs policy is to provide prisoners with a range of opportunities which encourage them to adopt a drug free lifestyle, before and after release, thereby reducing demand for drugs. This is achieved by supporting care initiatives for prisoners that address social, physical and psychological consequences of drug misuse, within prison and following release into the community and by providing health promotion and life style change information and material to prisoners.

With the number of prisoners requiring drug treatment services, the IPS endeavours to provide a comprehensive range of such services in closed prisons. Drug treatment programmes for prisoners can involve a significant multidimensional input by a diverse range of general and specialist services provided both by the Irish Prison Service and visiting statutory and non-statutory organisations. Prisoners who on committal are engaged in a methadone substitution programme in the community will, in the main, have their methadone substitution treatment continued while in custody. Methadone substitution treatment is available in 8 of the 14 prisons (accommodating over 75% of the prison population). The IPS is seeking to continue to enhance and expand specialist treatment at all prisons where demand is high for drug treatment services. On completion of the new healthcare facility in Cork Prison it is intended to enhance the drug treatment service there. Discussions have taken place with the Health Service Executive in that area with a view to working in collaboration for the provision of specialist treatment.

In 2009 the Addiction Counselling Service provided in excess of 1500 contacts in prisons each month. MQI Addiction Counselling Service engaged with a total of 1196 prisoners over the course of the year. This service has been successful in attracting new entrants into treatment, 57% of clients had never before been engaged in treatment.

The Medical Unit in Mountjoy Prison has 9 places specifically allocated for the therapeutic drug free programme. The programme is 6 weeks in duration; the model used is a collaborative one using prison based staff and the community/voluntary sector. Its aim is to assist prisoners in achieving a drug free status.

There are currently drug free units in Wheatfield Prison, St. Patrick's Institution, Castlereagh Prison and Mountjoy Prison. Inmates who wish to remain substance free may apply for transfer to these units. If they are considered suitable, they will be required to sign a contract to remain substance free.

Allied to this the Training Unit, Arbour Hill, Loughan House and Shelton Abbey are regarded as drug-free institutions and provide a closely monitored setting in which prisoners who do not have a background of drug abuse and those who have demonstrated the desire to stop taking drugs are detained in a drug-free and secure environment. The IPS are examining proposals to further develop step down options for patients engaged in addiction programmes which will support continued stability and reduce risk.

### **Recommendation**

**The CPT recommends that (a) all prisoners admitted while on a methadone maintenance programme in the community be able to continue such maintenance within prison as part of a comprehensive drug treatment programme; and**

**(b) prisoners undergoing drug withdrawal be provided with the necessary support to alleviate their suffering and not be placed in a cell without integral sanitation (paragraph 75).**

### **Response**

It is a strategic aim of the IPS to provide appropriate medical interventions to all prisoners undergoing drug withdrawal. Prisoners who on committal are engaged in a methadone substitution programme in the community will have their methadone substitution treatment continued while in custody. As stated earlier methadone substitution treatment is available in 8 of the 14 prisons (accommodating over 75% of the prison population). No patient admitted to Mountjoy Prison is detoxed or reduced on their medications unless clinically indicated.

Methadone can be prescribed as part of different types of drug treatment programmes from low dose /low threshold /harm reduction to high threshold

programmes with access to intense psychosocial support. Both models exist in the IPS services. Both models have a place in the continuum of drug use and drug treatment and are supported by a large amount of international literature.

At Mountjoy the IPS policy of symptomatic detox is implemented for patients who on committal have a history of opiate use which is confirmed by urinalysis. It is the opinion of the clinical specialist that a 21 day detox is humane and a safe regime. A 21 day detox allows a patient to be referred to the addiction team for a more comprehensive assessment and offered a range of treatment options including Methadone maintenance, further detox options, referral to a more intense programme, referral to an addiction counsellor. Each patient is seen and reviewed by a highly experienced addiction pharmacist on a daily basis, who in turn reports on a weekly basis to the addiction team any clinical concerns about patients. The addiction team comprises a specialist GP, a psychiatrist, an addiction counsellor, a pharmacist and addiction nurses in addition to a senior nurse management representative.

With reference to the level of the care received by one particular patient (paragraph 78), the Irish authorities advise that the patient was maintained on Methadone maintenance treatment and had interacted regularly with the clinical addiction team. He will be linked with his community clinic on release.

While all new prison builds include provision for in cell sanitation there unfortunately remains sections of the prison estate that do not have this facility. However, this is currently being addressed by the ongoing capital programme. Where specific healthcare needs are demonstrated every effort is made to place prisoners in appropriate accommodation.

### **Recommendation**

**The CPT recommends that steps be taken to remedy the deficiencies related to the prescription of methadone described in paragraph 76 (paragraph 76).**

### **Response**

With reference to alteration of Methadone dosage without reference to the prescriber; Pharmacists now administer Methadone in Midlands, Portlaoise and Mountjoy Prisons. Previously dose alteration was covered by a protocol which provided for sign off by the prescriber with a maximum dose alteration of 10mg.

A GP with special interest in addiction was assigned to the Midlands Prison on 1 February 2010. This GP is supported by a peer group consisting of a Consultant Addiction Psychiatrist and a GP specialising in Addiction.

At Cork Prison discussions are at an advanced level with the Health Service Executive for the provision of drug treatment services which will be linked with community services. This is contingent on the major refurbishment of facilities to incorporate such services. The expected date of completion for the new healthcare facility at Cork Prison is the first quarter of 2011.

#### **Comment**

**The CPT trusts that in the context of the review of medication being prescribed to individual prisoners in Cork, Midlands and Mountjoy Prisons, including the inmates referred to in paragraphs 74 and 78, the dose of methadone will be considered as an integral part of the review (paragraph 77).**

#### **Request for information**

**The CPT requests copies of the reports on the review of Primary Care Practice in Cork, Midlands and Mountjoy Prisons and of drug treatment services in Cork, Midlands and Mountjoy Prisons (paragraph 77).**

#### **Response**

A copy of the reports will be provided to the CPT when finalised.

#### **Recommendation**

**The CPT recommend the prescribing of psychotropic drugs at Midlands Prison be reviewed (paragraph 78).**

#### **Response**

An independent review by a pharmacist has been undertaken at the Midlands Prison which encompassed the prescribing of psychotropic drugs. Consideration is currently being given to the recommendations made with a view to implementing them subject to resources. Furthermore, the Irish Prison Service is in the process of drafting a national protocol regarding the prescribing of sedatives, anti-depressants and anti-psychotics.

#### **d. use of special observation cells**

#### **Comment**

**The review of the use of special observation cells is an opportunity to clearly identify the purpose of these cells and to ensure that there are clear operating procedures governing the placement of inmates in them (paragraph 83)**

### **Request for information**

**The CPT requests a copy of the report on the review of the use of special observation cells and information on any measures taken in the light of that report (paragraph 83).**

### **Response**

The Irish authorities recently published the report received from the Inspector of Prisons entitled "Report of an Investigation on the use of 'Special Cells' in Irish Prisons and a copy has been forwarded to the CPT as requested.

The report gives the Irish authorities very valuable guidance on the use to be made of such cells as well as suggesting changes to the Prison Rules of 2007. The Department of Justice and Law Reform in conjunction with the Director General of the Irish Prison Service is working on (a) implementing the recommendations contained in the Inspector's report and (b) drafting suitable amendments to the Prison Rules, 2007 in light of the experience of operating the rules to date and issues raised in this and other reports from the Inspector of Prisons to provide for greater clarity to certain rules.

### **e. psychiatric care in prison**

### **Request for information**

**The CPT requests information on the conclusions of the inquiry into the death of a prisoner at Cork Prison on 24 January 2010, in particular as regards the care afforded to this person while in custody (paragraph 86).**

### **Response**

The CPT will be advised of the outcome in due course.

### **Recommendation**

**The CPT recommends that the Irish authorities take all necessary steps to further enhance the level of care available to prisoners suffering from a psychiatric disorder (paragraph 87).**

### **Response**

The need to enhance psychiatric services for prisoners is accepted. *A Vision for Change* – the Government's mental health policy recommends that mental health services provided in the prison context should be person-centred, recovery oriented and based on evolved and integrated care plans. Such services will be developed over the ten year timeframe for the implementation of the policy and as resources allow.

The National Forensic Mental Health Services based in the Central Mental Hospital (CMH) provides 20 Consultant led inreach sessions to prisons in the Dublin and Portlaoise/Midlands Prisons. The Health Service Executive and private psychiatrists are engaged to provide psychiatric services in other closed prisons. The capacity at the CMH to facilitate the admission of acutely mentally ill prisoners was increased in early 2009. This has been of considerable assistance to prison management and healthcare staff in ensuring appropriate treatment for prisoners. The IPS are engaging with the Health Service Executive with a view to procuring access to community services on a regional basis where such services could meet the needs of some prisoners presenting with mental health issues.

The Criminal Law Insanity (Amendment) Bill 2010, when passed, may significantly improve access to beds in the Central Mental Hospital (CMH) for prisoners/patients suffering from an acute mental illness. The Bill is expected to be enacted before the end of 2010. The main import of the Bill would be to allow the Mental Health (Criminal Law) Review Board to conditionally discharge patients (currently placed in the CMH). It is envisaged that such discharges will, in the main, be to community forensic settings which would offer a safe transition for patients from the CMH to a structured facility in the community. The impact of this legislation has the potential to create significant additional capacity in the CMH.

Support is given to the use of the diversion system to divert mentally ill people from the Criminal Justice System. The 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.

During 2009 the number of patients diverted to community mental health facilities continued to increase. In 2007, 72 patients were diverted to more appropriate community settings, in 2008 this figure increased to 91. During 2009, 103 patients were diverted (62 to community health facilities, 41 to general psychiatric hospitals.)

### **Recommendation**

**The CPT recommends that the Irish authorities take the necessary steps to enhance the availability of beds in psychiatric care facilities for acutely mentally ill prisoners (paragraph 88).**

### **Response**

The development of the new National Forensic Mental Health facility, which will replace the Central Mental Hospital in Dundrum, will greatly improve access to appropriate inpatient care for prisoners with significant mental health needs. In line with *A Vision for Change* recommendations, the new facility will comprise a 120 bed National Forensic Hospital with associated community based supports, a 10 bedded Forensic Mental Health Child and Adolescent Unit and a 10 bedded Forensic Mental Health Unit for persons

with an intellectual disability. The National Forensic Project Group is actively advancing this project.

Attention is also drawn to the Prison In-Reach and Court Liaison Service which actively seeks to divert persons with a mental illness from the criminal justice system to appropriate community based, in-patient and out patient psychiatric services.

This response should be read in conjunction with paragraph 87 above.

### **Request for information**

**The CPT requests detailed information about the High Support Unit for prisoners with a mental illness at Mountjoy Prison, including staffing and regime (paragraph 89).**

### **Response**

The Irish authorities wish to advise that this Unit opened in early December, 2010.

## **6. Other issues**

### **a. reception and first night procedures and information to prisoners**

**The CPT recommends 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 (paragraph 90).**

### **Response**

The Irish authorities are pleased to advise that the Irish Prison Service has undertaken to introduce an admission/induction policy across the prison estate. This will be rolled out during 2011.

### **Request for information**

**The CPT requests information on the current use of the basement of B Block at Mountjoy Prison (paragraph 90).**

### **Response**

The Irish authorities wish to advise that a dedicated committal area is to be provided in the C Base area of the prison and work is expected to start in the near future. It was not possible to convert the B Base into a committal area because of the continued high number of protection prisoners in Mountjoy Prison. The B Basement is currently housing protection prisoners and will continue to do so for the immediate future.



## **Recommendation**

**The CPT recommends that all newly-admitted prisoners be supplied 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 by the prison administration and in the form of a brochure systematically given to prisoners on their arrival and available in an appropriate range of languages. Copies of the Prison Act 2007 and the Prison Rules 2007 should also be readily available for consultation by prisoners (paragraph 91).**

## **Response**

The Irish Prison Service acknowledges that there were some inaccuracies in the information booklets provided to prisoners. The Irish Prison Service has commenced the drafting of two new information booklets consisting of:

- A Prisoner Information Booklet which will be a standardised document in relation to common rules, regulations and procedures across prisons. This document will also be capable of being tailored to suit individual prisons in relation to matters such as regimes and services.
- A Visitor Information booklet for prisoners friends and family which will include general information regarding visiting a prison such as time of visits, contact details for booking visits and information of the security procedures for entering prisons.

These documents will be published in 2011 and will be given to prisoners on committal. They will be available in a range of languages in prisons and on the Irish Prison Service Website.

## **b. discipline**

### **Recommendation**

**The CPT recommends that the Irish authorities take the necessary steps to ensure that the application of Article 13.1(d) of the Prisons Act 2007 ceases to result in prisoners being held in conditions akin to solitary confinement for prolonged periods;**

**Further, contacts between a prisoner and his/her relatives should under no circumstances be totally withdrawn (paragraph 93).**

### **Response**

The Irish authorities advise that prisoners are generally placed in segregation for disciplinary reasons. The periods of confinement are up to 56 days depending on the seriousness of the breach of prison discipline. The prisoners are transferred on foot of serious offences such as serious assaults

on prison staff or other prisoners, escape or attempted escape or causing serious disruption in the prison.

Prisoners confined to the area are dealt with in accordance with the Prison Rules and have access to outdoor recreation, to education and library material, and to a gymnasium. They also have normal access to the Probation Service staff, chaplains, medical and dental services, and doctor and psychologist. All the prisoners are treated as special observation prisoners. A Governor grade visits any prisoner in the D Unit, Cork Prison on request during the Governor's daily parade.

The Irish authorities agree with the desirability of prisoners maintaining maximum contact with their families but they are unwilling to accept that forfeiture of visits can never form part of the disciplinary process.

### **Recommendation**

**The CPT recommends that the Irish authorities draw up guidelines for the imposition of disciplinary punishments and care be taken to ensure the procedural requirements of Prison Rule 67 are diligently applied (paragraph 94).**

### **Response**

The Irish Prison Service notes the recommendation of the CPT and commits to introducing guidelines to address the issues raised.

### **Recommendations**

**The CPT recommends that (a) prisoners be made explicitly aware of their rights to petition against a sanction to the Minister of Justice and, in the case of forfeiture of remission of their sentence, to address the Appeals Tribunal, including the possibility to seek legal advice and legal aid; (b) an expeditious procedure for the determination of appeals be put in place in those cases where a punishment is already being served; and (c) prisoners receive a written receipt acknowledging the transmission of an appeal (paragraph 95).**

### **Response**

The procedures in question are under review. This Information will be included in the Prisoner Information Booklet mentioned in Paragraph 91.

### **Comment**

**At Cork Prison, D Block ....inmates complained generally about the lack of detergent provided to clean the toilets.... In terms of regime, prisoners were in theory deprived of all privileges (family visits, letters, work, smoking, recreation, radio, television and newspapers) throughout their time in D Unit (paragraph 96).**

### **Response**

This unit is used to accommodate some of the most disruptive prisoners in the system. Cleaning products are available and prisoners are expected to keep their cells clean. Each prisoner in the D Unit receives between 2 to 4 hours exercise in the yard daily, no prisoner exercises on their own. It is accepted that a suitably qualified officer was not available at all times in the gym.

### **Comment**

**At Portlaoise Prison, four of the five units of A Block are used for accommodating prisoners undergoing a disciplinary punishment..... Again, no contacts with family were permitted although a couple of prisoners stated that they had received a letter a few days prior to the delegation's visit ..... The CPT considers that all prisoners undergoing a disciplinary punishment should be offered a minimum of one hour of outdoor exercise every day.....(paragraph 96).**

### **Response**

Prisoners are permitted to write and receive letters on a daily basis. Prisoners may request a phone call from the Governor on his daily rounds. Every prisoner in the A-Block is afforded the opportunity to avail of one hour out doors recreation daily.

### **Recommendations**

**The CPT recommends that the Irish authorities (a) review the operation of the segregation units at Cork, Midlands and Portlaoise Prisons, in the light of the remarks in paragraph 96 (paragraph 97); (b) take immediate steps to ensure that all inmates accommodated in the segregation unit at Portlaoise Prison are offered at least one hour of outdoor exercise every day (paragraph 97); and (c) take steps to address the deficiencies observed as regards the material conditions in D Unit of Cork Prison (paragraph 97).**

### **Response**

The Irish Prison Service is introducing a standard regime across all segregation units. It is expected that this will be in place early in 2011.

### **c. contact with the outside world**

#### **Recommendation**

**The CPT recommends that the Irish authorities review arrangements for visits, with a view to:**

- **increasing the amount of visiting time offered, preferably to at least one hour every week;**
- **ensuring that prisoners and their families can conduct visits with a degree of dignity and respect of privacy (i.e. with appropriate seating arrangements and in an environment which does not require raised voices for communication);**
- **discontinuing the general ban on physical contact between a prisoner and his family; any prohibition of such contact in a particular case should be based upon an individual risk assessment; and**
- **introducing the possibility for accumulated visits (paragraph 100).**

#### **Response**

The Irish authorities advise that visiting arrangements vary according to the type of institution. Rules 35 and 36 of the Prison Rules, 2007 provide the basis for visiting arrangements. Under these rules a sentenced prisoner over 18 years of age is entitled to not less than one visit per week of 30 minutes duration. A sentenced prisoner under 18 years of age is entitled to not less than two visits per week of 30 minutes duration. A remand prisoner is entitled to a visit per day of 15 minutes duration six days a week, where practicable, but on not less than three days a week.

Additional or longer visits are frequently granted where circumstances permit at the Governor's discretion. In Cloverhill Prison, for example, the Governor surveyed prisoners in relation to visits with the result that remand and sentenced prisoners there enjoy four 30 minute visits per week.

The majority of visits are supervised in sight, but not in hearing, of prison staff to ensure good order and security and to prevent the passing of contraband. While there is a more relaxed regime in the open centres, the semi-open centre and the Dóchas Centre there is an officer patrolling the visiting areas and grounds at all times.

The visiting facilities in the open centres comprise of a large recreational room where prisoners and their visitor(s) can sit around tables or go for a walk in the grounds of the centre.

The Training Unit has separate rooms for prisoner visits. The Dóchas Centre has a large recreational room for visits and an outside playground for children.

Screened visits remove the pressure which previously may have been imposed on visitors and prisoners to take drugs into the prison on visits.

It is accepted that the visiting facilities in Cork Prison are unsuitable. However, as detailed earlier, this will be addressed by the Irish Prison Service capital programme.

One of the core values of the Irish Prison Service is to endeavour to help prisoners, where possible and appropriate, to maintain relationships with their families. Some institutions have visiting boxes or family rooms that 'trusted prisoners' can avail of for non-screened family visits. The 'family visit' system is incentive based and is very successful.

#### **Request for information**

**The CPT would like to receive the comments of the Irish authorities on the placement on a screened visit or refusal of a visit in respect of a prisoner whose visitor was found not to be carrying drugs after a search, triggered by the sniffer dog (paragraph 101).**

#### **Response**

The Irish Prison Service is satisfied that all staff involved in the screening process carry out their duties in a professional manner and in line with Standard Operational Procedures.

The safety and security of Irish prisons is of paramount concern to the Irish Prison Service. No internal searching of visitors takes place and accordingly, the Irish Prison Service does not intend to amend the policy with regard to screened visits.

#### **d. complaints and inspections**

##### **Recommendation**

**The CPT recommends that the Irish authorities review the current system of complaints, taking into account the remarks in paragraph 105 (paragraph 105).**

##### **Response**

The Irish authorities advise that the system of complaints is being reviewed in the light of the CPT's recommendation.

## **Comment**

**The CPT comments that it is essential that the necessary resources are allocated to the Inspector of Prisons (paragraph 106).**

## **Response**

The Irish Authorities will continue to support the Office of the Inspector of Prisons by way of funding and other resources within current economic constraints.

## **e. transport of prisoners**

### **Recommendation**

**The CPT recommends that the question of rest-stops during transfer journeys between prisons, notably Dublin and Cork, be reviewed (paragraph 107).**

### **Response**

The Irish Prison Service is not aware of any reports or complaints from prisoners or in relation to this matter. In normal circumstances arrangements are made if a prisoner needs to use toilet facilities, i.e., at the nearest Garda Station or Prison.

## **C. Psychiatric institutions**

### **1. Preliminary remarks**

#### **Comment**

**The CPT delegation indicate that the ongoing process of mental health care reform made some progress since the CPT's last visit in 2006; in particular, the 2001 Mental Health Act, including the Mental Health Act, 2001 (Approved Centres) Regulations 2006, has been fully implemented since November, 2006 (paragraph 113).**

#### **Request for information**

**The CPT would like to be kept informed about the plans to close St Ita's and St Brendan's Hospitals, as well as the arrangements made for patients currently accommodated in both hospitals (paragraph 110).**

## **Response**

Acute admissions to St Brendan's Hospital have now ceased following the opening of a new admission facility for North West Dublin Mental Health Services in Connolly Hospital, Blanchardstown, in September 2010. Construction on a 54 bedded unit to replace the current facilities for long stay patients at St. Brendan's Hospital is due to begin later this year. The new unit is due to be completed and open by early /mid 2012. The new building will provide patients with single bedroom ensuite accommodation, therapy and rehabilitation spaces, external courtyards and a light filled environment.

Plans for the transfer of acute in-patient admissions from St. Ita's Hospital to a new purpose built unit on the Beaumont Hospital campus are proceeding. A tendering process has been completed and the successful contractor has been notified. It is anticipated that construction works will commence in February 2011 with a completion date of approximately 18 months from commencement. An alternative location within the campus of St. Ita's has been identified which will provide temporary accommodation for all new and existing admissions pending the opening of the Beaumont unit. A schedule of works has been completed and work is due to start in mid-November 2010\* and be completed before the end of February 2011.

Three Old Age Psychiatry wards are scheduled to close and 25 patients will move to a community unit. It is also planned to discharge approx ten patients to suitable nursing home/long-stay facilities. A small number of patients, those near the end of life or those living in the hospital for many years, may be retained in Unit 8. It is also proposed to replace the Rehabilitation Wards, Willowbrook and Woodview

## **Recommendation**

**The CPT recommends that the Irish authorities decide on the future location for the Central Mental Hospital without further delay (paragraph 111).**

## **Response**

A site for the new hospital has now been identified; extensive site suitability assessments have been completed and preliminary discussions have taken place with the Planning Authority. A public announcement regarding the location will be made when the funding mechanism for the delivery of the hospital has been approved.

## **Request for information**

**The CPT would like to be informed about the schedule for implementation of the 'A Vision for Change' recommendations. In particular, the Committee wishes to be informed about the situation as**

**regards the Intensive Care Rehabilitation Units (ICRUs), including the time frame for their intended opening. Also, the Committee would like to receive information about the category of patients that may be placed in these Units as well as their legal status (paragraph 114).**

### **Response**

The National Forensic Mental Health Project Group's Terms of Reference include the development of a new Central Mental Hospital and the associated 10 bedded Forensic Mental Health Child and Adolescent Unit, 10 bedded Forensic Mental Health Unit for persons with an intellectual disability and the 4 regional 30 bedded ICRUs. Issues regarding the design, governance model, and appropriate legal status of the proposed ICRUs are actively under consideration but as yet no decisions have been taken in this regard. In these circumstances it is not possible to give a time frame for the delivery of the units. However, the Project Group, which is representative of the HSE, the Department of Health and Children and the National Treasury Management Agency, is working proactively to advance the project and to secure the necessary funding to advance these facilities.

### **Request for information**

**The CPT would like to receive the comments of the Irish authorities on the following issues:**

- **the appropriateness of accommodating patients with intellectual disabilities as primary diagnosis in a forensic psychiatric hospital;**
- **the appropriateness of referring persons who had not been the subject of an assessment certifying a psychiatric disorder to the CMH for treatment under the "not guilty by reason of insanity" verdict;**
- **the category of patients that are in need of being hospitalised in a high security setting, such as the CMH (paragraph 116).**

### **Response**

It is proposed to provide a 10 bed Forensic Mental Health Unit for people with intellectual disabilities and this will be co-located with the new Central Mental Hospital. This project is being advanced in accordance with the Terms of Reference of the National Forensic Mental Health Project Group (see also paragraph 114 above). In the meantime two specialist nurses have been appointed to provide appropriate programmes for those persons who are detained in the Central Mental Hospital with intellectual disability as their primary diagnosis.

It should be noted that section 5(1) of the Criminal Law (Insanity) Act, 2006 provides that a court or jury, as the case may be, must hear evidence relating to the mental condition of an accused person given by a consultant psychiatrist before it returns a verdict of not guilty by reason of insanity.



The Courts are, of course, independent in their functions and it would be inappropriate to comment on an individual court decision. However, there are remedies in Irish law which permit a decision of a lower court to be judicially reviewed by the High Court in certain circumstances.

### **Comment**

**The CPT observed that at present Irish legislation does not offer safeguards to patients voluntarily remaining in a psychiatric hospital. The CPT also noted that Section 16 of the 2001 Mental Health Act provides patients, in procedure to be involuntarily hospitalised, with an opportunity to accept to remain in the hospital as a voluntary patient. However, the CPT found that voluntary patients who have not expressly stated their wish to leave the hospital, may not have their status changed to involuntary whether they comply with the prescribed treatment or not.**

### **Request for information**

**The CPT would like to receive the comments of the Irish authorities on the remarks in paragraph 117 concerning "voluntary" patients (paragraph 117).**

### **Response**

The Mental Health Act 2001 is guided by the principle that the interests of *all* persons with mental disorders who are affected by decisions made under the Act, is paramount. The Act does not impose any obligations or restrictions on persons wishing to be admitted voluntarily to an approved centre. However, in certain circumstances, a person who has been admitted in a voluntary capacity (or having been admitted involuntarily, opts to become voluntary) may be detained against their wishes in accordance with the provisions set out in Section 23. If a consultant psychiatrist, registered medical practitioner or registered nurse on the staff of the centre, is of the opinion that a person wishing to leave is a person with a mental disorder, they may detain the person in the approved centre for a maximum period of 24 hours. In making any decision under Section 23, the best interests of the voluntary patient must be the principal consideration, with due regard being given to the interests of other persons who may be at risk of serious harm if the decision is not made. Regard must also be given to the need to respect the right of the patient to dignity, bodily integrity, privacy and autonomy. The principle to be adhered to is that the degree of medical or physical intervention used, must be the minimum necessary to preserve safety for all concerned. There is no right under Section 23 to give any treatment to the patient without consent; in the absence of the patient's consent, treatment can only be given under the common law.

Where a person is detained in this manner, Section 24 of the Act provides that the person must be examined by a consultant psychiatrist who must either discharge the person or arrange for an independent examination to be

undertaken by another consultant psychiatrist within the 24 hour period. If the second consultant psychiatrist is satisfied that the person is suffering from a mental disorder, an admission order for reception, detention and treatment is made, whereupon the person becomes an involuntary patient. The rights, provisions and procedures applying to persons admitted involuntarily are afforded to the patient, and the admission order admitting the patient involuntarily is subject to review by a mental health tribunal within 21 days.

## **2. Ill-treatment**

### **Comment**

**The CPT's delegation did not receive allegations of ill-treatment of patients by staff. On the contrary, in the institutions visited the delegation observed dedicated staff committed to provide care and treatment to patients, often under difficult conditions. However, at the hospitals of St. Brendan's and St. Ita's, there was a significant level of violence, both between patients and directed towards staff (paragraph 118).**

### **Recommendation**

**The CPT recommends that the Irish Authorities take the necessary steps to reduce violence among patients and by patients against staff in the St Ita's and St Brendan's Hospitals, in light of the remarks in paragraph 119 (paragraph 119).**

### **Response**

Violence among patients and by patients against staff is a multifaceted phenomenon. It is anticipated that additional investment in new and existing infrastructure will help to provide a more appropriate environment for patients and staff and will help to reduce current levels of violence. Notwithstanding current service constraints, every effort will be made to improve overall staff numbers and multidisciplinary skill-mix, including allied health professionals, in an effort to reduce current levels of violence.

A National Working Group on work-related aggression and violence co chaired by Senior HSE Management and Trade Union representatives, published its Strategy *'Linking Service and Safety'* in December 2008. The approach described in this document has succeeded in reducing incidents of work-related aggression and violence in a pilot within the Dublin North East region. The extension of the implementation of 'Linking Service and Safety' is a high organisational priority for the HSE and will be rolled out at the earliest opportunity as resources allow.

### **3. Living Conditions**

#### **Recommendation**

**The CPT recommends that every effort to be made to offer appropriate conditions to all patients held in St Ita's and St Brendan's Hospital (paragraph 120).**

#### **Response**

It is anticipated that the capital development programmes initiated on the St Ita's and St Brendan's Hospital sites will greatly improve living conditions for residents in these services.

#### **Request for information**

**The CPT would like to receive confirmation that all patients at St Brendan's Hospital have effective access to outdoor exercise for at least one hour every day (paragraph 121).**

#### **Response**

The opening of Pine Ward, Connolly Hospital, Blanchardstown, has facilitated the closure of Unit 8B in St. Brendan's Hospital, which was located on the first floor. Patients from Unit 8B have been relocated to a ground floor unit on site and can now readily access opportunities for outdoor exercise.

#### **Comment**

**Due to their limited numbers, female patients in different phases of their treatment are accommodated in a single unit with a uniform regime, in disregard of different needs as regards security. This situation requires immediate attention from the Irish authorities (paragraph 122).**

#### **Response**

Management of the Central Mental Hospital is working with colleagues in HSE Estates to provide more spacious accommodation for female patients, which will facilitate options in relation to security and acuity. The short term solution to the problem of inappropriate patient mix in the Women's Unit is the opening of a 'step down' high support hostel for women in the community and this avenue is currently being explored. The longer term solution will follow from the building of a new purpose built forensic hospital to replace the Dundrum Campus.

#### **4. Treatment and the use of means of restraint and seclusion**

##### **a. treatment**

##### **Recommendation**

**The CPT recommends that the Irish authorities take urgent steps to ensure that in the hospitals visited, sufficient staff is available to offer meaningful occupational activities to patients (paragraph 123).**

##### **Response**

Notwithstanding current budgetary constraints and the provisions of the Employment Control Framework, every effort is being made to maintain and, where possible, to improve staffing levels and skill-mix in accordance with the recommendations in *A Vision for Change*. An exemption to the staff moratorium has been provided such that therapy posts arising in the mental health service can be filled. However, there is a national shortage of particular professional disciplines e.g. occupational therapists, social workers etc. due to increased demand for these disciplines across a range of different settings over the last number of years.

##### **Comment**

**The CPT's delegation received complaints that Section 57 of the 2001 Mental Health Act allows too much discretion to consulting psychiatrists as the legislation in force does not provide for a clear test of "incapability" and, secondly, that courts lack the necessary expertise to assess whether persons administered medication without prior consent were indeed incapable of giving that consent (Paragraph 124).**

##### **Request for information**

**The CPT would like to receive the comments of the Irish authorities on these matters (Paragraph 124).**

##### **Response**

The Irish authorities do not accept that Section 57 of the 2001 Act allows too much discretion to consulting psychiatrists. It is considered that assessment of decisional capacity is a matter of clinical judgement guided by professional practice. The Mental Health Commission's Reference Guide to the Act outlines the factors that should be considered when assessing decisional capacity. To demonstrate capacity the patient should be able to:

- understand in simple language what the proposed treatment is, its purpose and nature and why it is being proposed;
- understand the main benefits, risks and possible alternatives, and the consequences of not receiving the proposed treatment;
- retain the information for a sufficient period of time in order to consider it and arrive at a decision; and
- communicate the decision.

The provisions in the Mental Health Act 2001 in relation to consent to treatment will require to be reviewed in the context of the proposed Mental Capacity legislation.

### **Comment**

**The Mental Health Act provides that Section 57 does not apply to certain categories of treatment; in particular electro-convulsive therapy (Section 59) and the continued administration of medicine after three months (Section 60) (paragraph 125).**

### **Request for information**

**The CPT would like to receive the comments of the Irish authorities on the issues concerning Sections 59 and 60 of the Mental Health Act referred to in paragraph 125 (paragraph 125).**

### **Response**

Where a person is detained under law against their will for psychiatric care and treatment, it can be argued that there is an obligation on the State to provide them with the most effective treatment for their condition as soon as possible. If the treating consultant psychiatrist is of the opinion, based on his/her clinical expertise, that ECT/ continued administration of medicine is the most effective treatment in the circumstances, it is considered that the law should make provision for the administration of that treatment to those who are not in a position to consent. It could be argued that to do otherwise would be in contravention of the State's duty of care to the involuntary patient. The Mental Health Act 2001 therefore requires that a patient must consent in writing to the administration of ECT/ continued administration of medicine; however where a patient is *unable* or *unwilling* to give consent, the treatment may be administered if it has been approved by the consultant psychiatrist responsible for the care and treatment of the patient, and also authorised by another consultant psychiatrist.

This position has recently been reviewed and it is proposed to amend the 2001 Act to delete reference to *unwilling* in Sections 59(1) (b) and 60(1) (b). It is hoped to submit the General Scheme of a Mental Health (Amendment) Bill, 2010 to Government in the near future. Thus, where a person has mental capacity, their consent to ECT/continued administration of medicine will be required, and any decision to refuse to accept treatment will be respected.

No change is proposed in relation to patients who lack capacity although this position may require to be reviewed in the light of the provisions of the proposed Mental Capacity legislation.

### **Recommendation**

**The CPT recommends that the Irish authorities amend Sections 59 and 60 of the 2001 Mental Health Act to the effect that the second consultant psychiatrist whose approval is required for administration of treatment under those Sections must be independent of the establishment concerned (paragraph 126).**

### **Response**

This matter will be considered in the context of a review of the Mental Health Act 2001 which will be undertaken in 2011.

### **b. means of restraint and seclusion**

#### **Recommendation**

**The CPT recommends that the Rules Governing the Use of Seclusion & Mechanical Means of Restraint be amended so that patients subjected to mechanical restraints are at all times placed under direct supervision of nursing staff, and that secluded patients are given the possibility to take at least one hour of outdoor exercise on a daily basis, if their medical condition so permits (paragraph 128).**

### **Response**

Section 15.4 of the Mental Health Commission's Rules governing the use of Seclusion and Mechanical Means of Bodily Restraint provides that the *'patient must be continually assessed throughout the use of mechanical means of bodily restraint to ensure his or her safety'*. The Irish authorities do not consider it necessary to revise these rules as continual assessment is not possible without direct supervision.

In addition, the Rules provide that seclusion must only be used in rare and exceptional circumstances and only in the best interests of the patient when he / she poses an immediate threat of serious harm to self or others. The Rules further provide that seclusion should not be prolonged beyond the period that is strictly necessary to prevent immediate and serious harm to the patient or others. Article 15 of *the Mental Health Act 2001 (Approved Centres) Regulations 2006* (S.I. No. 551 of 2006) places a requirement on all approved centres to ensure that all patients have an individual care plan. It is considered that strict adherence to the indications for use of seclusion in addition to the statutory patient's individual care plan which must be in accordance with best practice, sufficiently addresses the concerns of the CPT as it is considered good practice that patients have access to outdoor

exercise, if their medical condition so permits. It should be noted that the use of mechanical restraint is seldom if ever used in Ireland.

### **Recommendation**

**The CPT recommends that Irish authorities ensure that call bells be installed in all seclusion rooms (paragraph 129).**

### **Response**

The Mental Health Commission Rules governing the use of Seclusion and Mechanical Means of Bodily Restraint will be amended to provide that a patient placed in seclusion must be kept under continuous observation by a registered nurse or care officer (National Forensic Service). In these circumstances call bells in seclusion rooms will not be required. It is expected that the revised rules will apply from 1st January, 2011.

### **Recommendation**

**The CPT recommends that the Central Mental Hospital introduces a central register of the use of seclusion (paragraph 130).**

### **Response**

In line with the requirement in Section 10.4 (Clinical Governance) of the Mental Health Commission's Rules governing the use of Seclusion and Mechanical Means of Bodily Restraint, the Central Mental Hospital has a central register of the use of seclusion. This also extends to a central register of the use of manual restraint.

### **Recommendation**

**The CPT recommends that the Irish authorities ensure that all patients are offered a debriefing after having been the subject of seclusion (paragraph 131).**

### **Response**

Section 7.4 (Ending Seclusion) of the Mental Health Commission's Rules governing the Use of Seclusion and Mechanical Means of Bodily Restraint provides that following seclusion, the patient concerned must be afforded the opportunity to discuss the episode with members of the multi-disciplinary team involved in his / her care and treatment. The Inspectorate ascertains compliance with the Rules and informs the Commission in writing of its findings. Where a breach in compliance occurs, the Commission requests an implementation plan which specifies how and when the breach will be corrected.

## **Recommendation**

**The CPT recommends that the use of “chemical restraint” be governed by clear rules and subjected to the same oversight as regards other means of restraint (paragraph 132).**

## **Response**

The ordering, prescribing, storing and administration of medicines in approved centres is governed by Article 23 of the *Mental Health Act 2001 (Approved Centres) Regulations 2006* (S.I. No. 551 of 2006) which provides *inter alia* that an approved centre must have appropriate and suitable practices and written operational policies relating to the prescribing and administration of medicines to residents. The Inspectorate ascertains compliance with the regulations. In addition, professional ethical guidelines for doctor and nurse prescribing are laid down by the relevant professional regulatory authority (Medical Council of Ireland and An Bord Altranais) and the British National Formulary is available to assist clinicians to prescribe appropriately within therapeutic ranges. It is also considered that a specific reference to ‘chemical restraint’ in mental health legislation could further stigmatise mental health service users.

## **5. Staffing**

### **Recommendation**

**The CPT recommends that the Irish authorities endeavour to fill vacancies at St Ita’s, St Brendan’s and the Central Mental Hospital (paragraph 135).**

### **Response**

The HSE has an annually agreed Service Level Agreement with the Department of Health and Children - the National Service Plan. Given the current economic difficulties facing the country, the National Service Plan commits to a reduction of 1,517 posts across all service areas in 2010. However a special exemption has been made in relation to the mental health service and an additional 30 staff have been recruited to St Brendan’s Hospital, 10 to the Central Mental Hospital and a further 25 are in the process of being recruited to St. Ita’s Hospital.

## **6. Placement and discharge**

### **Comment**

**The CPT welcomes the legal and medical safeguards surrounding involuntary hospitalisation. However, the Committee observed that in a considerable number of cases an admission or renewal order was not**



reviewed by a Mental Health Tribunal as, before the Tribunal sitting could take place, the patient had either been discharged or had accepted to remain as a voluntary patient. The result is that a patient does not have the opportunity to have his or her involuntary placement assessed by the Tribunal. In 2009, this happened in approximately 35% of cases (paragraph 138).

#### **Request for information**

**The CPT would like to receive the comments of the Irish authorities on the question raised in paragraph 138 (paragraph 138).**

#### **Response**

A patient may be discharged from an approved centre where the consultant psychiatrist responsible for the care and treatment of the patient forms the view that the patient is no longer a person with a mental disorder. In forming this opinion the consultant psychiatrist must ensure that the discharge is appropriate and also have regard to the principle that no patient may be detained for longer than is reasonably necessary for his/her proper care and treatment. A person may however, remain in an approved centre as a voluntary patient after he/she has ceased to be detained as an involuntary patient.

Section 28 of the Mental Health Act 2001 provides for the discharge of patients and the revocation of admission and renewal orders. These procedures *inter alia* provide that the patient, and his or her legal representative, must be notified that the patient is entitled to have his/her detention reviewed by a mental health tribunal. If such a review has already commenced, it may be continued if the patient indicates to the Mental Health Commission a wish, within 14 days of the date of the discharge, that it be completed. If the patient does not indicate as such, no review will be held, or if the review has commenced, it will be discontinued.

#### **Request for information**

**The CPT would like to be informed when the 2010 Criminal Law (Insanity) Bill enters into force as well as, in due time, its impact on the discharges initiated by the Mental Health (Criminal Law) Review Board(paragraph 139).**

#### **Response**

The Criminal Law (Insanity) Bill, 2010, published earlier this year, has passed all stages in Seanad Éireann, Second and Committee stages in the Dáil and is currently awaiting Report and final stages in the Dáil. Accordingly it is expected that the Bill will be enacted before the end of 2010. The CPT will be informed in due course of its coming into force and its impact on discharges ordered by the Mental Health (Criminal Law) Review Board.

## **7. Patients involuntarily detained under the 2006 Criminal Law (Insanity) Act**

### **Recommendation**

**The CPT recommends that the Irish authorities introduce legally binding safeguards, including as regards consent to treatment and use of means of restraint and seclusion, for patients detained under the 2006 Criminal Law (Insanity) Act (paragraph 141).**

### **Response**

In accordance with Section 3(3) of the Criminal Law (Insanity) Act 2006, the provisions of Part 4 of the Mental Health Act 2001 (Consent to Treatment) apply to persons detained in a designated centre. With regard to the use of restraint and seclusion, it is noted that the definition of *patient* in Section 69 of the Mental Health Act 2001 does not include persons detained in a designated centre under the Criminal Law (Insanity) Act 2006. However it has been confirmed with the Clinical Director of the Central Mental Hospital that the Mental Health Commission Rules governing restraint and seclusion are applied in relation to *all* episodes of restraint and seclusion, regardless of the detention status of the person involved. It is proposed to regularise the legal lacuna as early as possible by amending the Act to extend the definition of *patient* in Section 69 to include persons detained in a designated centre under the Criminal Law (Insanity) Act 2006.

## **8. Mentally incapacitated patients**

### **Comment**

**A ward of Court Order is of indefinite duration and no automatic review is foreseen by law ...(paragraph 145).**

### **Response**

The wardship system will be replaced upon the enactment of the Mental Capacity Bill, which is being drafted. The new statutory scheme will include periodic reviews of determination of capacity to ensure that all cases are re-examined within timebound limits, without the need for petitions.

### **Comment**

**The President of the High Court also may decide to detain a ward of Court in a mental hospital but such detention is, at present, not subject to any regulation.....An examination of the files of wards of Court in the institutions visited by the CPTs delegation revealed that, in practice, wards of Court are either detained indefinitely ("until further order") or for a defined period of time ...(paragraph 146).**

## **Response**

The Mental Capacity Bill will make provision so that persons detained for psychiatric care and treatment who come within the scope of the Bill are afforded the same safeguards and protection as those detained for care and treatment under the Mental Health Act 2001.

There will also be provision requiring court review of detention orders relating to persons detained under the current wardship regime on enactment of the Bill and for periodic review in the event that such detention orders are renewed

## **Recommendation**

**The CPT recommends that the Irish authorities adopt updated mental capacity legislation without further delay. The new legislation to take into account the 27 governing principles listed in Recommendation R (99) 4 of the Committee of Ministers of the Council of Europe (paragraph 148).**

## **Response**

Drafting of the Mental Capacity Bill is nearing finalisation and it is scheduled to be published in the current parliamentary session. In drafting the Bill, account is being taken of the principles set out in Recommendation R(99)4 of the Committee of Ministers of the Council of Europe to Member States on Principles concerning the Legal Protection of Incapable Adults.

## **Comment**

**According to some of the CPTs interlocutors, it is intended that the new mental capacity legislation will apply only to new cases ..... (paragraph 149).**

## **Response**

The Bill will include transitional provisions from the old to the new legislative framework. Applications may be made by, or on behalf of, existing Wards of Court for a review of their capacity under the new legislation. In addition, the courts may transfer the supervision of existing wardship cases to the new Office of Public Guardian.

## **Request for information**

**The CPT trusts that the Irish authorities will extend the provisions of the new mental capacity legislation to all existing wards of court (paragraph 149).**

## **Response**

The Bill will contain transitional arrangements from the old to the new legislative framework. In particular, provisions will be included so that applications may be made by, or on behalf of, existing Wards of Court for a review of their capacity under the new legislation. In addition, the courts may transfer the supervision of existing wardship cases to the new Office of Public Guardian.

## **D. Institutions for persons with intellectual disabilities**

### **1. Preliminary remarks**

#### **Recommendation**

**The CPT recommends the Irish authorities take the necessary steps to ensure that all residents in institutions for persons with learning disabilities benefit from an adequate range of safeguards (paragraph 152).**

#### **Response**

The Irish authorities wish to bring to the attention of the CPT the fact that St. Joseph's, Portrane is an approved centre under the Mental Health Act 2001 and as such is subject to annual inspection by the Inspector of Mental Health Services, whose Reports are in the public domain.

With regard to ensuring safeguards for persons with learning disabilities resident in institutions generally, the Health and Information Quality Authority (HIQA), the independent Authority responsible for improving Ireland's health and social care services, has developed a set of standards. The *National Quality Standards: Residential Settings for People with Disabilities* was published in May 2009 and is under consideration by the Minister for Health and Children. Following a public consultation process initiated by HIQA, the standards were formulated by a standards advisory group that comprised officials of HIQA, the Department of Health and Children, the HSE, service providers, organisations representing people with disabilities and service users. These standards will provide a national framework for quality, safe services for persons (excluding children) with disabilities in a residential setting.

The Irish authorities point out that given the current economic situation, to move to full statutory implementation of the standards, including regulation and inspection, presents significant challenges at this time. However, notwithstanding the difficulties of immediate statutory implementation, the Department of Health and Children, the HSE and HIQA have agreed that progressive implementation of the standards should commence on an administrative basis and that they will become the benchmark against which the HSE assesses both its own directly operated facilities and those that it funds.

In the context of service provision to people with disabilities who are resident in institutions, the HSE and service providers will continue to plan for the relocation of these residents to suitable accommodation in community settings. Service providers will continue to develop individual personal service plans to meet individual needs that take into account the range of safeguards needed by the person, and to ensure staff are aware of, and trained in, the relevant policies and procedures.

## **2. Ill-treatment**

### **Request for information**

**The CPT requests to be informed of the outcome of any judicial proceedings concerning the person who had reportedly indecently assaulted a resident at St Joseph's (paragraph 154).**

### **Response**

The papers on this case have been referred to the Office of the Director of Public Prosecution for consideration.

### **Recommendation**

**The CPT recommends that the Irish authorities take adequate measures to lower the incidences of assault at St Joseph's Disability Services, through inter alia staff training and appropriate therapeutic interventions (paragraph 155).**

### **Response**

A number of initiatives have recently been taken to lower the incidence of assault at St Joseph's Disability Services. These include improvements in the buildings infrastructure, increased multidisciplinary team involvement with clients and the availability of appropriate staff training. The Irish authorities are confident that these initiatives should help to improve the current situation.

## **3. Living conditions**

### **Recommendation**

**The CPT recommends that the Irish authorities find the means to open the Knockamann facility at St Joseph's as soon as possible (paragraph 157).**

### **Request for information**

**The CPT request information on the time schedule to close the Dún na Rí and St Faicre units at St Joseph's (paragraph 157).**

## **Response**

The priority to develop appropriate facilities for the service users at St. Joseph's Intellectual Disability Services at St. Ita's Portrane has resulted in a new 60 place residential development known as Knockamann, that includes the provision of day services for these clients. This development forms a crucial part in progressing national policy in effecting the transfer of clients with intellectual disabilities currently in psychiatric hospitals to more appropriate accommodation.

The full development at Knockamann of 10 houses and a day resource centre are fully commissioned and operational and the necessary staff has been recruited. Occupation of the Knockamann facility has recently been completed. By end November 2010, 54 former residents of St. Joseph's had moved into their new homes at Knockamann. The remaining 8 clients have moved from St. Joseph's to a new community residence in Julianstown, County Meath.

There are currently no plans to close Dún na Rí, rather it is planned to refurbish this unit as a care of the elderly facility. Closure of St. Faicre's is dependent on sourcing alternative appropriate accommodation to which clients may be discharged. If clients are moved on from Knocknamann into the wider community at a later stage, it will create capacity in the Knockamann facility.