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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 23 September to 4 October 2019

The Government of Ireland has requested the publication of this response. The CPT's report on the September/October 2019 visit to Ireland is set out in document CPT/Inf (2020) 35.

Strasbourg, 24 November 2020

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Introduction

Background

The Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) made its seventh visit to Ireland from 23 September to the 4 October 2019 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 4 April, 2018 announcing that the CPT will include Ireland in its programme of periodic visits for 2019. On 9 September 2019, the CPT indicated that the visit would begin on 23 September 2019 and was expected to last 12 days. On 16 September 2019 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 6 March 2020 and sent to Ireland on 24 March 2020.

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 23 September to 4 October 2019 is set out in this document. For ease of reference and reading, this response follows the format of the CPT's Report of 24 March 2020 on the visit.

Publication

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

Organisation of the response

In this document, Ireland has set out sequentially the context for each request and recommendation in the Report, summarising and quoting from the Report in order to give context to the Committee’s specific requests and the response.

Response to Recommendations, Comments and Requests for Information arising from the visit by the CPT to Ireland from 23 September to the 4 October 2019.

I. INTRODUCTION

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

Comment

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

Ireland's Response

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

C. National Preventive Mechanism

Request for information

The CPT encourages the Irish authorities to find a solution to the establishment of a NPM and to ratify OPCAT. The CPT would like to be informed about the envisaged structure of the National Preventive Mechanism (NPM) that will be tasked to implement the Optional Protocol.

Ireland's Response

The Irish Government has committed in its Programme for Government to ratifying OPCAT before the end of 2021.

The Minister for Justice has approved a single NPM for the Justice Sector to include Garda stations, courts, prisons, places of transport and transit between Garda stations, prisons and courts. It is also anticipated that following bodies outside the Justice Sector will be designated:

- The Inspector of Mental Health in the case of an Approved Centre with reference to the Criminal Law (Insanity) Acts 2006 – 2010;
- The Health Information and Quality Authority (HIQA) in relation to relevant facilities in the Health Sector;
- HIQA and Tusla in the case of children detention schools.

It is anticipated that the Irish Human Rights and Equality Commission (IHREC) will co-ordinate the work of the NPMs.

The Department of Justice is leading on the preparation for this multiple institution NPM model in this State in terms of developing the necessary legislation for ratification of OPCAT. To this end the General Scheme of Places of Detention Bill is being drafted and it is intended to bring this to Government for approval before the end of 2020.

The Department of Justice is committed to supporting the Inspector of Prisons in implementing its statutory role. The Inspector of Prisons engaged an independent consultant to assess the resources needed for their office. The review set out the need for a future Preferred Operational Model ("POM") to be implemented, supported by enhanced resourcing. It went further to recommended increasing the staff numbers from 5 to 14 staff (including the Chief Inspector). Acknowledging this, the 2020 budget was increased by €700,000 bringing it to €1.2million and the 2021 budget by a further circa €750,000 bringing the overall budget for the OIP to €1.95 million. These increases allow the Inspector of Prisons to recruit additional staff. Competitions for the recruitment of additional staff are currently ongoing and expected to be completed before the end of 2020. This will significantly increase the capacity of the office from its current capacity. The Department will continue to work with the Inspector of Prisons in this regard and in the event they have a role in an established NPM.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement agencies

1. Preliminary remarks

In the Preliminary remarks (paragraph 7), the CPT noted in respect of Policing that "Ireland was in the midst of a comprehensive reconfiguration following the publication of the Commission on the Future of Policing in Ireland on 18 September 2018." The CPT noted that the Commission established by the Irish Government commenced work in May 2017, was "was tasked with undertaking a comprehensive examination of all aspects of policing including all functions carried out by An Garda Síochána (Ireland's single national police force). The Commission's report of September 2018 provides a vision for the future of policing in Ireland. Among its core recommendations is that there should be new legislation – a Policing and Community Safety Act – redefining policing and the role of the police service and other state agencies in harm prevention."

It was also noted that "The Commission has also proposed changes to enhance the powers of the Commissioner of An Garda Síochána and to create a statutory board to strengthen the internal governance and management of the police organisation. The Board should help the Commissioner to reorganise the police, develop corporate strategy and annual planning, and lead it into the future, taking advantage of state-of-the-art management ideas and processes."

Further the CPT noted that the Commission report also "…proposed the establishment of a *Policing and Community Safety Oversight Commission* (PCSOC) which would supersede the Policing Authority[1] and Garda Inspectorate[2]."

The CPT's delegation was informed at the time of the visit that it was planned that the Policing and Community Safety Bill would be sent to Parliament in the first half of 2020.

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[1] The Policing Authority was established as an independent statutory body on 1 January 2016 to oversee the performance of the Garda Síochána in relation to policing services in Ireland. It also is involved in the recruitment of senior Garda officers.

[2] The Inspectorate, set up under the Garda Síochána Act, 2005, undertakes inspections or inquiries in relation to any particular aspects of the operation and administration of the Garda Síochána, either on its own initiative or as requested to do so by the Policing Authority or the Minister for Justice and provides advice with regard to best international policing practices as required.

Request for information

The CPT would like to be updated on the reform process and the adoption of the new legislation, including as regards the reorganisation of An Garda Síochána.

Ireland's Response

As noted above the Commission on the Future of Policing in Ireland (CoFPI) report was published in September 2018. In December 2018, Government published A Policing Service for the Future (APSFF) – a 4-year Plan (2019-2022) to implement the recommendations of the Report. As part of that Plan the Government approved the development of the General Scheme of the Policing and Community Safety Bill. The main objectives of the Bill are:

- to implement the new governance and oversight framework recommended by CoFPI to strengthen the internal governance of the Garda Síochána, ensure clear and effective independent oversight and ultimately deliver better policing,
- to strengthen oversight of security by providing for an Independent Examiner,
- to recognise the role of the Garda Síochána in preventing harm to individuals who are at risk or are vulnerable and to place a reciprocal obligation on other public service bodies to cooperate with the Garda Síochána in that respect.

The Bill will replace the Garda Síochána Act 2005 (as amended) which sets out the governance and oversight framework for policing. Having regard to the scale of change envisaged, work is continuing within the Department of Justice on the development of the draft Scheme with a view to its submission to Government in Q4 2020 for approval to draft the Bill. This will follow consultation with key stakeholders including the Garda Commissioner, the oversight bodies and other relevant Government Departments. Again having regard to the scale of the reform envisaged it is anticipated that the Bill will not be presented to the Oireachtas (the Parliament) until mid-2021.

The new governance and oversight framework to be provided for in the Bill will seek to address the finding by CoFPI that the current framework, which developed in a piecemeal and reactive manner, is confused with no clarity as to where responsibility lies between the Garda Commissioner, the Policing Authority and the Minister and with overlapping responsibilities between the oversight bodies. As a consequence it acts to the detriment of effective accountability. The Bill will provide for a new coherent framework as recommended by CoFPI clearly delineating between management and independent oversight.

The Bill will seek to set out clearly the relationship between the different parts of the governance and oversight framework to ensure a distinct role for each and the desired clarity. The Minister will deliver democratic accountability through the provision of information on policing and security matters to the Oireachtas and the public, maintain a focus on determining policing and security policy, and exercise structural oversight of the Garda Síochána mainly through the implementation of an annual costed service plan.

Once the draft Scheme has been approved by Government it will be put into the public domain and further information can be provided if required.

In parallel with this, An Garda Síochána is implementing a new way of delivering on policing: the Garda Operating Model. The implementation approach in relation to the roll out of the new Operating Model originally focused on commencing the establishment of the four Functional Areas in the following Phase 1 Divisions; Galway, Cork City, Limerick, DMR South Central and Westmeath/Meath in Q 1 2020, with three further Phases for the remaining divisions planned to commence for each Quarter in 2020. However, due to the Covid-19 outbreak, this implementation approach was revised to have minimal operational impact on the Divisions during 2020. An Garda Síochána has indicated that the work during the Covid pandemic has been restricted to background planning/design activities that did not impact on the operational capacity of the Divisions responding to the pandemic. In that regard the implementation approach during the Covid pandemic has focussed on the phased establishment of the Business Service Functional Area (BSFA) across the Garda divisions.

As part of the work undertaken this year, An Garda Síochána has now developed a revised implementation plan in respect of the Operating Model. The new implementation plan will see the establishment of each of the functional areas taking place across three stages:

- Stage 1 – Plan and implement Business Service Functional Area
- Stage 2 – Continued implementation of Business Services Functional Area; Plan and implement Performance Assurance Functional Area; Recommence planning for Crime and Community Engagement Functional Areas; Plan and implement.
- Stage 3 – Implement Crime and Community Engagement Functional Areas.

Comment

(Paragraph 8) notes that "The CPT has consistently stated that the existence of effective mechanisms to tackle police misconduct is an important safeguard against ill-treatment of persons deprived of their liberty."

Request for information

The CPT would like to be provided with information about the proposed mandate and functioning of the envisaged Independent Office of the Police Ombudsman and, more particularly, about the steps being taken to address the long-standing challenge of information sharing between the Garda Síochána and GSOC, once IOPO is established.

Ireland's Response

The reform process through the adoption of the new legislation, including the reorganisation of An Garda Síochána, is addressed in the response under paragraph.7, once the draft Scheme of the Bill has been approved by Government it will be put into the public domain and further information can be provided if required.

On the challenge of information sharing between the Garda Síochána and GSOC, recent data is encouraging. Annual statistics for 2019 provided by GSOC confirm that there was a 95% compliance rate with requests for documentation from An Garda Síochána and that these requests took an average of 22 days to be fulfilled. This response time is 8 days less than the agreed 30 day time limit. The question of whether this can be further enhanced is under consideration in the context of work on the development of the General Scheme of the Policing and Community Safety Bill.

Further to that, An Garda Síochána continues to work with the Garda Síochána Ombudsman Commission (GSOC) and adhere to the Memorandum of Understanding, protocols and agreement on operational matters between GSOC and An Garda Síochána. The Gearáin (Complaints) Office within Internal Affairs is responsible for liaising with GSOC in respect of investigations undertaken by GSOC in accordance with Section 95, Section 98 and Section 102 under the Garda Síochána Act, 2005, as amended. This office is tasked with ensuring that information requests made by GSOC are adhered to within the prescribed timelines as set out in the GSOC protocols. The Gearáin Office also actions Section 97 reports received from GSOC. These reports contain findings and recommendations, following a disciplinary investigation undertaken by GSOC, and may involve allegations of alleged breaches of discipline on the part of members of An Garda Síochána. The Gearáin Office ensures that appropriate appointments are made pursuant to Regulation 45 of the Garda Síochána (Discipline) Regulations, 2007, and monitors the process to a conclusion following the appointment by the Commissioner of a Designated Officer.

2. Ill-treatment

Comment

The CPT acknowledged (paragraph 11) that "… the great majority of detained persons interviewed by the delegation stated that they had been treated correctly by the Gardaí. However, the delegation did receive several allegations of physical ill-treatment and verbal disrespect by Gardaí from remand prisoners who had recently been apprehended by the Gardaí."

The CPT provided a number of examples (paragraph 12) regarding allegations of ill treatment.

Request for information

The CPT would like to be informed of the policies and procedures in place regulating the management of persons assessed as being at risk of committing suicide.

Ireland's Response

Regulation 3(1) of the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Station) Regulations, 1987 as amended states: "*In carrying out their functions under these Regulations members shall act with due respect for the personal rights of persons in custody and their dignity as human persons, and shall have regard for the special needs of any of them who may be under a physical or mental disability, while complying with the obligation to prevent escapes from custody and continuing to act with diligence and determination in the investigation of crime and the protection and vindication of the personal rights of other persons."*

The mission of An Garda Síochána is to keep people safe. Among the issues highlighted in the CoFPI report was the crucial role that Gardaí play in harm prevention. It also highlighted that interaction and intervention with people experiencing mental health conditions is not the responsibility of An Garda Síochána alone and that there must be a multi-agency approach and cooperation to meet the needs of

these vulnerable persons. It is widely recognised that open communication is critical if agencies, including An Garda Síochána, are to combat suicide.

The Garda Student/Probationer training and development programme requires that Student Gardaí, in addition to police related subjects and technical skills, also develop and achieve particular skills or behaviours which are deemed essential for the carrying out of their policing function in a professional and competent manner. The programme also consists of studies in the subjects of Social and Psychological Studies which covers the area of mental illness.

The nature of policing is so diverse that it is not possible to document guidance or policy to cover every eventuality. What remains important in all interactions with An Garda Síochána are that our actions remain lawful and grounded in the principles of Human Rights.

An Garda Síochána is subject to an over-arching obligation to keep people safe, and this includes a responsibility in relation to harm prevention. AGS must also ensure that Garda personnel, are equipped with the necessary response techniques, given their potential opportunities to intervene with persons who are vulnerable to self-harm or suicide. In 2019, the ASPFF Report required that An Garda Síochána assess their interactions with the most vulnerable persons in the criminal justice system. In seeking to fulfil this obligation, An Garda Síochána liaised with the National Office for Suicide Prevention (NOSP), having cognisance of the national strategy for suicide, "Connecting for Life."

The NOSP are working closely with An Garda Síochána, and in conjunction with the Garda College, deliver two courses on suicide intervention (Safe TALK and ASIST *(Applied Suicide Intervention Skills Training*)) to new entrants in the Garda College.

The Applied Suicide Intervention Skills Training (ASIST) is predominantly aimed at caregivers who regularly have contact with vulnerable persons, due to their work or their role in the community. It trains participants in seeking to reduce the immediate risk of a suicide and increase the support for a person at risk.

Safe TALK is an internationally recognised half day training programme that provides specific skills called 'suicide alertness'. These skills are intended to aid participants in their awareness and identification of individuals suffering with suicidal thoughts. The training provides participants with the skills to utilise when dealing with persons at risk of committing suicide and also to connect these people to the relevant agencies that can provide the appropriate assistance to them.

While this training means that approximately a third of all Garda members will have received such training, work is continuing to ensure all Garda personnel who interact with persons who are vulnerable to self-harm and/or suicide are provided with adequate training. An Garda Síochána, in particular the Human Rights Section, are in liaison with the NOSP to formalise their joint interest in harm prevention and to seek to provide Garda personnel with the appropriate skillset and training, to assist persons at risk of suicide.

Included within An Garda Síochána Human Rights Strategy 2020-2022 is an action requiring An Garda Síochána to work with the NOSP to introduce Safe TALK training to all Garda personnel. To that end, a pilot training project was completed at Letterkenny, Tallaght and Carlow Garda Stations and also at the Garda National Protective Services Bureau (GNSPB). These were specifically identified due to the significant number of suicides and suicide related incidents recorded in those areas. Garda personnel working in these areas have had a higher level of interaction with persons with mental health

conditions and those who are vulnerable to self-harm and/or suicide. Feedback and engagement with Garda personnel at these locations provides vital information on the impact that this type of training would have for them in their interactions with persons with mental health conditions, and those who are vulnerable to self-harm and/or suicide.

It is anticipated that Safe TALK training may be delivered to the Garda organisation during 2021, subject to approval and also the capacity of the NOSP in assisting An Garda Síochána to develop a 'train the trainer' course.

Comment

The CPT outline (paragraph 13" that "… that there can be no room for complacency in the Irish authorities' commitment to prevent ill-treatment." They also note the efforts being undertaken by An Garda Síochána to promote a human rights approach to policing. The CPT also acknowledges that the Irish authorities reiterated to the CPT's delegation their full commitment to preventing ill-treatment of persons in custody. The CPT "…trusts that steps will be taken to instruct all members of An Garda Síochána on their responsibilities when exercising lawful force and that any use of force outside those policies can be the subject of a criminal and/or disciplinary investigation." The CPT also .".. noted that the number of complaints of abuse by An Garda Síochána officers upon arrest or at the police station appears, according to the Ombudsman Commission statistics, to have remained stable over the past few years."

Recommendation

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

Ireland's Response

Regulation 20(1) of the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Station) Regulations, 1987, as amended states: *"No member shall subject a person in custody to ill-treatment of any kind or the threat of ill-treatment (whether against the person himself, his family or any other person connected with him) or permit any other person to do so."*

An Garda Síochána treat allegations of ill-treatment seriously and will deal with any such allegations from a criminal and disciplinary perspective, through internal disciplinary procedures and externally via GSOC investigations.

Internal Affairs, under the remit of Assistant Commissioner, Governance & Accountability, is responsible for the oversight of all investigations undertaken by An Garda Síochána under the provisions of An Garda Síochána (Discipline) Regulations 2007, as amended. The Regulations are essentially a code of conduct for all members of An Garda Síochána, which must be strictly adhered to. Any suspected breaches may be subject of investigation by Officers appointed pursuant to the Regulations. The penalties provided under the Regulations include dismissal, reduction in rank, temporary reduction in pay, caution and advice.

In that regard the Assistant Commissioner, Governance & Accountability has been tasked with re-iterating to the Organisation the recommendations made by the CPT in this matter and to instruct members that any form of ill-treatment (physical or verbal) of detained persons is unacceptable in any form and any reports of same may result in a disciplinary sanction.

In addition to disciplinary matters, Internal Affairs is also responsible for the administration of complaints investigations designated by GSOC for investigation in accordance with Section 94 of the Garda Síochána Act, 2005, as amended *(Supervised and Unsupervised Investigations).* Where breaches of discipline are identified arising from investigations, the matter is referred back to the Garda Commissioner for investigation in accordance with the Garda Síochána (Discipline) Regulations, 2007, as amended.

From January 2020 to August 2020, 17 Garda members were subject to disciplinary sanction in respect of breaches classified as abuse of authority, with the most significant sanction being a reduction in pay.

In conjunction with the Policing Authority, An Garda Síochána introduced a Code of Ethics, applicable to all ranks and grades of personnel serving within An Garda Síochána in 2017. The Code of Ethics builds upon the core values of the organisation and contains nine core ethical standards and commitments;

- Duty to Uphold the Law
- Honesty and Integrity
- Respect and Equality
- Authority and Responsibility
- Police Powers
- Information and Privacy
- Transparency and Communication
- Speaking Up and Reporting Wrongdoing
- Leadership

The Code of Ethics sets out the guiding principles to inform and guide the actions of all An Garda Síochána personnel at every level of the organisation. The Code of Ethics has regard to the Policing Principles as set out in the Garda Síochána Act, 2005, as amended, which provides that policing must be carried out in a manner that is independent and impartial, respects human rights, and supports the proper and effective administration of justice. All personnel within An Garda Síochána are required to adhere to the standards set out in the Code of Ethics, at all times.

An Garda Síochána take a proactive approach to disciplinary matters and are also in the final stages of establishing the Garda Anti-Corruption Unit (ACU). Recruitment for the new unit is currently ongoing and it is anticipated that the unit will be officially launched in Quarter 4 of 2020. The establishment of the ACU under Assistant Commissioner, Governance and Accountability, will be responsible for the prevention, detection and investigation of corrupt practices in An Garda Síochána.

An Garda Síochána is currently engaging in a comprehensive review of the system for disciplinary investigations. The views expressed in the Committee's report are being taken into account in carrying out the review.

Comment

The CPT noted (paragraph 14) that "… under the Mental Health Act 2001 the Gardaí may detain and transfer mentally ill patients to a hospital. In this context, a number of allegations of excessively tight handcuffing were received and one of the patient's files consulted noted marks on their wrists caused by handcuffs (see paragraph 119...)."

Recommendation & Request for Information

The CPT considers that the police are not appropriately trained to manage mentally ill persons who are agitated and that they should only be required to transfer such persons when absolutely necessary. In addition, the CPT recommends that the Garda Síochána ensure that persons apprehended are not handcuffed too tightly.

Further, it considers that good practice dictates that where a mental health nurse works alongside the police in managing such interventions the risk of harm to both the mentally ill person and other persons is reduced. The CPT would appreciate the comments of the Irish Authorities on this matter.

Ireland's Response

Assisted Admissions to Approved Centres are normally carried out by either HSE Nursing staff or an approved provider. Where the Risk assessment recommends the use of the Gardaí, they are accompanied by either the external provider staff or HSE staff to ensure staff and patient safety.
An Garda Síochána agree with the position of the CPT in this matter and only transport such persons where there is a serious likelihood of the person concerned causing immediate and serious harm to himself or herself or to others and when other services are unavailable to transport mentally ill persons who are in an agitated state. In this regard An Garda Síochána continues to engage with its HSE partners in these matters and to ensure An Garda Síochána are available to assist them, when called upon to do so.

An Garda Síochána are in full support of the use of the Allied Admissions Service in respect of transporting mentally ill persons to an approved centre and also continue to engage with Mental Health Ireland in respect of these matters, as covered in more detail in the response to paragraph 119.

As the application of handcuffs is a use of force, An Garda Síochána do not condone the use of any more force than is necessary. Policy on the use of, and application of, handcuffs will also be re-iterated to the Organisation by Assistant Commissioner, Governance & Accountability in the correspondence mentioned under paragraph 13.

A review of custody management is currently being undertaken by An Garda Síochána. This is a recommendation that is being considered in the wider context of that review. An Garda Síochána acknowledge and recognise the requirement for vulnerable persons to be readily identified and their needs fully considered accordingly.

In the interim, the CPT will be aware from their visits to Garda stations that an addendum to the Garda Custody Record was introduced in September 2018. This was in the form of the addition of a Risk Assessment Form (C.84A), which was introduced following recommendations made by the Advisory

Committee on the Garda Interviewing of Suspects, chaired by Mr. Justice Esmond Smyth ('the Smyth Committee').

One of the key issues on which the Smyth Committee focused related to the interviewing of vulnerable persons. The Smyth Committee examined the existing procedures for the identification of vulnerable persons detained in Garda stations and found shortcomings in the risk assessment questions currently asked of detainees.

The Human Rights Section within An Garda Síochána recently undertook a review in relation to the adequacy of the Garda Custody Risk Assessment Form, with a view to assisting An Garda Síochána in assessing the most vulnerable persons in the criminal justice system. This report is currently being finalised and will shortly be presented to Garda management, the Strategic Human Rights Advisory Committee and also to the policy holder as part of their overall review of custody management.

Each question contained within the Garda Custody Risk Assessment Form has relevance to the person's welfare, their fitness for interview and/or the requirement for appropriate safeguards during interview, where vulnerability is identified and therefore should be completed with as much information as possible.

3. Safeguards against ill-treatment

Comment

In relation to the main safeguards advocated by the CPT, (paragraph 15), it is stated "…. namely the right of those concerned to inform a close relative or another third party of their choice of their situation; the right of access to a lawyer; and the right of access to a doctor - continue to operate in a satisfactory manner as from the very outset of custody."

The CPT whilst welcoming the code of practise on access to a solicitor by persons in Garda Stations (paragraph 16) noted that the commitment to place the right of access to legal advice on a statutory basis had not happened. The CPT also noted (paragraph 17) that none of the persons they met during the visit in 2019 complained that they had been denied access to a lawyer.

However, in April 2015, An Garda Síochána issued a Code of Practice on Access to a Solicitor by Persons in Garda stations which aimed to streamline the interaction between An Garda Síochána and solicitors relating to detained persons. The Code sets out clearly that following the decision of the Supreme Court in the Gormley and White cases[3] the Director of Public Prosecutions advised the Garda Commissioner that if requested, a suspect was entitled to have a solicitor present during interview in custody. This was in addition to the right to consult a solicitor before interview. Furthermore, the Director of Public Prosecutions advised that all suspects detained in Garda stations for questioning be advised, in advance of any questioning, that they may request a solicitor to be present at interview. Therefore, a suspect in Garda custody, unless he/she expressly waives his/her right to be given legal advice, should not be interviewed prior to him/her obtaining legal advice except in wholly exceptional circumstances. The CPT welcomes the publication of this Code.

[3] See Supreme Court judgment of 6 March 2014 on People (DPP) v Gormley and People (DPP) v White (citation: [2014] IESC 17).

Recommendation

The CPT recommends that the Irish authorities place the current practice of the right of access to a lawyer, as set out above, on a statutory basis. It would also welcome any comments by the Law Society or An Garda Síochána regarding detained persons' effective access to a lawyer, notably in more remote rural areas.

Ireland's Response

Ireland welcomes the comments by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) noting that an accused person's right of access to a lawyer "…continues to operate in a satisfactory manner as from the very outset of custody."

While the Irish Constitution and primary legislation through the Criminal Justice Act 1984 provide for the right of reasonable access to a solicitor when requested by a person in Garda custody, Ireland accepts the recommendation of the CPT that a person's right of access to legal representation should be placed on a stronger statutory footing and work on a new Bill is currently underway with the aim of publishing a General Scheme by the end of 2020.

The Department of Justice is preparing additional legislative safeguards for the provision of legal representation in new legislation on police powers of search, arrest and detention. It is intended that this new Bill will provide for the right to have a legal representative present during questioning.

The current legislative position is that Regulation 11(1) of the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987, as amended, states: *"An arrested person shall have reasonable access to a solicitor of his choice and be enabled to communicate with him privately."*

Additionally, An Garda Síochána recognises and adopts the principles articulated in *DPP v Gormley*, by continuing to do whatever possible to facilitate giving access to a solicitor. In the absence of the access to a solicitor being placed on a statutory footing, An Garda Síochána, in liaison with the Law Society, continue to operate under the Code of Practice on Access to a Solicitor by Persons in Garda Custody. This Code of Practice has been in operation since 2015 and seeks to ensure that members of An Garda Síochána develop constructive, professional and courteous relationships with solicitors representing persons detained at a Garda station. This Code of Practice aims to streamline interactions between An Garda Síochána and solicitors in relation to arrested/detained persons. It also aims to ensure consistency of approach, taking into account a suspect's right to a fair trial, and provides practical guidance for the member in charge and those tasked with interviewing suspects.

The Law Society has indicated that they have repeatedly called for equal access to legal advice for suspects in Garda detention. They also have been a long-term advocate for reform in the area of detainee rights, and have sought to identify and resolve areas of improvement in the system. These views will be considered in the context of the new Bill.

Comment

The CPT noted (paragraph 18) that "As regards notification of custody to a third party, only a few persons complained that they had not been allowed to contact their family while in police custody without any reasons being provided."

Recommendation

When such contact is denied reasons must be recorded in the custody register and the persons concerned informed accordingly.

Ireland's Response

Regulation 5(*a*) of the of the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Station) Regulations, 1987, as amended states: *"An arrested person may make a telephone call of reasonable duration free of charge to a person reasonably named by him or send a letter (for which purpose writing materials and, where necessary, postage stamps shall be supplied on request) provided that the member in charge is satisfied that it will not hinder or delay the investigation of crime. A member may listen to any such telephone call and may terminate it if he is not so satisfied and may read any such letter and decline to send it if he is not so satisfied."*

An Garda Síochána note and acknowledge this recommendation, which will be addressed in the wider context of the review of custody management. A denial of a right to communicate with a third party should be recorded within the custody record.

A failure to comply with any regulation under the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Station) Regulations, 1987 maybe considered as a breach of discipline and can be dealt with under the discipline regulations.

The provision of an electronic custody record may also assist in ensuring full compliance with the recording of such issues.

Comment

The CPT (paragraph 19) continues to have misgivings about the effectiveness of the right of access to a doctor, were not assured that detained persons were appropriately assessed and examined as no medical records appeared to have been kept and there was no evidence of follow-up care.

Recommendation

The CPT recommends that the Irish authorities review the way in which the provision of health care is organised in Garda stations, taking into account the above remarks.

Ireland's Response

In accordance with Regulation 21 of the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Station) Regulations 1987, medical assistance will be sought in respect of detained persons if they:

- are injured
- are under the influence of alcohol or drugs and cannot be roused
- fail to respond normally to questions or conversation (not due to the influence of alcohol alone)
- appear to the member in charge to be suffering from a mental illness or
- otherwise appear to the member in charge to need medical attention.

The Member-In-Charge of the Station must summon a doctor unless the condition of the detained person appears to require removal to a hospital and same will be arranged immediately. Medical advice will also be sought a detained persons states they are required to take medication, it may also be sought if the Member-In-Charge considers it necessary in the event a detained person has medication in their possession.

To that end, An Garda Síochána note the positive comment made by the CPT that Garda Stations can call upon a doctor to visit detained persons whenever required.

However the comments in relation to better governance of the maintenance of medical records and the availability of a suitably equipped medical examination office will be further considered. Assistant Commissioner, Eastern Region who has responsibility for custody in An Garda Síochána has undertaken site visits to other jurisdictions to explore the facilities available and which will form part of his overall review of custody arrangements in An Garda Síochána.

Comment

The CPT noted (paragraph 20) "Persons apprehended by the Garda Síochána who were met by the CPT's delegation stated that they had been provided with information on their rights orally and in a written format."

It was also noted that "Foreign nationals met stated that they had been provided with interpretation services when they had spoken to their lawyer and during police interviews, and that they had been provided with a leaflet on their rights in a language they could understand." However, there could be delays in respect of access to an interpreter, as well as to a lawyer and a doctor, in certain rural areas.

The CPT's delegation also found that ."..custody registers were not always maintained in a comprehensive and accurate manner."

Recommendation

The CPT recommends that steps be taken to ensure all Garda station custody registers are accurately and comprehensively filled out.

Ireland's Response

In keeping with the response at paragraph 18 above, the comments of the CPT are noted and An Garda Síochána undertake to reiterate to all members their obligations when completing a custody record in accordance with the Treatment of Persons in Custody (in Garda Síochána Station) Regulations, 1987, as amended.

A recommendation that will emanate from the review of the Custody Record Risk Assessment Form (C.84A) is a requirement for training and this recommendation can be incorporated into same.

Comment

The CPT reinforced the importance of inspection of detention facilities (paragraph 22). However whilst acknowledging the positive development that the "Garda Inspectorate decided to carry out an inspection of the effectiveness and efficiency of the custody arrangements operated by An Garda Síochána, with a focus on examining the standard of treatment, safety and wellbeing provided to persons in custody." they noted "At the time of the visit, there was still no independent system of monitoring of Garda stations." The CPT further note that "For this reason, there remains an urgent need to mandate an independent body now to conduct regular inspections of Garda stations, with a view that such a body will be brought into the NPM structure once it is established."

Recommendation

The CPT reiterates its recommendation that steps be taken now to put in place an independent system of monitoring Garda Síochána stations.

Ireland's Response

It is intended that the Garda Inspectorate will continue in its current role until such time as its functions, together with the policing performance functions of the Policing Authority, are assumed by a new independent oversight body.

The establishment of the new body is being provided for in the Policing and Community Safety Bill currently at the stage of a General Scheme intended to provide a new coherent framework for the governance and oversight of An Garda Síochána.

Regarding inspections of Garda stations and the ratification of OPCAT, a single NPM for the Justice Sector to include Garda stations, courts, prisons, places of transport and transit between Garda stations, prisons and court and a coordinating role for IHREC has been approved by the Minister for Justice.

While the NPM for the Justice Sector is an important and significant aspect of the work to allow for ratification of OPCAT, other sectors also require the establishment of NPMs before ratification can take place.

As noted in relation to OPCAT, the Department of Justice are leading on preparing for a multiple institution NPM model in this State, in terms of the preparation of the necessary legislation for ratification of OPCAT. To this end the General Scheme of Places of Detention Bill is being drafted and it is intended to bring to Government for approval before the end of 2020.

The Irish Government has committed to ratifying OPCAT before the end of 2021.

As referred to in the comments above, the Garda Inspectorate are carrying out an ongoing inspection of the treatment of persons in the custody of An Garda Síochána titled "Custody arrangements in the Garda Síochána." The inspection is examining all aspects of custody with a particular focus on how the rights of persons in custody are protected, the dignity and respect shown to those persons and the suitability and condition of facilities. It will also examine the use of Garda powers in custody, the roles and responsibilities of Gardaí involved in the management and delivery of custody services and the training provided to them.

As part of the evidence gathering process, a number of announced and unannounced visits were made to custody facilities in Garda stations around the country, which involved reviewing the facilities, interviewing members of the Garda workforce involved in the custody process and when possible interviewing persons held in custody.

It is expected that the inspection report will be submitted to the Minister of Justice for publication before the end of this year and will make a number of recommendations to the Commissioner and to the Department of Justice in relation to the treatment of persons in custody.

This report, when received, will be studied by both An Garda Síochána and the Department of Justice and its learning will be incorporated into the ongoing review of custody management.

4. Conditions of detention

Comment

The CPT noted (paragraph 23) that "The material conditions at the police stations 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, sufficient ventilation and a call bell and could be properly heated." However, there were certain problems of capacity in some facilities visited, "….notably at Bridewell Garda District Station in Cork which is located in an old and rather dilapidated building."

Further to that, "The CPT pointed out in its 28th General Report published in April 2019[4] the benefits that may accrue from having larger and more centralised custody centres staffed with professional custody officers."

Request for information

[4] See Extract from the 28th General Report of the CPT: Preventing police torture and other forms of ill-treatment – reflections on good practices and emerging approaches. Ref: CPT/Inf (2019)9-part, paragraphs 82 to 85.

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

Ireland's Response

A review of custody management is currently being undertaken by An Garda Síochána. This is an initiative that has been progressed for some time to include an electronic version of the custody record. The Garda Building and Refurbishment Programme 2016-2021 is a Government initiative, based on agreed Garda priorities in relation to the organisation's accommodation needs nationwide. It includes funding from the Exchequer, from both the Office of Public Works (OPW), who have responsibility for the provision and maintenance of Garda accommodation, and the Garda Vote, in addition to Public Private Partnerships.

This programme seeks to address deficiencies in the Garda estate and provide fit-for-purpose facilities for Garda members and staff, as well as the public they interact with. The programme also includes a cell refurbishment programme and provision of improved custody management facilities, together with facilities for meeting victims of crime.

A recent addition to the Garda estate, with new custody management facilities, including ten prisoner cells, was Kevin Street Garda Station, which opened in 2018. Additionally, state of the art Garda stations to include new custody management facilities have opened in Galway and Wexford. The ongoing programme includes planned works at over 30 further locations.

In July 2020, the Minister for Justice announced new funding for An Garda Síochána, to support the implementation of the recommendations made in the CoFPI report. This funding was also to assist the organisation in moving forward on the Operating Model, in particular the Business Service hubs.

At that time, it was announced that the funding (€11 million in total) would be provided to progress a number of initiatives. This included custody management facilities at Garda stations in respect of prisoner processing areas, the provision of CCTV in custody areas and also the provision of Special Victim Interview Suites.

5. Immigration detention

Comment

The CPT (paragraph 24) reiterated that ."..a prison is by definition not a suitable place in which to detain someone who is neither suspected nor convicted of a criminal offence." That in cases where detention is necessary, detained persons "…should be accommodated in centres specifically designed for that purpose, offering material conditions and a regime appropriate to their legal situation and staffed by suitably qualified personnel." The CPT noted that no such place exists in Ireland.

The CPT (paragraph 25) referred to the new Garda Station at Dublin airport, with four cells and two holding rooms, which had started functioning as a designated place of detention for persons refused entry to or being removed from the State. However, it was noted that "persons may only be held for a maximum of 24 hours in this station, prison establishments continue to be used to accommodate

immigration detainees for longer periods."[5] This can result in a range of problems which the CPT outline in paragraph 25.

The CPT (paragraph 26) stated "At the end of the visit, the CPT's delegation requested that, pending the opening of a discrete unit with immigration specific rules, immigration detainees should be allocated designated cells on a quiet enhanced wing at Cloverhill Prison and offered a more open regime, including greater access to the telephone and unscreened visits."

Recommendation

The CPT calls upon the Irish authorities to put in place a specifically designed centre for immigration detainees in accordance with the Committee's requirements.[6] Further, it wishes to receive information on the conditions and regime afforded to immigration detainees pending the opening of such a unit.

Ireland's Response

The immigration detention facility in Dublin Airport has been specifically designed to provide a dedicated short term facility, which will reduce the need to transfer persons to another facility where they have been refused leave to land and are awaiting the next available outward flight. Thus the number of such persons having to be brought to either a Garda station or to Cloverhill prison will be reduced. Where it becomes necessary to transfer such a person to a Garda station, An Garda Síochána do not place immigration detainees in cells with persons detained for criminal matters.

At the time of CPT visit, work was being completed on a new block - Block F - in Cloverhill prison. It was intended that, upon completion, Block F would be used to accommodate persons detained for immigration purposes as defined in S.I. No. 230 of 2018 which transposed EU Directive 2013/33/EU. In considering Block F under the Recast Directive, it is intended that this area would also be used for other immigration related detainees so that they would be separate from other remand prisoners.

In the event, it has not yet proven possible to use Block F for the purpose intended. The outbreak of the COVID19 pandemic required significant measures within IPS to manage and control infection risk, and it was necessary to re-purpose Block F as an isolation unit for those prisoners who have, or are suspected of having, the virus. It is intended that when the pandemic is over, Block F will revert to its original intended use, subject to the availability of staff. Work is also proceeding on the consideration of a longer term sustainable and compliant solution. Ireland undertakes to report to CPT on progress on this point.

B. Prison establishments

1. Preliminary remarks

a. recent developments and prison overcrowding

[5] The IPS 2018 Annual Report states that there were 414 committals in respect of immigration issues involving 406 detainees, and that the average daily number of persons in custody was 11 In 2019 there were 479 committals in respect of immigration issues involving 490 detainees, with the average daily number in custody estimated at 12. The average number of days spent in custody was 9 days.

[6] See CPT Factsheet on immigration detention of 10 March 2017 – ref: CPT/Inf (2017) 3.

Comment

The CPT (paragraph 27) acknowledged the ongoing positive steps being taken by the Irish authorities to reform the Irish Prison Service since the previous visit in 2014. In particular the CPT noted, the opening of a new prison in Cork, the significant reduction in the number of committals to prisons following the entering into force of the Fines (Payment and Recovery) Act 2014, an overall reduction in violent incidents in prisons and a marked improvement in the provision of health care services (including drug treatment). The CPT further welcomed the fact that children are no longer held in prisons in Ireland.

The CPT iterated that it is important to maintain this positive momentum and that the external scrutiny of the system by the Inspector of Prisons becomes effective.

The CPT have concerns regarding local overcrowding and note the numbers of persons in pre-trial detention have increased by 30% since 2015. They also note the efforts to increase the prison estate through the planned opening of the Training unit and the construction of new accommodation at Limerick Prison. In relation to short sentences, the CPT state (paragraph 29) "the number of persons being given sentences of less than six months has increased by 30% since 2014 despite legislation existing to enable judges to consider imposing a Community Service Order in lieu of a short sentence.

Given the research that shows prison sentences of less than six months (and even of 12 months) to be far less effective than community sentences as well as being too short for the prison services to work meaningfully with the persons concerned, greater efforts should be made to avoid sending persons to prison for periods of less than six months."7

In respect of adding additional capacity through sharing of cells, the CPT state (paragraph 29) "… is not convinced by the apparent policy of creating additional capacity by placing a second bed in a single occupancy cell, which over and above issues of sharing, puts an **increased strain on the existing prison resources in terms of access to activities, provision of services and supervision and support by staff."**[8]

Recommendation

The CPT recommends that the Irish authorities take steps to tackle the phenomenon of local overcrowding in the prisons through promoting greater use of alternatives to imprisonment and remand detention, and notably as regards short sentences.[9]

Ireland's Response

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[7] See, for example, Hillier, J. and Mews, A. (2018) *Do offender characteristics affect the impact of short custodial sentences and court orders on reoffending?* or The impact of short custodial sentences, community orders and suspended sentence orders on re-offending (2015), UK Ministry of Justice.

[8] For example, bed capacity has been increased at the Dochas Centre from 105 to 146, at Midlands Prison from 845 to 875 and at Wheatfield Prison from 550 to 610 by placing a second bed in a single occupancy cell.

[9] See, for example, the Council of Europe *White Paper on Prison Overcrowding* – CM (2016)121-add3, Recommendation CM/Rec (2017) 3 on the European Rules on community sanctions and measures, Recommendation Rec (2003) 22 on conditional release (parole) and Recommendation Rec (2010) 1 on the Council of Europe Probation Rules.

The Department of Justice Criminal Policy area are planning on undertaking a number of actions regarding the consideration of the greater use of alternatives to imprisonment. These include the following:

- Publish an initial review of policy options for prison and penal reform.
- Commence a review of the impact of the Community Service (Amendment) Act 2011 and the use of short custodial sentences and gender impacts in 2020.
- To develop an Action Plan for the expansion of Restorative Justice working with all CJ Agencies to build capacity to deliver restorative justice safely and effectively.
- Commence a review of the policy on remission in the course of 2020.
- Establish a Penal Policy Consultative Council to advice on penal policy.

Request for Information

Further, the CPT would appreciate an explanation of the way in which the capacity of a prison establishment is calculated; to this end, it trusts that due account is taken of the Committee's standards on living space (notably, that all multiple occupancy cells should provide 4m² of living space per prisoner excluding a fully partitioned sanitary annexe).[10] The Committee would also like to be provided with updated information on the official capacity of each prison.

Ireland's Response

The prison system in Ireland has historically been subject to fluctuations in the numbers of committals to prison, and in turn, the subsequent numbers in custody. Prolonged increases in committals to custody have in the past led to overcrowding in prisons resulting in the need for the introduction of short term contingency measures to provide accommodation for prisoners (including the use of mattresses on cell floors) while longer term solutions, including the construction of additional accommodation, were advanced.

Following a period of decreasing prison numbers (from 2011 – 2017) the Irish Prison system experienced a sharp increase in the numbers in custody during 2018 and 2019. As a result overcrowding was experienced in a number of prison locations including Cloverhill Prison, Midlands Prison, Castlerea Prison and the Mountjoy Female Prison (Dóchas Centre). Due to the local overcrowding being experienced, temporary accommodation through the provision of mattresses was utilised in these locations.

In response to the rising numbers in custody, there have been a number of bed capacity changes since 2016:

- In 2016, the bed capacity of Cork Prison rose (+96) from 200 to 296 beds.
- In 2017, the bed capacity of Mountjoy Male Prison rose (+201) from 554 to 755 (upon the closure of St. Patrick's Institution.
- In 2019, the bed capacity of the Dochás Centre was increased (+41) from 105 to 146 beds.
- In 2020, the bed capacity of Wheatfield Prison was increased (+60) from 550 to 610.

Furthermore, the bed capacity of Midlands Prison was increased (+30) from 845 to 875 beds in 2020. This follows a decrease (-25) in bed capacity from 870 to 845 beds in 2018.

[10] See Living space per prisoner: CPT standards of 15 December 2015. Reference: CPT/inf (2015) 44.

In 2016, the bed capacity in Limerick Prison decreased from 220 to 210 beds. There was a slight decrease in bed capacity in Arbour Hill in 2018, from 142 beds to 138 beds.

In summary, there was a net increase in 188 beds across the prison estate since 2016. A breakdown of the current official capacity is set out in Table 1 at the end of this section.

The Director General of the Irish Prison Service is committed to ensuring that any person committed to custody is, in so far as possible, provided with a permanent bed in a prison cell.

To achieve this, and to ensure the effective management of the increasing prisoner population the Director General developed a Prison Population Management Plan in 2019 aimed at maximising capacity within the estate and increasing the use of open centres and the use of back door strategies including structured temporary release.

The Service conducted a full cell audit across the Prisons Estate, which included an examination of the capacity of cellular accommodation in accordance with the minimum standards for multiple occupancy. As a result approximately 135 additional beds were introduced (Wheatfield 60, Midlands 30, Dóchas 40).

The operational bed capacity of prisons is calculated on the basis of consideration of the number of beds which can be utilised in a prison at any time, in line with above-referenced minimum standards. The actual capacity can fluctuate from time to time arising from cells being out of commission due to areas of prisons being renovated or refurbished.

The bed capacity refers to the maximum number of beds which can be present/operational in a prison at any one time, subject to the above fluctuations. It should be noted that certain prisons that accommodate different cohorts of prisoners such as sex offenders or subversive prisoners may not be in a position to accommodate prisoners despite not operating at 100% capacity due to these categories of prisoners being unable to be accommodated in certain wings or divisions.

Each prison's operational bed capacity is certified individually and notified to Governors in accordance with Rule 18 of the Prison Rules. Any permanent or long-term changes to operational bed capacity are notified to the Governor with a Revised Rule 18 Certificate.

While adding capacity to existing accommodation does place additional pressure on existing prison resources in terms of access to activities, provision of services, supervision and support by staff, it is necessary to ensure that prisoners are not accommodated on mattresses on floors or that prisoners who pose undue risk to public safety are not released early.

While the primary factor considered when deciding the operational bed capacity of a prison is the size of the cellular accommodation available at that location, it is accepted that access to and availability of structured activity and support services is also a factor to be considered.

In this regard the Irish Prison Service is carrying out an examination of the capacity for structured activity per session in all prisons. Structured activity includes Education, Work Training, Visits, Psychology, and Recreation.

The official bed capacity of each prison is set out in the table below
Table 1. Prison capacity

Prison	Bed Capacity
Mountjoy (m)	**755**
Mountjoy (f)	**146**
Cloverhill	**431**
Wheatfield	**610**
Midlands	**875**
Portlaoise	**291**
Cork	**296**
Limerick (m)	**210**
Limerick (f)	**28**
Castlerea	**340**
Arbour Hill	**138**
Loughan House	**140**
Shelton Abbey	**115**
Totals	4,375

Comment

The CPT has a long standing concern regarding the existence of the practice of slopping in the Irish prison system. The CPT note the positive developments in this area (paragraph 30), "It is therefore positive that with the opening of Cork Prison the number of prisoners now having to slop out has been reduced from around 360 to 60 prisoners between 2014 and October 2019. The opening of the new accommodation block at Limerick Prison should more than halve the remaining numbers, leaving only prisoners in E Block at Portlaoise to slop-out. This is a significant achievement which the CPT welcomes."

Recommendation

The CPT trusts that the Irish authorities will eradicate "slopping out" completely from the Irish prison system.

Ireland's Response

The Irish Prison Service is committed to the ending of the practice of slopping out in our prisons and ensuring that appropriate in-cell sanitation is provided in all prisons and places of detention. The Service has embarked on a major capital programme over the past 10 years, with the primary objective of ending slopping out, through the modernisation of existing accommodation and the construction of new purpose built facilities.

To date the Government has committed over €130 million on capital projects aimed at the elimination of slopping out. The number of prisoners required to slop out has decreased from 1,003 in February 2011 to 58 in July 2020.

Through the continued implementation of the comprehensive capital programme, the Irish Prison Service will eliminate slopping out in Limerick with the completion of the new prison accommodation at that location in 2021. The Irish Prison Service will also advance options for the ending of slopping

out in Portlaoise prison. The delivery of this project will be subject to operational and resource considerations.

The most significant developments of the major capital programme over the past 10 years, which had the primary objective of ending slopping out, have been:

- The construction of new accommodation blocks in both Wheatfield and Midlands Prisons
- The complete renovation of all 4 wings of Mountjoy Prison including the provision of in-cell sanitation in all cells
- The construction of a new prison in Cork to replace the existing facility
- The commencement of a construction project in Limerick Prison to replace the A and B Divisions at that location

Mountjoy Prison

The Irish Prison Service completed the total refurbishment of all four divisions of Mountjoy Prison in 2015. This included the installation of in-cell sanitation to all cells in Mountjoy. Following the refurbishment all cells have been returned to single occupancy.

While the primary focus of the Mountjoy refurbishment project was to upgrade the prisoner accommodation, the Service also took the opportunity to provide new facilities including for computer training, construction studies, industrial cleaning, fabric workshops and carpentry/joinery workshops and additional indoor recreation facilities.

The practice of slopping out has ended in this location.

Cork Prison

In 2016, the Irish Prison Service completed the construction of a new prison in Cork to replace the old facility which dated back to 1806. The new prison, which opened in February 2016, includes 169 prison cells, all with in-cell sanitation, shower and wash hand basin. The new prison has 169 cells resulting in a current operational capacity of 296.

With the opening of the new prison the practice of slopping out has ended in this location.

Limerick Prison

The Irish Prison Service has commenced a major construction project to replace the out dated A and B Divisions and provide new accommodation for female prisoners.
The redevelopment works currently in progress at Limerick Prison include:

- A new accommodation block for male prisoners and all necessary rehabilitative support facilities to assist prisoners to reintegrate into society on release from custody;
- A new stand-alone accommodation unit for female prisoners, including all necessary support facilities;
- A new gate house and vehicle lock and offices for the Prison Service Escort Corps;
- New visit facilities and exercise yards, astro turf pitch; and
- New offices for the Probation Service.

Construction work is well advanced on this project which is scheduled for completion in the last quarter of 2021. The precise date for completion of the project is currently the subject of on-going discussions with the contractor in light of the temporary suspension of construction work arising from the Covid-19 pandemic. The Irish Prison Service will provide further update on the progress of this project to the CPT in due course.

There are currently 18 prisoners slopping out in Limerick Prison and each prisoner is accommodated in a single cell. Slopping out will be ended at this location with the completion of this project.

Portlaoise Prison
Following the completion of the Limerick project the only remaining location where prisoners are required to slop out will be the Portlaoise Prison E Block.

A feasibility study on the options to improve cellular accommodation including the provision of in-cell sanitation at E block, Portlaoise Prison, is in the course of preparation. The other cell blocks at Portlaoise Prison have in-cell sanitation. When completed, a decision will be taken on the most practical and feasible solution for the provision of in cell sanitation having regard to the age and fabric of E block which dates back to the 1800s.

It is anticipated that, subject to the availability of resources, it could take up to 12 months for a project of this scale to be completed having regard to operational requirements and the challenge of undertaking major construction work in a live prison environment.

The Irish Prison Service will keep the CPT informed of development in relation to this possible project.

Comment

At the same time, the CPT (paragraph 30) "notes that as of October 2019 1,802 prisoners (i.e. 45% of the prison population) share cells and have to use the toilet in the presence of other prisoners. The CPT considers that all in-cell toilet facilities should be fully partitioned up to the ceiling to provide a degree of privacy and dignity for prisoners sharing the same cell."

Recommendation

The CPT recommends that steps be taken to ensure that all multiple occupancy cells are equipped with fully partitioned toilet facilities.

Ireland's Response

According to the most recent census of cell occupancy carried out by the Irish Prison Service in July this year 2,239 or 56% of all prisoners have access to toilet facilities in private, i.e. they are accommodated in a single cell with access to in-cell sanitation. 1,702 prisoners are accommodated in shared cells or multi occupancy cells with access to a toilet in the cell.

Toilet facilities in multiple occupancy are fitted with a partial modest screen for privacy. There are no current plans to provide fully partitioned screens in cells. Cell occupants must be visible to prisons staff in cells to ensure for safety, security and good order in the prison.

b. prisons visited

Comment

The CPT delegation visited (paragraph 31) the Midlands Prison, Arbour Hill Prison, the new Cork Prison, Cloverhill and Mountjoy Prisons. They examined a range of issues which include (paragraph 31) ".. the situation in the High Support and Challenging Behaviour Units (CBUs), the disciplinary procedures and the complaints system, as well as the use of close supervision and safety observation cells."

In the course of the visit, the CPT focussed on the conditions of detention for prisoners on protection, as well as prisoners segregated from the general population due to their behaviour, the situation of older prisoners, prisoners with a mental illness and in particular the treatment of prisoners held in National Violence Reduction Unit at the Midlands Prison.

Request for Information

The CPT would like to receive updated information on its (Training Unit) opening and operation, including as regards staffing provisions.

Ireland's Response

The Training Unit was closed temporarily and vacated by prisoners in May 2017. Prior to its closure the Training Unit operated as a semi open facility which incorporated a unique regime arrangement offering a process of normalisation which assisted the rehabilitation of prisoners prior to their release.

The Irish Prison Service are repurposing the Training Unit as a centre for older prisoners. The older person's facility will operate as semi- open regime with prisoners having their own key for the door of their room.

Older prisoners are currently defined as prisoners aged over 55 years. The Unit will consist of two areas, an upper floor area of 64 cells for ambulatory prisoners and a lower floor area of 32 cells, plus two high dependency rooms for prisoners with mobility and health issues.

The recommissioning of the Training Unit as a facility for older prisoners is complete. However the Irish Prison Service decided in March 2020 to suspend plans to open the Training Unit as a facility for older prisoners due to the challenges posed by Covid-19.

It was agreed, from an infection control perspective, that the prevailing advice indicated that placing older prisoners in the Training Unit would not be prudent at this time. The Irish Prison Service remain committed to the opening of the Training Unit as a dedicated facility for older prisoners and is continuing planning in this regard. The centre will be opened as soon as it is deemed safe to do so from an infection control perspective. The Irish Prison Service will update the CPT with any further developments in due course.

2. Ill-treatment

Comment

The CPT noted (paragraph 33) "As was the case in 2014, prisoners met by the CPT's delegation stated that the vast majority of prison officers treated them correctly, and relations between staff and prisoners could be categorised as respectful in most of the prisons visited. However, a small number of officers seem to be inclined to use more physical force than is necessary and to verbally abuse prisoners." Examples were provided (paragraph 33) in respect of Cloverhill prison, Cork Prison and Mountjoy Prison.

Recommendation

The CPT recommends that the Irish authorities reiterate to prison officers that no more force than is strictly necessary should be used in bringing an agitated /aggressive prisoner under control. Further, prison officers should be reminded that they will be held accountable for any act of ill-treatment (including verbal abuse) or any excessive use of force. To this end, it is essential that all prison officers receive regular refresher training in the use of control and restraint techniques and that communication skills and de-escalation techniques be promoted among all prison officers. See also paragraph 77 below on the recording of injuries.

Ireland's Response

The Irish Prison Service is committed to ensuring that the use of force by staff is restricted to only situations or circumstances where is it deemed reasonable and necessary. Staff are regularly reminded of the need to treat prisoner dignity and respect and all prisoners can, through the Irish Prison Service Prisoner complaints process, make a complaint if they feel that a prison officer has used excessive force against them.

The Irish Prison Service will continue to ensure that the use of force continues to be an integral part of prison officer training and continued professional development (CPD). This will be reiterated through regular awareness/communications sessions.

A working group of officials from the Irish Prison Service and the Department of Justice has been convened to consider the review of the 2007 Prison Rules and make recommendations for changes. As part of this review, Rule 93 will be considered with a view to amending the rule to bring it in line with the recently published Council of Europe European Prison Rules which refers to the use of minimum force rather than reasonable force as stated in the Irish Prison Rules 2007. The Irish Prison Service will keep the CPT informed of progress in this area.

In respect of complaints, a complaint by a prisoner of excessive use of force would be deemed to be a Category A complaint and would be independently investigated by an external investigator. In any circumstance if it was found that an officer used excessive force other than was deemed necessary following an investigation disciplinary actions will be taken under the appropriate Code of Discipline for prison officers.

Rule 93 of the Prison Rules 2007 (SI 252 of 2007) and the Irish Prison Service National Standard Operating Procedure (SOP) on the Use of Force make clear the circumstances in which force should be used, and the limitations placed on officers in the use of such force. Rule 93 states that force should be used 'only as is reasonably necessary and proportionate'. The Use of force SOP goes further and states that force should only be used 'as a last resort' and that such force should only be that which is

'necessary, reasonable and proportionate'. The SOP also reminds staff of their obligations in relation to the law and constitutional/Human Rights entitlements of prisoners.

All staff receive regular training with regard to dealing with conflict in prison including the de-escalation of conflict and/or the use of physical force to bring a non-compliant, agitated or aggressive prisoner under control.

Training on de-escalation forms an integral part of Recruit Prison Officer (RPO) training taught in the Irish Prison Service and each Recruit Prison Officer is subject assessment as part of their overall training assessment.

Each Recruit Prison Officer complete a Crisis and Conflict Management Module which provides RPO's with an understanding of effective communications and a range of skills to manage conflict and crisis in the prison setting. The module provides RPO's with an understanding of conflict and crisis and equips them in a range of skills including de-escalation through to Control and Restraint procedures, and use of force options.

In addition, the use control and restraint techniques and the circumstance of their use is also taught as part of Recruit training.

All other staff receive updated training on de-escalation and the use of physical force as part of their annual Continuous Professional Development (CPD) training. This training includes training in Personal Protection Techniques. In this training the primacy of de-escalation is emphasised and, as above, Use of Force is only considered as a last resort.

Comment

The CPT (paragraph 34) state "The current complaints system cannot be considered as fit for purpose" and numerous examples of shortcomings are provided. Further to that the CPT state that "..the deficiencies in the complaints system regarding alleged ill-treatment and abuse of prisoners by prison staff have not been addressed since the publication in April 2016 of the Review, Evaluation and Analysis of the Operation of the Prisoner Complaints Procedure by the Inspector of Prisons." The CPT refers to the development of a new model of complaints being drawn up by the Irish Prison Service which should be rolled out towards the end of 2020. The CPT states in respect of this new model (paragraph 35) " It trusts that the basic principles surrounding complaints mechanisms as laid out in the 27th General Report of the CPT[11] have been taken into account in the designing of the new system."

Recommendation

The CPT recommends that the Irish authorities invest the necessary resources to ensure that the new prisoner complaints system is fair, efficient and effective. To this end, sufficient training must be provided to all the actors concerned and clear information about the system provided to prisoners.

Ireland's Response

[11] See Complaints mechanisms - Extract from the 27th General Report of the CPT (CPT/Inf(2018)4-part).

In respect of the new Irish Prison Service complaints system, the Irish Prison Service will put in place for the roll out of the new system (expected in Q4 2020), a comprehensive training and awareness package. In addition, a detailed information and awareness campaign for prisoners on the new system will also be rolled out across the prison estate.

Comment

With regard to inter prisoner violence, the CPT state (paragraph 36) that "…the findings of the 2019 visit show that the progress noted in 2014 has been sustained. Considerable efforts are made within each of the prisons visited to ensure that prisoners are protected from other inmates who wish to cause them harm." Two incidents at the High support Unit in Mountjoy are referred to in which it was outlined that there was a lack of support, record keeping and further prevention measures.

Recommendation

The CPT recommends that the Irish authorities pursue their efforts to design robust measures to tackle inter-prisoner violence and intimidation, and to manage victims of interprisoner violence.

Ireland's Response

The Irish Prison Service is committed to ensuring in so far as possible that our prisons are safe for all those who live, work or visit our prisons. No act of violence against a prisoner or staff member is acceptable and any individual who carries out an act of violence against a prisoner or staff member will be subject to investigation and disciplinary action. Any assault carried out in a prison is referred to An Garda Síochána for further investigation and prosecution if appropriate.

Section 19 of the Criminal Justice (Public Order) Act 1994 specifically provides for assaults or threats to peace officers, including prison officers acting in the execution of their duty. Any person who assaults or threatens to assault a peace officer in the execution of their duty is guilty of an offence and is liable on summary conviction to a fine or a term of imprisonment not exceeding 12 months, or both, or, on conviction on indictment, to a fine or to imprisonment for a term not exceeding 7 years, or both. In addition, the Act allows for judges to impose such sentences consecutively on persons found guilty of such offences.

Every assault on front-line staff is treated as serious and appropriate action, including the reporting of such assaults to An Garda Síochána for the purposes of investigation and criminal prosecution in every case.

The causes of acts of violence in prisons generally fall into a number of categories. Some acts of violence are sporadic and spontaneous and arise from arguments or disagreements that take place in prisons. Other acts, which can be more serious, arise from disputes which have carried over from issues that arise in the community such as gangland issues, rival feuding gangs or other issues linked to criminality such as drug trafficking.

While no act of violent behaviour is acceptable it should be noted that our prisons has seen a reduction in recorded assaults in recent years. For example the recorded number of prisoner on prison assaults in 2013 was 604. This had reduced to 572 by 2016 and reduced further to 452 in 2019.

In 2012 the Irish Prison Service introduce a new Incentivised Regimes Programme which aimed to provide for a differentiation of privileges between prisoners according to their level of engagement with services and quality of behaviour. The objective was to provide tangible incentives to prisoners to participate in structured activities and to reinforce good behaviour, leading to a safer and more secure environment.

Due to the link between behaviour and the level of regime offered to prisoners there was a reduction in the assaults between prisoners are prisoners were aware of the impact of same and the potential for loss of privileges. The introduction of this programme has had a direct impact on the number of assaults in our prisons.

In addition, prisons at local level, continue to run bespoke and in many cases peer to peer alternatives to violence programmes, to reduce the potential for inter-prisoner violence and reduce conflict.

For example Castlerea Prison runs a peer led mediation programme where prisoners are trained as mediators and can facilitate communications between individuals or groups that are in conflict.

In Portlaoise prison, local management have introduced a mediation programme to reduce animosity and aggravation between rival groups. This has resulted in reduced conflict and potential for violence amongst prisoners at that location.

In Loughan House, management run a number of programmes and courses aimed at preventing acts of violence including i. Peer Mediation Course run by The Traveller Mediation Service; ii. Alternatives to Violence Project and iii. a Culture of Non Violence and Peace (a Red Cross Initiative, peer led, held approx. every 2 months.

All prisons have similar programmes in “Alternatives to Violence” and/or mediation running locally to address the potential for inter-prisoner violence. These programmes are bespoke programmes targeting the potential for violence and tailored for the specific cohort of prisoners held in that institution.

As already stated many instances of violence that occur in our prisons are linked to wider issues in our community. The Irish Prison Service continues its efforts to address issues serious inter-prison violence and intimidation by adopting an intelligence-led targeted approach. This involves profiling prisoners to detect gang affiliations, the monitoring of vulnerable/volatile persons, and proactive decision making in relation to prisoner accommodation and access to regimes.

Good Behaviour is reinforced on an ongoing basis through the Incentivised Regimes policy and the sentence planning and management of decisions such as the transfer of appropriately behaved prisoners to open centres and recommendations for inclusion in the Community Return Temporary Release Scheme.

The Irish Prison Service continues to implement the recommendations contained in the 2016 Report by the State Claims Agency on Assaults on Operational Prison Staff.

- Conflict Resolution has been introduced into C&R training packages since 2017
- Prisoner Risk Assessment on committal introduced in June 2018

As part of their Strategic Plan, the Irish Prison Service is currently exploring the options for introducing Restorative Justice Practices into the organisation to address and reduce conflict in prisons.

Comment

The CPT found (paragraph 37) that "again, with the notable exception of Cork Prison, that there was a rather poor and inconsistent recording of incidents of inter-prisoner violence in some of the prisons visited." Regarding recording such incidents, it further stated "Without an accurate recording of all incidents, the integrity of the data cannot be relied upon which in turn means that it is not possible to have any meaningful analysis of the extent of violence in the prisons nor of any comparisons between prison establishments."

Recommendation

The CPT recommends once again that the Irish authorities reiterate the importance of diligently and systematically recording all the incidents of inter-prisoner violence to the management and staff of all the penitentiary establishments. A standardised approach to the recording of all incidents in prisons should be introduced across the prison estate.

Ireland's Response

The Irish Prison service use the National Incident Management System (NIMS) provided by the State claims Agency for the recording of all incidents in prison including acts of violence or aggression by prisoners on other prisoner or prisoners on staff members.

The system allows for a detailed description of the incident including the nature of the incident, the time, date and location of the incident and the details of the people involved. The Irish Prison Service Health and Safety Compliance Office (HSCO) oversees the recording of all incidents on the NIMS system and engages regularly with the Health and Safety personnel at prison level with regard to the need to ensure all incidents are correctly and accurately recorded.

The Irish Prison Service is committed to enhancing the reporting an recording of such incidents and the Director General of the Irish Prison Service has issued a communication to all staff with regard to the need to maintain accurate records on inter-prisoner (and prisoner on staff) violence.

3. Restricted regimes

Comment

In respect of restricted regimes the CPT stated (paragraph 38) "A focus of the visit was to examine the situation of prisoners on a restricted regime whether as a security measure (Prison Rule 62) or for reasons of protection (Prison Rule 63)."

The CPT noted (paragraph 38) "On 29 June 2017, the Minister of Justice signed into law an amendment to Rule 27 (1) of the Prison Rules, the purpose of which was to abolish solitary confinement. In line with Rules 44 and 45 of the UN Mandela Rules, all prisoners wishing to do so, will receive a minimum of two hours out-of-cell time with the facility for meaningful human contact. The CPT considers that the Irish Prison Service (IPS) policy on the abolition of solitary confinement is laudable."

The CPT further noted "The CPT's delegation observed that genuine efforts were being made to ensure that all prisoners were offered at least two hours of out-of-cell time. However, the delegation did come across prisoners who were de facto in a situation of **solitary confinement (i.e. more than 22 hours locked alone in their cells) but whose situation was not being recorded as such. It is essential to have an accurate recording of association and out-of-cell time which enables prison management and IPS HQ to address cases of *de facto* solitary confinement."**

Recommendation

The CPT recommends that the Irish authorities reiterate to prison management and prison officers the importance of ensuring an accurate recording of out-of-cell time for persons placed on restricted regimes.

Ireland's Response

The Irish Prison Service will review the recording process for out of cell time for prisoners on restricted regimes and introduce a standardised recording for all prisoners on restricted regimes.

It is a requirement of the Irish Prison Service Policy on the Elimination of Solitary Confinement that Governors ensure adequate and correct record-keeping. Since the CPT visit, the need for accurate recording of regime levels has been re-enforced to Governors at both the Solitary Confinement Group (chaired by the Director General) and also at the Irish Prison Service Strategy and Policy Group meeting, which all Governors and Operational Governors attend. Staff have been issued with a reminder of the importance of accurate record keeping. To ensure consistency across all locations, a new standardised reporting book for prisoners on restricted regimes is being introduced to all locations. To enhance the recording of out of cell time, the Irish Prison Service will review the recording process for out of cell time for prisoners on restricted regimes across the system and introduce a standardised recording of all prisoners on Restricted Regime. Consideration will also be given to incorporating this process into the Prison Information Management System (PIMS).

The restriction of a prisoner's regime can arise in a number of circumstances. Such restrictions are as provided for in S.I. No. 252/2007 - Prison Rules, 2007, as amended. For example, Rule 63 provides that a regime can be restricted so as to provide for the protection of vulnerable prisoners either at their own request or when the Governor considers it necessary.

In addition, in accordance with Rule 62, a Governor may decide, for the maintenance of good order in the prison, to remove a prisoner from general association or structured activity, to reduce the negative effect that a prisoner or prisoners may have on the general population. A smaller number of prisoners may have their regimes restricted for medical (Rule 64) or discipline reasons (Rule 67).

The Prison Rules 2007 provide that the imposition of restricted regimes is closely monitored by the Irish Prison Service. The IPS Statistics Unit commenced the collation of a Quarterly Census of Restricted Regime Prisoners in 2013 and this is published quarterly on its website (www.irishprisons.ie).

In June 2017 the Minister made a statutory instrument (S.I.) entitled Prison (Amendment) Rules 2017 no. 276 of 2017 which brings into effect that provision relating to solitary confinement contained in the UN standard minimum rules for the treatment of prisoners - known as the Mandela Rules, (which

define solitary confinement as being restricted to one's cell or room for more than 22 hours a day without meaningful human contact).

As a result of this S.I. and subject to any restrictions imposed under and in accordance with part 3 of the Prisons Act 2007 and part 4 of the 2007 Prison Rules, all prisoners have a right to spend a minimum of 2 hours out of their cell with an opportunity for meaningful human contact. Last census figures (July 2020) show 196 prisoners were on 23 hour lock up. 521 persons were on restricted regimes - of which 505 were there at their own request. 21 had their regime restricted by the authorities for the purpose of maintaining the good order of the prison system. However, these figures reflect the effect of measures taken to control infection in the current pandemic. Census figures from January 2020 are more reflective of normal operation of the regime and show only 4 prisoners were on 23 hour lock up. 589 persons were on restricted regimes - of which 533 are there at their own request. 36 had their regime restricted by the authorities for the purpose of maintaining the good order of the prison system.

The numbers on a restricted regime reflect the challenge faced by the Prison Service to provide safe custody for all those in their care.

The Director General of the Irish Prison Service chairs a high-level group to look at measures, which can be introduced to reduce the number of prisoners held on restricted regimes. The objective of this group is to ensure that all prisoners receive a minimum standard out of cell time, to engage in exercise or activity consistent with Irish Prison Service Policy on the Elimination of Solitary Confinement.

a. prisoners on protection

Comment

The CPT made a range of observations, including problems with regimes and safety issues (paragraphs 40-42) related to the operation of Rule 63 of the Prison Rules which provides that a prisoner may, either at his or her own request or when the Governor considers it necessary, be kept separate from other prisoners who are reasonably likely to cause significant harm to him or her. Such a prisoner may participate with other prisoners of the same category in an authorised structured activity if the Governor considers that such participation is reasonably likely to be beneficial to the welfare of the prisoner concerned.

In paragraph 40, the CPT noted "The CPT's delegation observed varying practices towards protection prisoners in the different prisons visited. Providing a meaningful regime to prisoners who state that they cannot associate with prisoners on an ordinary landing, and who are often confined to associating with only a small number of other prisoners, is a challenge. The CPT acknowledges that the prison authorities have to tread a fine line not to encourage prisoners to seek protection while at the same time not punishing those prisoners whose safety is at real risk from other prisoners."

The CPT stated (paragraph 43) "The Committee understands that progression or regression from one regime level to another should be based on the behaviour of each individual prisoner as well as his participation in activities. However, prisoners on protection who have not committed any disciplinary offence but are unable to access activities due to their protection status should not be *de facto* punished by being placed on the basic level of the incentivised regime system."

It is also stated (paragraph 43) that "Moreover, it is very important for prisoners to be able to maintain good contact with the outside world. This is all the more the case for prisoners on protection who may

have a greater need to maintain contact with family and friends since they cannot have any safe contact with other inmates."

Further to that the CPT state (paragraph 43) "In addition, while the policy of the Irish prison system to ensure every prisoner is offered at least two hours of out-of-cell time is positive, confinement to a cell for 21 or 22 hours per day may nevertheless have an extremely damaging effect on the mental, somatic and social health of the prisoner. Therefore, while pursuing their goal of ensuring that all prisoners can serve their sentences under safe conditions, the Irish authorities should also strive to minimise the deleterious effects of such segregation, especially where it continues for more than a few weeks. Additional measures should be taken in order to provide them with appropriate conditions and treatment; access to activities, educational courses and sport should be feasible "

Recommendation

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

In addition, it is important that the management of the prisons visited pay close attention to those challenging prisoners who through a combination of mental health issues, being on protection and having committed a disciplinary offence may find themselves in a situation of de facto solitary confinement.

Ireland's Response

The Irish Prison Service is currently carrying out a review of the operation of Rule 63 of the 2007 Prison Rules (Protection Prisoners) with a view to significantly reducing the number of prisoners on protection across the prison estate. The Service will review the regimes available in Cloverhill, Cork, Mountjoy and Midlands Prisons with a view to maximising the regimes for prisoners on restricted regimes in these locations.

The restriction of a prisoner's regime can occur due to a number of factors including, medical reasons and/or the protection of vulnerable prisoners. The restriction of a prisoner's regime for safety or protection reasons is provided for under Rule 63 of the Prison Rules 2007. A prisoner may, either at his/her own request or when the Governor considers it necessary, in so far as is practicable and subject to the maintenance and good order and safe and secure custody, be kept separate from other prisoners who are reasonably likely to cause significant harm to him/her.

The status of each prisoner on restricted regime within the prison system is regularly reviewed. If possible, prisoners will be transferred to other institutions where a restricted regime would not be necessary.

In addition, the Governor may decide, for the maintenance of good order in the prison, to remove a prisoner from general association or structured activity to reduce the negative effect that a prisoner or prisoners may have on the general population. This is provided for under Rule 62 of the Prison Rules 2007.

The Director General of the Irish Prison Service chairs a high-level group, which looks at measures which can be introduced to reduce the number of prisoners currently held on restricted regimes and monitors Census results and returns from individual prisons.

The provision of visits is managed both in accordance with the Prison Rules, 2007 which specify the entitlement prisoners have to visits and in line with the prisoner's status under the Incentivised Regimes System.

As noted by the CPT the Irish Prison Service must be careful not to introduce measures which could been seen to incentivise prisoners to seek protection. Affording greater levels of privileges to prisoners on protection, could encourage greater numbers of prisoners to seek protection, and a balance must be struck in that regard.

Further, the Irish Prison Service is currently considering the greater use of I.T. to improve and enhance prisoners contact with their families through the use of remote visits utilising video-linking and other such telephone initiatives. It is intended that the Irish Prison Service will retain initiatives such as additional in-cell television channel, introduced during COVID-19, for prisoners. In addition the Prison Service is actively introducing measures to enhance in-cell learning for prisoners.

It should be noted that the practice referred to by the CPT with regard to the placing of protection prisoners in the Midlands Prison on the "Basic Level" of the Incentivised Regimes system was an incorrect interpretation of the Incentivised Regime Policy by the Midlands Prison and has been ceased.

b. prisoners segregated for good order

Comment

In terms of higher security prisoners (paragraph 44) "The CPT recognises that in every country there will be a certain number of prisoners considered to present a particularly high security risk and hence to require special conditions of detention." Overall the CPT state that this group is a small proportion of the prison population, "However, it is a group that is of particular concern to the CPT, as the need to take exceptional measures vis-à-vis such prisoners brings with it a greater risk of inhuman treatment."

Rule 62 of the 2007 Prison Rules provides for a Governor to remove a prisoner from structured activity or association on grounds of maintenance of good order or safe or secure custody. These orders must be reviewed at least every 7 days and the prisoner must be provided with reasons for the decision. An extension beyond 21 days must be authorised by the Director General in writing.

In the course of the visit, the CPT examined the circumstances of prisoners placed on Rule 62. The CPT outlined (Paragraph 45) the circumstances & shortcomings in the regimes offered to such prisoners they encountered in Cloverhill, Cork, Midlands and Mountjoy prisons.

The CPT state (paragraph 46) that "The placement of a prisoner under Rule 62 should also be viewed as an opportunity to engage more intensively with that prisoner to see whether the underlying causes of their behaviour can be addressed. To this end, the CPT considers that such prisoners should be provided with a tailored programme of purposeful activities of a varied nature. This programme should be drawn up and reviewed on the basis of an individualised needs/risk assessment by a multi-

disciplinary team (similar to that in place in the NVRU), in consultation with the prisoners concerned. Interaction/association between prisoners should be the norm; conditions akin to solitary confinement should only be used when absolutely unavoidable in order to deal with a person who is assessed as acutely dangerous to others and for the shortest period necessary. "

Recommendation

The CPT recommends that the Irish authorities improve the regime on offer to prisoners in the Challenging Behaviour Units and other similar units, in the light of the above remarks.

Ireland's Response

The Irish Prison Service will conduct a review of access to and availability of services for prisoners in Challenging Behaviour Units where such prisoners are detained.

Comment

The CPT considers (paragraph 47) that "… there is insufficient oversight of the placement and review procedures for keeping a prisoner on Rule 62." An examination of the documentation surrounding the decision-making process for persons subject to Rule 62, showed that the official forms provided little information to justify the initial placement or the seven-day extensions made by the Governor. Moreover, the 21-day reviews carried out by the Director General (DG) of Prisons appeared to be little more than a rubber-stamping exercise."

Examples regarding the use of Rule 62 in practise were provided in respect of Cloverhill and Mountjoy prisons (paragraph 47).

Recommendation

The CPT recommends that the Irish authorities put in place an effective review process for all Rule 62 placement and extension decisions, which has access to all the necessary information to make an informed decision.

Ireland's Response

The Irish Prison Service will review Rule 62 as part of the current review of the Prison Rules which has commenced to take account of the newly published Council of Europe - European Prison Rules.

Under Rule 62 of the 2007 Prison rules, the Governor may decide, for the maintenance of good order in the prison, to remove a prisoner from general association or structured activity to reduce the negative effect that a prisoner or prisoners may have on the general population.

The operation of Rule 62 is one of the most centrally controlled of all operational Prison Rules with the process being outlined by the CPT in the body of their Report.

One of the main priorities for the Irish Prison Service is to provide safe and secure custody to prisoners and also to provide a safe working environment for our staff. Where a prisoner continually exhibits a

propensity for acts of violence towards staff or other prisoners they are removed from general population under Rule 62.

It is open to any prisoner held under Rule 62 to appeal that decision. The purest form of review of a prisoner's situation is through Judicial Review, and prisoners detained on Rule 62 continue to have access to their legal representatives and the court system. A number of prisoners have challenged their detention under Rule 62 in the Courts. Further, complaints against decisions of the Minister (and by extension, officials in the IPS) are catered for under the Prisoner Complaints System.

The Irish Prison Service has completed a re-examination of the Rule 62 Review Process (in respect of Rule 62) and strengthened procedures in this regard, and in circumstances where the precise reason for the continued detention of a prisoner under the Rule are not included in the application, the applications are (i) returned to the Governor in question for clarification and further detail and/or (ii) refused by the DG where the DG is not satisfied that the Rule is being applied correctly.

A working group of officials from the Irish Prison Service and the Department of Justice has been convened to consider the review of the Rules and make recommendations for changes. The Irish Prison Service will keep the CPT informed of progress in this area.

c. National Violence Reduction Unit (NVRU)

Comment

The NVRU which opened in November 2018 is located in C1 wing of Midlands Prison. It is a stand-alone unit with its own management and dedicated staff. The unit is designed to provide more effective management of a small number of high-risk violent and disruptive prisoners. The unit is jointly managed by an Assistant Governor and a Senior Psychologist and aims for prisoners to benefit from a purposeful regime where they will be supported to address their problematic behaviour with a focus on progression and re-integration into an ordinary prison setting.

The CPT (paragraphs 49, 50 & 51) provide details of the unit and how it operates.

The CPT state at paragraph 51 "At the time of the visit, the unit accommodated four prisoners, all of whom were considered to have had a prolonged history of violence against staff and other prisoners…More generally, given that the NVRU is an end of the line facility for prisoners transferred to it, there is a strong case for not applying the general IEP system and other Rules, but of having a bespoke regulation for the NVRU. Discussions with staff and prisoners by the CPT's delegation confirmed the need for such an approach."

Request for Information

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

Ireland's Response

The Irish Prison Service welcome the comments of the CPT with regard to the operation of the National Violence Reduction Unit (NVRU) and would welcome an ongoing dialogue with the CPT as practices within the NVRU evolve.

The unit is still in the relatively early stages of development. Following the observations of the CPT, the Irish Prison Service is taking the opportunity to re-evaluate practices, review the regime and consider the culture within the Unit. The priority for the NVRU remains to be a move away from a focus on containment and to an ethos of progression.

With that in mind the Irish Prison Service will complete a re-evaluation of the operation of the National Violence Reduction Unit to ensure that the focus of the Unit is on progression rather than containment. The Irish Prison Service will also advance actions to maximise the regime that is currently in place on the NVRU and to increase access to meaningful activity.

The Irish Prison Service fully accepts that treating the prisoners as normally as possible is more likely to elicit a positive response than constantly reminding them that they are to be feared and micro-managed. The NVRU is a new unit and a significant departure for the Irish Prison Service in terms of adopting a more psychologically informed approach to the management of high risk prisoners.

The Irish Prison Service accepts the recommendations regarding the need to maximise the regime that is currently in place on the NVRU and to increase access to meaningful activity. In response to this need the Irish Prison Service recently conducted an internal engagement with stakeholders to gather suggestions in relation to the following aims: creating hope, increasing opportunities for social contact, increasing access to meaningful activity, incentivising prosocial behaviour, and improving the environment. This feedback informed the IPS NVRU Regime Development Plan, which encompasses a horticulture project, outdoor gym equipment, maximising the use of the multipurpose room etc. Resources have also been sought to fill the vacant WTO (Work Training Officer) post which was originally sanctioned for the NVRU. Business cases have been submitted and approved for all works needed and these are now being progressed. IPS has finalised its implementation plan and aims to have a broader and more purposeful regime in place by the end of 2020.

Comment

The CPT state (paragraph 52) that "Despite the stated intentions to promote a varied regime, at the time of the visit all four prisoners were spending 23 or 24 hours alone in their cells. The only activities being offered were access to the outdoor exercise yard and the gym, which the four prisoners regularly declined. Moreover, the two prisoners with whom the delegation held structured interviews were dismissive of the regime and of the approach towards them ……..For two of the inmates, the once a-week meetings with a psychologist were considered inadequate and not meaningfully impacting on their lives while the other two inmates refused to talk to a psychologist."

Recommendations

The CPT recommends that measures be taken to ensure that prisoners are neither handcuffed during medical consultations nor examined through metal bars. In addition, steps should be taken to ensure that medical examinations of prisoners are conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of non-medical staff. Alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality. One possibility might be the installation of a call system, whereby a doctor would be in a position to rapidly alert prison officers in those exceptional cases when a prisoner becomes agitated or threatening during a medical examination.

Further, the CPT recommends that all non-medical formal interactions in the consultation rooms between staff and prisoners of the NVRU be conducted without the metal bars and Perspex screen in place. Where concerns for safety exist, it would be preferable for an additional member of staff (e.g. the personal prison officer) to be present in the consultation room.

Ireland's Response

The Irish Prison Service notes the concerns of the CPT however, there is a balance to strike in the NVRU in in relation to ensuring confidentiality without compromising the safety of medical/operational staff. Currently, medical examinations of prisoners on the NVRU can be conducted in the following areas:

- Consultation room using screen/bars with no operational staff being present
- Medical room on the unit with prisoner cuffed and minimum two staff in the room (rest of staff as per unlock levels outside ready to intervene)
- For prisoners representing a lower level of risk, medical examinations can take place in the medical room on the unit with staff outside ready to intervene

These security measures were introduced in order to ensure medical examinations are conducted in a safe and secure environment for both medical and operational staff. They are similar to security measures put in place for 'ordinary' prisoners attending similar appointments in less secure areas (i.e. hospital appointments). In instances where prisoners meet with medical staff in the consultation rooms, with the use of bars/screen, there is no need for the use of cuffs.

Security arrangements on this Unit have been introduced to ensure the safety of both discipline and medical staff and in consideration of the level of risk presented by the prisoners on the Unit.

It should be noted that the prisoners accommodated in the NVRU have a consistent history of violence against staff and other prisoners. The risk to staff and all who interact with this cohort remains. Despite the security arrangements and the efforts by staff on this Unit sporadic incidents still take place. There have been 20 assaults on staff and 10 attempted assaults on staff since its opening. These have resulted in 13 staff receiving various injuries.

The Irish Prison Service are continuing to provide a variety of options to manage the risks posed to medical staff, some of which, based on risk assessment and mitigation, prioritise security above confidentiality. Responding to expressed concerns regarding confidentiality, when medical staff are meeting with prisoners in the consultation rooms (a low risk setting), the Irish Prison Service will seek to minimise disturbance by limiting traffic in the area and ensuring operational staff are not in sight of the prisoner.

With regard to the CPT recommendation to use medical room with staff outside the door, due to the risk of hostage taking/assault this could only be done with prisoners who present a low level of risk and only following a thorough risk assessment by the NVRU staff. All security practices employed on the NVRU are developed taking into account individual level of risk posed by each prisoner managed on the Unit.

Regarding the security regime applied in the NVRU for medical assessments, the Irish Prison Service will keep this under review and this review will be informed at all times by an appropriate risk assessment on the level of risk posed by the prisoners accommodated in that location.

Comment

The CPT recognises (paragraph 53) that the prisoners in the NVRU "…may be violent and that all of them have assaulted staff….It also acknowledges that a few of these prisoners may have been subjected to even more restrictive management such as "barrier" handling....."

The CPT also state in respect of positive interactions by staff with prisoners that "…..such interactions should be built upon to move swiftly to a situation where the prisoner is unlocked and escorted to activities without applying handcuffs and by one or two officers only.[12] Further, staff should not carry extendable batons within the unit but keep them in the staff office." That "Treating the prisoners as normally as possible is more likely to elicit a positive response than constantly reminding them that they are to be feared and micro-managed."

In respect of disciplinary procedures the CPT state (paragraph 53) that "there is a need to promote a more dynamic and less rigid interaction approach which offers the prisoners some perspective to engage in meaningful activities."

The CPT considers (paragraph 54) that "the intended purpose of the NVRU with its dual security and therapeutic approach is positive providing that greater emphasis is placed upon delivering a purposeful regime with meaningful engagement. The provision of educational classes should be restored and offering other activities in the multi-purpose room should be explored. Staff on the unit are clearly motivated and willing to try new approaches to ensure an overbearing security regime does not predominate…."

Further to that the CPT state (paragraph 54) that "There is a real opportunity to develop the NVRU into a centre of excellence for managing challenging prisoners but there is also a risk that it will become simply another segregation block."

Recommendation

The CPT recommends that the Irish authorities review the way in which the prisoners on the unit are managed in the light of the above remarks. Further, it looks forward to continuing its dialogue with the Irish authorities on the evolution of this unit.

Ireland's Response

The Irish Prison Service welcome the comments of the CPT with regard to the operation of the National Violence Reduction Unit (NVRU) and would welcome an ongoing dialogue with the CPT as practices within the NVRU evolve.

As referred to earlier, the unit is still in the relatively early stages of development. Following the observations of the CPT, the Irish Prison Service is taking the opportunity to re-evaluate practices,

[12] The staff resources present on the unit would enable a swift intervention if required.

review the regime and consider the culture within the Unit. The priority for the NVRU remains to be a move away from a focus on containment and to an ethos of progression.

With that in mind the Irish Prison Service will complete a re-evaluation of the operation of the National Violence Reduction Unit to ensure that the focus of the Unit is on progression rather than containment. The Irish Prison Service will also advance actions to maximise the regime that is currently in place on the NVRU and to increase access to meaningful activity.

The Irish Prison Service fully accepts that "treating the prisoners as normally as possible is more likely to elicit a positive response than constantly reminding them that they are to be feared and micro-managed." The NVRU is a new unit and a significant departure for the Irish Prison Service in terms of adopting a more psychologically informed approach to the management of high risk prisoners.

Meetings with service providers (psychology, education etc.) under less restrictive conditions is something the Irish Prison Service is working towards for all prisoners. Historically there has been practice at various times of Education, Psychology and the Governor meeting with a high risk prisoner on the NVRU under less restrictive conditions in a consultation room without a screen, where risk assessment deemed that they did not pose a risk to others.

Security for staff, including non-discipline staff, is paramount with regard to the operation of this Unit. As noted in the Report a teacher was assaulted on the NVRU when meeting with a prisoner without bars/screens, which in turn resulted in the withdrawal of education provisions to the NVRU for a number of months.

Given the relatively high level of risk posed by NVRU prisoners, the Irish Prison Service are cautious about exposing service providers to injury and therefore a blanket approach regarding relaxing security procedures around meetings would run counter to all health and safety obligations of the Irish Prison Service management and the NVRU management team in particular. Any reduction of risk management practices around meetings must be done on an individualised basis following thorough risk assessment at the Dynamic Risk Assessment Meeting (DRAM) and is contingent upon stability of each prisoner's behaviour, compliance with protocols and the quality of relationships built up with the service providers in question. Building trust with this cohort of prisoners takes time.

The security regime applied in the NVRU, with regard to non-medical formal interactions, will be kept under review and will be informed at all times by an appropriate risk assessment on the level of risk posed by the prisoners accommodated in that location.

In relation to batons, a thorough risk assessment and scoping exercise was completed by the NVRU leads prior to the decision to introduce batons on the NVRU. Batons are routinely carried in the CSC system (the system upon which the NVRU was modelled). Batons are only to be deployed in exceptional circumstances and stringent rules and protocols are in place to regulate if/when these are to be deployed/used.

Assault with a weapon is a credible risk on the NVRU as all prisoners have a significant history of weapon use against staff. Storing batons in the class office defeats the purpose of carrying them as staff would not be able to access them in an emergency.

4. Observation cells in prisons

Comment

In respect of Special Observations Cells, Rule 64 of the Prison Rules 2007 states, a prisoner shall be accommodated in a special observation cell only if "it is necessary to prevent the prisoner from causing imminent injury to himself or herself, or others and all other less restrictive methods of control have been or would, in the opinion of the Governor, be inadequate in the circumstances." There are two types of special observation cell: Close Supervision Cell and Safety Observation Cell. In 2010, the CPT states (paragraph 55) that they were ".. deeply concerned by the situation of prisoners placed in special observation cells and urged the Irish authorities to clearly identify the purpose of such cells and to ensure clear operating standards governing the placement of inmates were in place."

In November 2013, the Irish Prison Service introduced separate standard operating procedures for the use of safety observation and close supervision cells. The findings of the CPT's 2014 visit "..showed that there was a degree of confusion among prison staff and management as to the specific purpose of each category of cell as well as several other deficiencies in the management of prisoners placed in these cells."

In April 2019, new Standard Operating Procedures (SOPs) and procedures were introduced for both Close Supervision and Safety Observation Cells.

The CPT state (paragraph 55) "The findings of the 2019 periodic visit demonstrated not only a continued confusion over the use of these special cells but also that they are not being managed according to the SOPs. At the end of the visit, the CPT's delegation requested a wholesale review of the use of both Close Supervision and Safety Observation Cells. By letter of 27 January 2020, the Irish authorities informed the CPT that the Irish Prison Service would undertake a review of the use of both CSCs and SOCs."

Recommendation

The CPT recommends once again that the Irish authorities ensure that there is no routine removal of a prisoner's clothing upon their placement in a CSC. To this end, the SOPs regulating CSCs should be amended to state that only where there is a risk of suicide by the prisoner concerned should his/her clothing be removed, and the prisoner provided with rip proof bottoms and top.

Ireland's Response

The Irish Prison Service will introduce a new Standard Operation Procedure with regard to the use of Close Supervision Cells (CSCs) in Irish Prison and this will clarify the issue of the wearing of personal-issue clothing in CSCs and also the circumstances in which CSCs should be used**.**

Special Observation cells are certified under Rule 18 of the Prison Rules 2007 are only to be used with a prisoner poses an immediate threat of serious harm to self and/or others.

Close Supervision Cells may only be used:

When alternative and less restrictive methods of control are considered by the Governor as inadequate and for the shortest period possible and in circumstances such as for the:

- Protection of the prisoner or others,
- Protection of property,

- Proper management of the prison
- Preservation of good order and /or
- Reasons of security and safety.

The operation of CSCs has been Reviewed and the following steps taken –

(i) A draft amended SOP on the operation of CSCs has been prepared which clarifies the circumstances in which such cells are to be utilised. The draft SOP also clarifies the issue of the wearing of personal-issue clothing in CSCs and also the circumstances in which CSCs should be used

(ii) An amendment to the Prison Rules has also been prepared (and discussed with the Department of Justice) with a view to (a) placing CSCs on a statutory footing and (b) completely delineating them from Special Observations Cells (SOCs), in terms of oversight and governance arrangements.

Comment

The CPT make a number of comments (paragraph 59) regarding Close Supervision Cells (CSCs) in respect of layout, fittings, lighting, ventilation, temperature, access to showers and exercise.

Recommendation

The CPT recommends that all prisoners placed in a CSC for longer than 24 hours be offered a shower and access to outdoor exercise (see below regarding persons placed in a SOC). Further, staff should be attentive in ensuring that the CSCs and SOCs are not too cold at night and that prisoners are provided with sufficient blankets to keep warm.

Ireland's Response

The Irish Prison Service will review current practises in relation to the operation of CSC's with a view to enhancing access to services based on individual risk assessments.

Comment

In paragraph 60, "The CPT's delegation again found that there was a lot of confusion among prison staff and management about the specific purpose of a CSC and of a SOC" and it appears that both types of cells were used interchangeably.

The CPT state (paragraph 61) that "In the light of the above findings and the very real confusion that exists between the use of a CSC and a SOC, the CPT considers that there is a need to streamline the procedures for the placement of a prisoner in a CSC or a SOC. In the CPT's view, the most effective approach would be to do away with the differentiation between a CSC and a SOC and instead focus on the reasons for the placement of a prisoner in one of these cells."

Recommendation

The CPT recommends that the Irish authorities review the use of CSCs and SOCs with a view to clarifying the procedures and management of prisoners placed in such cells and of doing away with the artificial distinction between the two types of cells, in the light of the above remarks.

Ireland's Response

The Irish Prison Service has commenced, in conjunction with the Department of Justice, a review of the Prison Rules taking account of the most recently published Council of Europe - European Prison Rules. It is intended that the operation, management and governance of Special Observations Cells will be considered as part of this review and a clear distinction between the operation of Close Supervision Cells s and Safety Observation Cells will be made. Arising from any changes to the Rules new Standard Operating Procedures will be drafted which will incorporate an audit cycle and reporting mechanism regarding the use of Special Observation Cells.

The Irish Prison Service will complete a review of the use and operation of Observation Cells in prisons as part of the overall review of the Prison Rules. An information awareness raising campaign with Staff in relation to distinction between the role and purpose of CSC's and SOC's will also be undertaken.

The Irish Prison service completed a major internal awareness campaign for staff including the development of a bespoke information portal on the monitoring of prisoners during periods of lock up. This included detailed information for staff on the monitoring of prisoners in both Close supervision cells and Safety observations Cells. Additional posters and explanatory leaflets where also developed and made available in all prisons.

The Director General wrote to all staff on this issue highlighting the staff obligations and providing links to the portal which contained detailed information on the various policies and Standard operating procedures.

Safety Observation Cells are certified under Rule 18 of the Prison Rules 2007 and are only to be used when a prisoner poses an immediate threat of serious harm to self and/or others arising from a healthcare condition. The decision for placement in the cell will have been made in the best interest of the safety and health of the prisoner as perceived by prison supervisors/managers/health care staff and when all alternative interventions to manage the prisoner's unsafe behaviour have been considered.
The placement of a prisoner in an SOC is based on a healthcare risk assessment undertaken by a registered doctor/nurse. This provides the clinical rationale for placement in an SOC.

Placement in a Safety Observation Cell is determined by a direction from the Governor or designate in accordance with the Prison Rules 64(1). In making this direction, the Governor shall take into account the advice of the registered medical practitioner or nurse.

Placement in a Safety Observation cell must not be prolonged beyond the period which is strictly necessary to prevent immediate and serious harm to the prisoner and/or others.

Use of this intervention must be based on a thorough clinical risk assessment, and that the presenting behaviour is directly linked to a health issue and not a demonstration of disruptive or challenging behaviour due to the prisoner's lack of self-discipline or grievance with the prison service.

The Irish Prison Service will inform the CPT of developments in this area as they arise.

Comment

The CPT's delegation found the recording of data on the use of a CSC and a SOC could not be relied upon. The CPT state (paragraph 62) that "The wing registers often lacked information concerning the reason for placement, the time and date a prisoner was released from a CSC/SOC and no information was given on how the prisoner was managed and whether they were offered a shower, outdoor exercise or food and drink. Even the 15-minute officer checks and, where required, the two-hourly nurses' visits and whether the Governor and doctor visited daily were not always recorded."

There were also problems with recording authorisations from the Governor and the Director General to extend placements. The CPT state (paragraph 62) that "the records on the use of a SOC rarely included authorisation by the Governor and in many cases there was no information as to whether permission had been sought every 24 hours from the DG of Prisons to extend the placement measure once it had exceeded 120 hours. Nor was there any note as to whether the IPS Nurse Manager and IPS Clinical Director had been notified. Moreover, there was no written record either about what information was provided to the DG of Prisons to assist her in making her decision nor about the reasoning behind her decision to extend a placement in a SOC. Indeed, in the prisons visited the Director General's authorisations were not recorded."

Recommendation

The CPT recommends that the Irish authorities ensure that the integrity of data relating to all procedures surrounding the placement and stay of prisoners in CSCs and SOCs is guaranteed in accordance with the SOPs.

Ireland's Response

As referred to earlier, the Irish Prison Service has commenced, in conjunction with the Department of Justice, a review of the Prison Rules taking account of the most recently published Council of Europe - European Prison Rules. It is intended that the operation, management and governance of Special Observations Cells will be considered as part of this review and a clear distinction between the operation of Close Supervision Cells s and Safety Observation Cells will be made. Arising from any changes to the Rules new Standard Operating Procedures will be drafted which will incorporate an audit cycle and reporting mechanism regarding the use of Special Observation Cells.

Comment

The CPT state (paragraph 63) that "The use of SOCs is also integrally linked to one of the most pressing issues within Irish prisons, namely the treatment of prisoners who are mentally ill." At the time of the visit, there were some 25 prisoners on the waiting list for admission to the Central Mental Hospital (CMH) and the delegation met many of them in the prisons it visited (see section 6.d below). The most acutely unwell prisoners awaiting transfer to the CMH were being managed in a SOC.

In paragraph 63, the CPT referred to the circumstances of two of ten prisoners who were awaiting transfer to the CMH and who had been managed in a SOC for approximately two weeks. The CPT state that "When the CPT's delegation met one of the men (PM), he was lying naked in his cell, with the cell smeared with faeces and puddles of urine on the floor. There were no blankets in the cell and

his poncho lying next to him was soaked in urine. Prison officers explained that the door to the SOC was only opened using the protection of a shield to pass him food. During his time in the cell he had not been provided with a shower or let out of the cell.[13] The other man (MS) was in a similarly distressed state and he too had not been afforded a shower or allowed out of his cell since his placement. "

They further state that "Despite both of these men being very unwell neither of them had had an individual care and treatment plan drawn up as directed by the recently revised SOPs for a SOC (see point 4.1.f). Moreover, nursing staff were unable to engage with either man inside the SOCs as prison officers were not willing to unlock the cells. Further, there was poor recording of any interventions, including whether the two men had taken food. In the CPT's view, such a situation might amount to inhuman and degrading treatment."

The CPT (paragraph 64) state that "While one of the men (PM) was bailed by the High Court to a psychiatric hospital in the community on 2 October 2019, it was disappointing to learn that he had still not been afforded a shower prior to his transfer. As regards the other person (MS) held in a SOC, the CPT learned that due to his homeless status he would not be accepted by a community hospital and would have to wait for a bed to become available in the CMH. The CPT's delegation requested the Irish authorities to ensure that a care plan be put in place immediately for this man, and for any other persons accommodated in a SOC pending transfer to a mental health care facility; such a plan should include being monitored directly by a psychiatric nurse (1:1), the door to the SOC being left unlocked during the day, access to a shower and outdoor exercise and increased access to chaplaincy and psychology services."

The CPT refer to correspondence received by email of 28 November 2019, where they were informed that ."..MS was held in a SOC until his transfer to the CMH on 26 November (i.e. for 10 weeks). The communication confirmed that he was seen by a nurse every two hours and a doctor daily but no information was provided regarding whether a care and treatment plan had been drawn up for him and whether such had included the elements requested by the CPT's delegation at the end of the visit."

Recommendation

The CPT recommends that the Irish authorities ensure that a care and treatment plan be drawn up for all prisoners accommodated in a SOC pending transfer to a mental health care facility, and that such a plan include being monitored directly by a psychiatric nurse (1:1), the door to the SOC being left unlocked during the day, access to a shower and outdoor exercise and increased access to chaplaincy and psychology services.

Ireland's Response

The Irish Prison Service state that the use of an SOC is confined to a situation when the prisoner poses an immediate threat of serious self-harm or harm to others arising from a health care condition. This intervention must be based on a thorough clinical risk assessment. The SOP pertaining to the use of an SOC requires this risk assessment to be scanned and recorded onto the prisoners PHMS health care record for each and every placement. This forms the basis of a care plan which includes 2 hourly

[13] From 19 to 24 September PM and another prisoner MS were transferred to Mountjoy Prison, due to a suspected tuberculosis outbreak, where they were held in SOCs in the High Support Unit. During this period, they were not provided with a shower or afforded any other care out of their cell.

review by a registered nurse, at least daily review by the doctor and a referral to the in-reach psychiatric team. In addition, the doctor must inform the prisoner of the clinical reasons for the placement. The SOP states that the prisoner's individual care and treatment plan must address the assessed needs of the prisoner in the SOC with the goal of bringing the placement in the SOC to an end. A record of all interventions must be made on the prisoners PHMS record. The SOP also provides for a safe and comfortable environment and the provision of at least one hour exercise a day where it is considered safe, subject to the clinical risk assessment.

Where prisoners are required to remain in the SOC for longer periods (greater than 120 hours), authorisation must be sought from the Director General. In these situations, or when the prisoner is on the waiting list for the CMH, a report will be provided to the Executive Clinical Lead or National Nurse Manager.

As mentioned previously, the Irish Prison Service will develop a new Standard Operating Procedure for prisoners held in Safety Observations Cells following the review of the Prison Rules to take account of any changes made to that Rule. The appropriate level of mental health input will be considered as part of the development of the new SOP. The current SOP allows for access to a shower, outdoor exercise and access to chaplaincy and psychology services as appropriate.

The Programme for Government (PFG) recommends the establishment of a Task Force as part of Prison and Penal Reform. This commits Government to "Establish a high-level cross-departmental and cross-agency taskforce to consider the mental health and addiction challenges of those imprisoned, and primary care support on release."

The whole area of how criminal justice and public health, especially mental health, intersect and how to best provide the most appropriate service is a top priority for the Minister for Justice. She is engaging with her colleague, the Minister for Health with a view to the early establishment of the High Level Task Force committed to in the Programme for Government.

The Irish Prison Service has met with the Department of Justice and the Department of Health, the HSE and the NFMHS in relation to a future model of care for mental health. The work of the Inter-departmental Group on Mental Health and the recently published Department of Health Policy (Sharing the Vision) will form part of this work.

The Irish Prison Service strongly supports the establishment of the Task Force as a priority to address the issue of increasing the capacity of Forensic Mental Health services across the prison estate and for those who require admission to the CMH.

5. Conditions of detention

a. material conditions

Comment

The CPT state (paragraph 65) that "The cellular accommodation in the prisons visited can generally be considered of a good standard for prisoners held in a single occupancy cell. At Cork, Cloverhill, Midlands and Mountjoy Prisons, single occupancy cells were of an adequate size (between 8m² and 11m²), suitably equipped (bed, desk, chair, shelving unit, a call bell and a partially screened toilet and a sink) with sufficient lighting and ventilation."

At Arbour Hill they found that, "the cells were rather cramped, measuring only 6m² including an unscreened toilet and sink, and access to natural light was limited on the ground floor; however, these deficiencies were offset by the open regime within the establishment."

In respect of multi occupancy cells they state "…the conditions in the cells with double (Arbour Hill, Cork, Cloverhill and Midlands Prisons), triple (Cloverhill Prison) and quadruple (Midlands Prison) occupancy provide less good accommodation. In particular, the multiple occupancy cells, including at the new build Cork Prison, did not have fully partitioned sanitary annexes."

In respect of Cloverhill Prison, they state that "the vast majority of cells (119) are designated as triple occupancy despite the fact that they are only 11m², including the semi-partitioned toilet. This means prisoners are not offered 4m² of living space each. Further, the four committal cells on Wing E2 were dilapidated, malodorous and dirty and need to be refurbished. The cells on Wing C1 were in a similarly poor state."

Recommendation

The CPT recommends that, at Cloverhill Prison, a programme of ongoing maintenance and refurbishment be undertaken and that efforts progressively be made to ensure that cells of 11m² (including the sanitary facility) accommodate no more than two prisoners. Further, toilets in multiple-occupancy cells should be fully partitioned up to the ceiling.

Ireland's Response

There is one facility in the State dedicated to remand prisoners - namely Cloverhill Prison. This prison has a capacity of 431. The average number in custody in Cloverhill in 2019 was 400.

Since 2017 the Irish prison system has seen an increase in the number of prisoners held on remand. The average number held on remand in 2017 was 584. This has increased to 677 in 2018 and in 2019 saw a further 4.5% increase to 707.

As the State's only dedicated remand facility at Cloverhill Prison has a bed capacity of 431, this requires remand prisoners to be spread across the prison estate. A further recent feature of remand prisoners is the increasing seriousness of the criminal charges they face. Many of these remand prisoners are required to be detained for much longer periods than was previously the case for remand prisoners, with increasing numbers of them requiring imprisonment at higher levels of security.

Reducing the occupancy level of triple occupancy cells in Cloverhill Prison would result in the bed capacity of that prison being reduced by up to 100 and would require more prisoners to be dispersed across the prison estate leading to additional pressure being put on prisoner accommodation in those locations and an increase in the number of remand prisoners being accommodated with the sentenced cohort.

The ability to reduce the capacity of existing cells in Cloverhill is dependent on the construction of an additional remand facility. This will be considered in the next Irish Prison Service Capital Strategy.
Regarding cell maintenance the Irish Prison Service notes the comments made by the CPT with regard to the conditions in the cells in Cloverhill Prison (Wing E2 and Wing C1). Since the visit of the CPT some works including the replacement of the windows and the painting of the cells has been

completed. The Director General has requested that an assessment be carried out of these cells to review the current condition of the accommodation and identify any further remedial works that can be carried out. The Irish Prison Service will update the CPT on progress in this areas.

Each prison has an in house trade's team who carry out the day to day maintenance within the prison. Faults are logged on a maintenance hazard report sheet by the Class Officer or person in charge and notified to the trades team for their action where a repair cannot be carried out in house the repair is escalated to the FM provider LMC or Small builders framework if it is a larger repair.

The Irish Prison Service have engaged a Facility Management(FM) provider to deliver a full 24 / 7 out of hours reactive maintenance service outside of normal working hours for when local in house trades team are not on duty.

The FM provider also carries out scheduled planned preventative maintenance on all life safety systems and critical plant along with reactive running repairs and general maintenance on mechanical and electrical plant in the prison.

A full Planned Preventative Maintenance Program and statutory maintenance program is in place in each institution across the Prison Estates since 2014. Reactive maintenance is carried out as required by local Trades staff in each institution.

Comment

The CPT state (paragraph 66) that "It goes without saying that every prisoner who has to stay overnight in a prison should be provided with his/her own bed. At Midlands Prison, the CPT's delegation met a prisoner who had spent almost a month on a mattress on the floor. Such situations should not occur." The CPT recognises the problems in ensuring this, nevertheless, they state "as this phenomenon persists, it is incumbent on the authorities to reduce the official capacities of the prison establishments affected, to promote alternatives to imprisonment, to bolster the community return schemes and to guarantee every prisoner their own bed."

Recommendation

The CPT recommends that steps be taken to ensure that prisoners do not have to sleep on a mattress on the floor and that they are provided with their own bed. Moreover, specifically vulnerable prisoners should never have to sleep on a mattress on the floor. It also wishes to receive statistics on the number of prisoners sleeping on mattresses on the floor for the months of May, June and July 2020.

Ireland's Response

The Department of Justice are planning on undertaking a number of actions regarding the consideration of the greater use of alternatives to imprisonment. These include the following:

- Publish an initial review of policy options for prison and penal reform.
- Commence a review of the impact of the Community Service (Amendment) Act 2011 and the use of short custodial sentences and gender impacts in 2020.

- To develop an Action Plan for the expansion of Restorative Justice working with all CJ Agencies to build capacity to deliver restorative justice safety and effectively.
- Commence a review of the policy on remission in the course of 2020.
- Establish a Penal Policy Consultative Council to advise on penal policy.

In 2019, in response to increasing number of committals and overcrowding (including the use of contingency accommodation) being experienced in a number of locations within the Irish prison system, the Director General of the Irish Prison Service developed a Prisoner Population Management Plan detailing short, medium and long term options to be introduced to reduce the number in custody and ensure that all persons committed to prison custody had in so far as possible access to a bed in a prison cell. This included in the short term the completion of a cell capacity audit across the prison estate in accordance with the minimum standards for multiple occupancy, increased use of temporary release and transfer to open centres.

As a result approximately 135 additional beds were introduced (Wheatfield 60, Midlands 30, Dóchas 40). As a result the current bed capacity of the prison estate is 4,375. A further 96 prisoner spaces will come on stream in the coming months (subject to easing of restrictions regarding the Covid-19 pandemic) with the reopening of the Training Unit, Mountjoy as an Older Persons Facility and in 2021 the construction of a new male wing and standalone female prison currently underway in Limerick prison will provide 90 additional male and 40 additional female new spaces.

The numbers in custody across the prison estate have decreased in recent months due to the Covid-19 pandemic. On 11th March 2020 there were 4,235 prisoners in custody, with 71 prisoners sleeping on mattresses on floors. On 4th August 2020 there were 3,779 prisoners in custody, a decrease of 456 or 11%. There were no prisoners accommodated on mattresses on cell floors on that date.

Information on the average number of prisoners who were required to sleep on a mattress on the floor is set out in the following table.

	March	April	May	June	July	Total
Arbour Hill	**0**	**0**	**0**	**0**	**0**	0
Castlerea	**7**	**0**	**0**	**0**	**0**	7
Cloverhill	**6**	**6**	**1**	**0**	**1**	14
Cork	**12**	**0**	**0**	**0**	**0**	12
Limerick Female	**2**	**0**	**0**	**0**	**0**	2
Limerick Male	**10**	**2**	**3**	**3**	**4**	22
Loughan House	**0**	**0**	**0**	**0**	**0**	0
Midlands	**6**	**5**	**0**	**0**	**0**	11
Mountjoy Female	**0**	**0**	**0**	**0**	**0**	0
Mountjoy Male	**0**	**0**	**0**	**0**	**0**	0
Portlaoise	**0**	**0**	**0**	**0**	**0**	0
Shelton Abbey	**0**	**0**	**0**	**0**	**0**	0
Wheatfield	**0**	**0**	**0**	**0**	**0**	0
Total	43	13	4	3	5	68

The Irish Prison service has no control over the number of prisoners committed to prisons on any given day particularly in circumstances where some such committals can occur late at night or in the early hours of the morning, in prisons already experiencing capacity and over-capacity issues.

Every effort is taken by the Service to reduce the number of prisoners sleeping on mattresses, including inter-prison transfers and greater use of Open Centres (qualifying criteria was recently altered to identify greater numbers of prisoners to transfer to the latter).

In some circumstances the Service has judiciously used temporary release as a mechanism to alleviate overcrowding however, public safety is paramount when making decisions on whether a prisoner is suitable for temporary release and where it is a choice of having prisoners sleeping on mattresses or releasing persons who pose a threat to public safety in order to reduce those numbers, public safety will always be a priority.

Comment

As regards food, the CPT outline that there is a considerable gap between meals. Paragraph 67 states "a common complaint received was that tea was served at 4.15 p.m. which meant prisoners had to wait almost 16 hours before their next meal….. Nevertheless, if it is not possible to push back the afternoon meal consideration should be given to providing prisoners with a snack later in the evening."

Ideally, the CPT considers that meals should be eaten communally and identifies Arbour Hill prison "where there are few security concerns given the nature of the prisoner population, there are strong arguments to introduce communal eating of meals at least once a day."

Request for Information

The CPT would appreciate the comments of the Irish authorities on these matters.

Ireland's Response

The Irish Prison Service will reengineer the prison day to allow for the main daily meal to be served at evening time and not lunchtime. In 2019, a pilot project was undertaken in Castlerea Prison and in the Progression Unit in Mountjoy, in which the main daily meal was served in the evening rather than lunchtime as has been practice across the estate. The feedback from prisoners was positive. Irish Prison Service management considered the results of the pilot at the Strategy and Policy Group meeting in September 2019 and it was agreed to roll out the evening meal in all locations.

The Service is currently consulting with the Staff Association with a view to introducing the evening meal across all locations.

Management in Arbour hill prison have considered the CPT recommendation for the introduction of communal dining at that prison however, it is not possible to introduce at this time without remedial works which would result in the reduction of necessary space for the provision of rehabilitative activities. However, management in Arbour Hill, prior to the restrictions on public gatherings, had commenced the roll out of a rotational communal dining by division in Arbour Hill. This was suspended sue to Covid-19 however, management intends to recommence rotational communal dining once the restrictions have been lifted.

Communal Dining is currently available to over 200 prisoners in the Open Centres at Shelton Abbey and Loughan House, as well as in the Grove in Castlerea prison and in Independent Living Skills Units. In addition, approximately 10-20 prisoners in each closed prison work in prison kitchens. A tea room

is available to these workers, and meals are taken communally here during the course of the working day.

b. reception and regime

Comment

The CPT noted (paragraph 68) that "All persons entering prison underwent a proper reception and first night procedures which included being provided with information on the establishment and a risk and needs assessment carried out prior to them being allocated to a wing. The CPT's delegation again noted the existence of a comprehensive information booklet." However, they did have some concerns regarding prisoners not receiving a booklet, foreign language translation not being available and prisoners with reading and writing difficulties not being provided with any oral explanation of what was contained within the booklet.

Recommendation

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

Ireland's Response

The Irish Prison Service will continue to enhance information provision to prisoners through the provision of a prisoner newsletter and the introduction of new electronic communications including the provision of in-cell TV channel for information.

The Irish Prison Service has recently sought to enhance the information that is available to prisoners during the COVID-19 pandemic. A new weekly Prisoner Information Newsletter has been provided in English and in 7 other languages. This new initiative has received positive feedback from prisoners and while it was introduced as a response to Covid-19, it is proposed that a prisoner newsletter will continue to be published post Covid-19.

In addition, the Irish Prison Service is currently developing a new system for the provision of information and in-cell learning for prisoners. A new TV channel with access to prison information, in-cell learning, psychological supports and health and fitness is currently in development and is expected to be operational by Q4 2020.

The Irish Prison Service has introduced a comprehensive new Prisoner Information Booklet in 2019 to provide information to prisoners on regimes and services available across the Estate.

The Information Booklet provides detailed information for prisoners on rules, regimes, services, procedures and activities that makes up their daily routine in Irish prisons. The Booklet is not a legal document and does not include information about every matter in the Prison Rules.

The booklet is published in 9 different languages including English, Irish, French, Spanish, Romanian, Lithuanian, Latvian, Cantonese and Polish.

In addition to the provision of written material, management in Cloverhill Prison identified a gap in the communication process for prisoners whose first language was not English. New prisoner induction portals have been installed in committal cells in Cloverhill Prison with information available in 6 different languages namely English, Polish, Romanian French, Portuguese and Russian.

Prisoners newly committal Cloverhill can now access an induction video containing real live interaction of the committal process. This video is 10 minutes in duration and covers the following:

- Access to phone calls,
- Visits,
- Legal representation,
- Smoking policy,
- Meals,
- Services available,
- International protection,
- The complaints procedure and;
- The day to day running of Cloverhill.

This system enhances the committal process and effectively educates committals, irrespective of nationality or level of literacy skills. Cloverhill Prison is currently looking at introducing this technology further through our educational units.

Comment

(Paragraph 69) "In the report on the 2014 visit, the CPT commented on the introduction of the 2012 Policy on Incentivised Regimes in Irish prisons.[14] In the course of the 2019 visit, the CPT's delegation was able to note the efforts being made in the prisons visited to offer prisoners a range of activities. The general regime within the Irish Prison system provides for a reasonable out-of-cell time of some seven-and-a-half hours per day. "

However there were concerns regarding a lack of prison officers to escort prisoners, leading to the cancellation or curtailment of classes, particularly towards the end of each quarter of the year.

Recommendation

The CPT recommends that the Irish authorities pursue their efforts to ensure that there is always sufficient staff on duty to escort prisoners to school and workshop activities.

Ireland's Response

[14] See CPT/Inf (2015) 38, paragraph 33.

All staffing resources assigned to prisons, including school and workshops are assessed and agreed at a national level by the Human Resources Directorate in consultation with staff representatives and within the parameters of the budgetary framework approved by Government. The assignment of staff to the school and workshops or any other tasks are a matter for the Governor of each individual prison. The assignment of such resources by Governors will be dependent on the availability of resources in the context of the demands on any given day, some of which are known in advance, for example visits, and some which are of an unknown quantity such staff absenteeism, assists to the Prison Service Escort Corp to carry out escorting tasks of prisoners to court, medical appointments etc.

The Irish Prison Service has developed and implemented Regime Management Plans (RMP). These plans are a key management tool aimed at assisting Governors in the deployment of resources on a daily basis. The main objectives of the RMP are ensuring a safe working environment for staff and prioritising the deployment of available resources to maximising the delivery of structured activity including schools and workshops. While utilising this management tool can ensure a guaranteed level of access to school and workshops, the level of such access will be largely dependent on competing demands on a given day.

Furthermore, notwithstanding the many difficulties and restrictions which have arisen in the context of COVID 19, the response to this pandemic has also presented the Service with an opportunity to significantly expand the use of video links for courts as well as virtual visits. The use of such technological solutions can have a significant and positive impact on the efficient use of resources, which can ensure greater delivery of structured activity to prisoners, including education and work training.

The Service is committed to harnessing such efficiencies and directing such reform dividends towards maximising out of cell time for prisoners including education and work training, subject to the demands of external stakeholders such as the Courts Service etc.

Comment

In paragraph 70 the CPT comment on the evolution and situation of the Integrated Sentence Management (ISM) system which the CPT state ".. has never been fully implemented."

The CPT state that "In the prisons visited, the whole ISM system was being undermined by the lack of dedicated ISM co-ordinators, many of whom also had to undertake normal prison officer duties within the prison. The result was that there was virtually no follow-up of prisoners serving sentences of more than one year and insufficient support provided to life-sentenced prisoners."

In respect of the new Parole Act 2019, the CPT state "The CPT considers that the adoption of the Parole Act 2019, establishing an independent parole board which can issue binding decisions, is a positive development. However, given that the Act also increases the number of years that a person sentenced to life-imprisonment must serve before being eligible for parole (from 7 to 12 years), it is even more important for sentence management plans to be drawn up and reviewed on a regular basis for this cohort of prisoners."

Recommendation

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

prisoners serving lengthy sentences. Such plans should be reviewed on a regular basis together with the prisoner concerned. To this end, the number of ISM co-ordinators allocated to each prison should be increased. Further, efforts should be made to ensure all reports are submitted to the Parole Board on time.

Ireland's Response

The current staff allocation is for 24 Integrated Sentence Management Coordinators across the Irish Prison estate. The Irish Prison Service (IPS) completed a recruitment campaign for ISM Coordinators in January 2020 to fill vacancies, and appointments continue from this staff panel. The IPS Strategic Plan 2019-2021 commits to enhancing support for the role of ISM over the lifetime of the strategy.

The Irish Prison Service has been allocated additional funding to enhance and support the implementation of ISM in 2021.

All life sentenced prisoners are reviewed annually by the Irish Prison Service Psychology Service. Prison Review meetings to discuss the sentence management of prisoners take place approximately every 4 to 6 weeks in all prisons. Every prisoner (including each Life Sentenced prisoner) is reviewed each year within this process and involves staff from the Irish Prison Service Headquarters, prison management and prison based support services.

All efforts are being made to ensure all reports by the IPS Psychology Service are submitted to the Parole Board on time. Regular quarterly meetings between the IPS Psychology Service and the Probation Service have been helpful in coordinating efforts to this effect.

The IPS has introduced the 'Engagement with Services' function on the PIMS platform which is a sentence planning case note management tool. This is a dynamic IT tool for recording all multi-disciplinary client interventions and planned engagements in one central location. This has significantly improved communication around prisoner engagement and planned interventions between prison management, operations decision makers, the multi-disciplinary team and the wider staff cohort to ensure that all parties are aware of the goals, actions and interventions for each prisoner. Work continues to develop a means to record the integrated sentence management personal implementation plan for each prisoner in this central IT domain. This work is expected to conclude towards the end of 2020.

In order to prioritise certain offenders for intervention with the Irish Prison Service Psychology Service, 4 distinct priority integrated sentence management referral pathways have been implemented to provide early intervention with the following categories:

- Prisoners serving a Life Sentence
- Prisoners serving a sentence for a sex offence
- Prisoner aged between 18 and 24 at the time of committal
- Prisoners serving a sentence of greater than 2 years for a violent offence.

6. Health care services

Comment

The CPT previously recommended (paragraph 71) "In the report on the 2014 visit, the CPT recommended that the Irish authorities identify an appropriate independent body to undertake a fundamental review of health care services in Irish prisons, which was in a state of crisis in some prisons." During this visit the appointment of a Clinical Lead in the Irish Prison Service in July 2018, and the issuing of a tender in July 2019 to carry out a Health Needs Assessment (HNA) in Irish prisons was acknowledged.

Request for Information

The CPT wishes to be informed of the outcome of the Health Needs Assessment.

Ireland's Response

The requirement to conduct a Health Needs Assessment (HNA) arose from recommendations made by the Inspector of Prisons and the CPT that an independent review be undertaken so as to determine future health service requirements. In this regard, the Minister for Justice and Minister for Health met and agreed in principle to undertake a review of prison healthcare and established the Health Needs Assessment Steering Group to take this work forward.

The review commenced in early 2020 and is examining all aspects of healthcare within Irish prisons, including the views of prisoners and visitors. The independent review team visited all prisons and will produce a Report later this year which will consider how care is provided across all prisons and benchmark this against best international practice.

The initial tasks relating to the Health Needs Assessment have been completed. A number of prison visits took place in February prior to the restrictions imposed by Government in response to the Covid-19 pandemic and it has not been possible to complete additional prison visits due the restrictions. The Irish Prison Service met with the project consultants in May and requested a revised template to complete the project, taking into account new Covid 19 precautionary measures. As a result, a revised project plan involving additional remote working and a single day site visit has been finalised and the project has recommenced.

The evidence and literature review is continuing as is the stakeholder consultation.

The Health Needs Assessment is being undertaken by Crowe Ireland and their Report is expected to be delivered to the Steering Group by the end of this year. The report of the Steering Group is expected to be concluded and presented to both Ministers by the end of Q1 2021.

The Irish Prison Service will continue to provide updates to the CPT with regards to the Health Needs Assessment (HNA).

Comment

The CPT acknowledges in paragraph 72, "the progress that has been made in the delivery of health care in Irish prisons since the 2014 visit. In sum, the CPT's delegation found very good access to health care in prisons and a vastly improved approach to the treatment of substance use. The mental health nurses and visiting psychiatrists were also doing a good job in difficult circumstances. Further, the

carers employed at Midlands Prison to assist the older population of prisoners were very good, displaying genuine warmth and affection towards their charges."

Not with standing these positive developments, the CPT states "…there remain certain areas where improvement is required such as the poor screening of injuries upon arrival in prison and the lack of provision of interpretation services which clearly hinders communication between health care staff and the rising number of prisoners who do not have a good understanding of the English language."

Recommendation

"The CPT trusts that the Irish authorities will build upon the progress made and take steps to address the areas where there is a need for improvement."

Ireland's Response

The Irish Prison Service is committed to continuing to improve the provision of healthcare services in prisons through the implementation of recommendations that arise from the Health Needs Assessment, subject to the provision of the necessary resources.

The Irish Prison Service welcome the very positive comments from the CPT in relation to the "very good access to health care in prisons and a vastly improved approach to the treatment of substance abuse" it is the intention of the Irish Prison to build on this progress through the advices of the Health Needs Assessment when complete. The Irish Prisons Service will provide the CPT with results of the Health Needs Assessment (HNA) when complete.

The HSE also remains committed to maintaining progress to improve Healthcare provision overall in prisons.

The prison healthcare service aims to provide prisoners with access to the same range of quality of healthcare services as available under the medical card scheme in the community. The Irish Prison Service Health Care Standards guide the provision of these health services to prisoners, reflecting the prison context and good clinical practice. These Standards are published and further information is available on the Irish Prison Service website www.irishprisons.ie

a. staff and facilities

Comment

Paragraph 73 outlines the health care facilities and staff resourcing encountered in Arbour Hill, Cork, and Midlands prisons. The CPT state that "the healthcare facilities in all the above prisons can be considered as being well-equipped" and they make one observation in respect of the Midlands prison.

Recommendation

The CPT considers that consideration should be given to providing for a second nurse to be on duty at night.

Ireland's Response

The Irish Prison Service will complete a task review in the Midlands Prison to assess the level of cover provided for nursing staff at night and determine if a need exists to augment the level of cover provided. This will be completed under the joint review process.

In total, the Irish Prison Service currently has 141 nurses employed across the prisons estate. The table below, sets out the information as at 21 September 2020.

The level of healthcare resources assigned to an individual prison is determined by the clinical needs of the population and is not solely based on the number of prisoners in that individual institution.

Nurse Officers/Prison nurses at 21/09/20			
Prison	**Number in Custody**	**Nurses (including Chief Nurse Officers + Healthcare Nurse managers)**	**Ratio Nurses to prisoners**
Portlaoise	**213**	**8**	**1:29**
Shelton Abbey	**87**	**2**	**1:43.5**
Dóchas Centre	**115**	**8**	**1:14**
Wheatfield	**501**	**18**	**1:28**
Arbour Hill	**127**	**7**	**1:18**
Cloverhill	**356**	**19**	**1: 19**
Mountjoy	**629**	**26**	**1:24**
Midlands	**787**	**22**	**1:36 (*supported by 5 Health Care Assistants)**
Limerick	**231**	**12**	**1:19**
Cork	**253**	**11**	**1:23**
Castlerea	**294**	**12**	**1:24.5**
Loughan House	**102**	**2**	**1:51**
IPSC	**n/a**	**3**	**n/a**
IPS HQ	**n/a**	**2**	**n/a**
Total		**152**	

Comment

Regarding medical confidentiality the CPT stated (paragraph 74) "…that, as was the case in 2014, it was generally respected in the prisons visited, both as regards medical consultations and the storing of medical documentation."

However, the CPT has reservations regarding the ongoing practice of handcuffing a prisoner to a prison officer during external medical consultations in the hospital at all times, even when the consultation takes place in a secure room. The CPT state "..that there is a duty upon the IPS to assess whether a prisoner poses a potential risk to medical/health care staff, or represents an escape risk, and to take appropriate measures. Nevertheless, in the CPT's view, to routinely apply handcuffs to a prisoner

undergoing a medical consultation/intervention is not acceptable from the standpoint of medical ethics and human dignity."

The CPT further state "Practices of this kind prevent an adequate medical examination from being carried out, will inevitably jeopardise the development of a proper doctor-patient relationship, and may even be prejudicial to the establishment of objective medical observations."

Recommendation

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

Ireland's Response

The Irish Prison Service is carrying out a review of the Standard Operating Procedures with regard to the Escorting of Prisons including escorts to hospitals. The issue of handcuffing will be considered as part of that review.

The procedures for the escorting prisoners to and from medical appointment are covered in the Irish Prison Service - Escorting of Prisoners - Standard Operating Procedure. Handcuffs and restraints are used only where the SOP risk assessment in each case requires such measures for the safety of public, the medical staff, the escorts and the prisoner.

Security is at its weakest when prisoners are outside a Prison and therefore presented with the best opportunities for escape. This increases the level of risk posed to prison staff and to the general public and the Irish Prison Service have a duty of care to ensure the safety of all when escorting prisoners outside the confines of a secure prison setting. To achieve this, it is imperative that staff remain vigilant and adhere to the principles set out in the Escorting of Prisoners SOP.

These Standard Operating Procedures are constructed following careful examination of what could occur that could cause harm to people, or result in escape from custody. They are based on precautions, control measures and procedures designed to eliminate and/or reduce that risk as far as practicable.

The wearing of handcuffs under the Escorting of Prisoners SOP is to be consistent with the prisoners profile record. Under the SOP, where handcuffs are found to be required under the individualised risk assessment, medical examinations should be facilitated as far as possible without removal of handcuffs.

Comment

In respect of prisoners who do not have a command of English accessing health care services, the CPT state (paragraph 75) "For such cases, it is important that health care staff are able to access language interpretation services in order to communicate with these prisoners. Further, when necessary, medical notes in a foreign language should be translated into English. For example, the CPT's delegation raised the necessity for the medical notes of a vulnerable foreign national prisoner with Parkinson's disease at Cork Prison to be translated, which the Governor of the prison undertook to do."

Recommendation

The CPT recommends that health care services in prison be provided with the means to access telephone interpretation services when required.

Ireland's Response

The Irish Prison Service state that Interpretative services are available when required.

b. medical examination on admission and recording of injuries

Comment

A number of recommendations are made in paragraph 76 with respect to the adequacy of the recording of injuries for new arrivals and the reporting of same to An Garda Síochána.

The CPT state (paragraph 76) "The situation as regards the recording of injuries (on admission or during imprisonment) was such that injuries were usually recorded when they were observed but the quality of the records was again variable."

Recommendation

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

The record drawn up after the medical screening should contain:

i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment),

ii) a full account of objective medical findings based on a thorough examination, and

iii) the health care professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.

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

Recording of the results of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with body charts for marking traumatic injuries that will be kept in the medical file of the prisoner. Further, it would be desirable for photographs to be taken of the injuries, and the photographs should also be placed in the medical file. In addition, a special trauma register should be kept in which all types of injury observed should be recorded.

The results of every examination, including the above-mentioned statements and the doctor's opinions/observations, should be made available to the prisoner and, upon request, to his/her lawyer.

Ireland's Response

The 2007 Prison Rules (Rule 4) provide for any indication of recent physical injuries upon committal to be recorded by a designate of the Governor. In addition Rule 10 provides for the noting of recent injuries in the clinical examination. Rule 100 provides for provision of health care as appropriate and for health care to provide reports to the Governor as required.

Health care professionals within Irish Prison Service also operate under the Istanbul Protocol submitted to the UN High Commissioner for Human Rights which highlights the ethical principles in reporting injuries in detainees arriving into the custody of the Irish Prison Service.

The Irish Prison Service has a Standard operating Procedure (CNO-11) which sets out the procedure with regard to prisoner who present for medical examination who alleged injury by assault. The SOP clearly outlines the procedures to be followed in the event that a prisoner alleges injury or assault in prison. The SOP sets out that all injuries are recorded and documented objectively on the PHMS including the nature of the injuries sustained and action taken. Photographs of the injuries are also taken, subject to consent. The SOP does not cover the reporting of prisoner injuries, recorded by medical prison based personnel, to the Governor and to third parties including An Garda Síochána. The Irish Prison Service will review the SOP in conjunction with the CPT recommendation while also considering obligations under Data Protection legislation and the principles of medical confidentiality.

c. drug-related issues

Comment

With respect to drug misuse, the CPT state (paragraph 78) "the CPT's delegation observed once again that drug misuse and a high prevalence of drugs remained a major problem in all the prisons visited, with the exception of Arbour Hill Prison. Prison staff admitted that there were still significant problems with illicit drug misuse and that many of the incidents in the prisons were drug related."

Request for Information

The CPT would like to receive further information on the harm reduction measures in place or planned in prisons, such as needle and syringe exchange programmes, access to condoms. Full information on the existence of such harm reduction programmes should be given to inmates by health care staff immediately after committal.

Recommendation

The CPT recommends that the Irish authorities continue to pursue vigorously the various strands of the drugs strategy programme. Further, it would like to be informed when the new drugs strategy is adopted.

Ireland's Response

The Irish Prison Service offers multidimensional drug rehabilitation programmes for prisoners. Prisoners have access to a range of medical and rehabilitative services, such as methadone substitution treatment, psycho social services, and 'work and training' options which assist in addressing their substance misuse.

Any person entering prison giving a history of opiate use and testing positive for opioids is offered a medically assisted symptomatic detoxification, if clinically indicated. Patients can discuss other treatment options with healthcare staff. These may include stabilisation on methadone maintenance for persons who wish to continue on maintenance while in prison and when they return to the community on release. Prisoners who, on committal to prison, are engaged in a methadone substitution programme in the community will, in the main, have their methadone substitution treatment continued while in prison.

The Medical Unit in Mountjoy Prison has places specifically allocated for a drug free programme. This programme is 8 weeks in duration and is provided by prison staff and the community/voluntary sector. The aim of the programme is to assist participants in achieving a drug free status.

Methadone substitution treatment is available in 9 of the 12 prisons (accommodating over 80% of the prison population).

Merchants Quay Ireland provides a national addiction counselling service for prisoners with drug and alcohol problems. A consultant-led in-reach addiction service is provided in West Dublin Complex (Cloverhill and Wheatfield). In addition an addiction specialist GP service is provided in a number of other Prisons.

The existing Strategy "Keeping Drugs out of Prison" is currently being reviewed with a view to introducing a fully revised, revamped and updated Drugs Policy. The Policy will have a dual strategy, of tackling both the demand and supply factors impacting on the availability of illicit drugs in prisons.

The Policy will concentrate on the security elements (preventing the entering of drugs into prisons, and finding those drugs when present, and the medical and therapeutic strategies of dealing with the fall-out from the presence of such drugs in prisons).

d**.**psychiatric care in prisons

Comment

The CPT outlined (paragraph 79) that "… the same challenges outlined in the report on the 2014 visit were again in evidence. In the course of the visit, the CPT's delegation paid follow up visits to the D2 unit in Cloverhill Prison and the High Support Unit (HSU) at Mountjoy Prison, and it visited the Vulnerable Prisoner Unit (VPU) at Cork Prison for the first time. "

In respect of Cork prison the CPT state "At Cork Prison, the VPU consisted of six cells and was accommodating five prisoners at the time of the visit. The cells were sombre with poor access to natural light, the environment was noisy and the prisoners were offered no purposeful activities apart from

access to the exercise yard. Further, there was minimal staff interaction with the vulnerable men located on the unit."

In respect of the HSU in Mountjoy Prison, the CPT state that "..it was disappointing to note there was still a complete lack of structured activities for this group of prisoners, nearly all of whom had a severe and enduring long-term mental health illness. The proposed programme of activities remained theoretical and unengaging. There was still no occupational therapy, individual or group psychotherapy or recreational therapy; only pharmacotherapy. In sum, the prisoners wandered idly around the unit or the yard and watched television. Further, the delegation met one prisoner who was completely neglected, living in a dirty and squalid cell."

Recommendation

The CPT recommends that at both the VPU in Cork Prison and the HSU in Mountjoy Prison a programme of structured activities be developed for prisoners held on these units. It also recommends that steps be taken to ensure that all prisoners kept on these units are held in clean cells and provided with the necessary support to maintain their hygiene. Further, the HSU should introduce occupational therapy sessions for the prisoners.

Ireland's Response

The Programme for Government (PFG) recommends the establishment of a Task Force as part of Prison and Penal Reform. This commits Government to "Establish a high-level cross-departmental and cross-agency taskforce to consider the mental health and addiction challenges of those imprisoned, and primary care support on release."

The Irish Prison Service has met with the Departments of Justice and Health, the HSE and the National Forensic Mental Health Service (NFMHS) in relation to a future model of care for mental health. The work of the Inter-departmental Group on Mental Health (referred to on page 43) and the recently published Department of Health Policy (Sharing the Vision) will form part of this work.

The Irish Prison Service strongly supports the establishment of this Task Force as a priority to address the issue of increasing the capacity of Forensic Mental Health services across the prison estate and for those who require admission to the CMH.

The scope and activity of HSU's will be examined under the Health Needs Assessment currently taking place, taking into account the policy framework *'Vision for Change'* which is led by The Department of Health.

Comment

Regarding Cloverhill prison the CPT state (paragraph 81) "The largest unit in the country holding prisoners who are mentally ill is located in Wing D2 of Cloverhill Prison. Over the past 10 years the unit has had to expand as more and more severely unwell persons have entered prison. ……..On the first day of the delegation's visit, the unit was accommodating 29 prisoners, including two persons in the SOCs (see paragraph 63 above), 10 of whom were on the waiting list to enter the Central Mental Hospital. Three days later, the unit was overflowing with seven prisoners having to sleep on mattresses on the floor, which the duty doctor confirmed was a regular feature for the landing."

Recommendation

The CPT recommends that steps be taken to ensure that mentally ill prisoners do not have to sleep on mattresses on the floor in Wing D2 of Cloverhill Prison (see also paragraph 66 above).

Ireland's Response

The number of prisoners on D2 Cloverhill Prison is dictated by the length of the waiting list for the CMH coupled with serious overcrowding issues in Cloverhill Prison. Creating additional capacity within the Irish Prison Service for prisoners with severe and enduring mental illness will be addressed thought the Task Force referred to under Ireland's response to paragraphs 79 & 80.

Comment

In respect to the demand and resources allocated in Cloverhill prison, the CPT state "The Prison In-reach and Court Liaison Service based at Cloverhill Prison will assess around 300 prisoners a year, of whom some 100 are actively psychotic. Studies have shown that the percentage of remand prisoners with psychotic disorders in Ireland (9.3%) is more than twice the percentage of prisoners with psychotic disorders found internationally (3.6%).[15] Despite this evident increase in the number of mentally ill prisoners entering Cloverhill Prison, the resources provided for the care and management of these persons has been cut."

The CPT state (paragraph 82) that the team in Cloverhill prison "…needs to be reinforced urgently. There should be at least six mental health nurses, as well as an occupational therapist, a psychologist, a social worker and some administrative support."

Regarding the planning for and regimes of those waiting for a place in a psychiatric hospital, the CPT state "…there was a lack of discussion or planning about the day to day care of the men on D2 Wing. The CPT's delegation observed that they were offered no structured activities and that there was little engagement with staff. Given that prisoners can spend months on the unit much more needs to be done."

Recommendation

The CPT recommends that the mental health team working on the D2 Wing at Cloverhill Prison be substantially reinforced in the light of the above remarks. Further, a programme of structured activities should be developed for prisoners held on the wing.

Ireland's Response

The HSE has noted the comments by the CPT in relation to the Prison In-Reach and Courts Liaison Service at Cloverhill prison. The Executive is committed to improving the levels of mental health care at Wing D2 at the prison.

See Irish Prison Service response under paragraphs 80 and 81.

[15] Curtin, K., Monks, S., Wright, B., Duffy, D., Linehan, S., & Kennedy, H. (2009). Psychiatric morbidity in male remanded and sentenced committals to Irish prisons. *Irish Journal of Psychological Medicine, 26*(4), 169-173.

Comment

A major concern for the CPT (paragraph 83) is the rising number of homeless persons who are ending up in prison and more particularly on Wing D2 which had risen significantly in recent years. The CPT state "Many of the persons coming to D2 could be granted bail by the courts but because of their homeless status they are excluded from Health Service Executive (HSE) community mental health team services so they are left to languish in prison.[16] Moreover, their mental health condition continues to deteriorate as they are too ill to consent to treatment.[31]

The CPT further state that "Prison must not become a solution for managing mentally ill homeless persons and the Irish authorities need to put in place a comprehensive policy (i.e. one that includes housing, welfare, primary care, mental health care, substance misuse) in order to tackle this issue."

Recommendation

The CPT recommends that urgent steps be taken, including of a legislative nature, to ensure that mentally ill homeless persons in prison, who the courts are willing to bail, can be transferred rapidly to a psychiatric facility in the community to receive appropriate treatment.

Ireland's Response

The Department of Health and the HSE continue to work closely with colleagues in the Justice sector to progress the various recommendations of the Inter-Departmental Group to examine issues relating to people with mental health illness who come in contact with the Criminal Justice system. This is being progressed in the context of prioritising new development funding made available each year and agreeing annual HSE Service Plans for the mental health care programme nationally. The recently launched "Programme for Government – Our Shared Future" commits to further improvement by the establishment of a high-level cross-departmental and cross-agency taskforce to consider the mental health and addiction challenges of those imprisoned, and primary care support on release.

The whole area of how criminal justice and public health, especially mental health, intersect and how to best provide the most appropriate service is a top priority for the Minister for Justice. She is engaging with her colleague, the Minister for Health with a view to the early establishment of the High Level Task Force committed to in the Programme for Government.

The IPS support the implementation of the policy 'Vision for Change' which is led by the Department of Health.

Comment

The CPT state (paragraph 84`) "The Irish authorities have in the past agreed with the CPT that a prison setting cannot be expected to offer the full range of therapeutic options that should be available in a

[16] This was the case of MS cited above in paragraph 62 who was confined to a SOC for 10 weeks awaiting a place at the CMH because no community psychiatric hospital would accept him due to his homeless status. [31] There is no legal provision for involuntary treatment in prisons.

psychiatric hospital and, as highlighted again above, even as regards pharmacotherapy a prison setting imposes restrictions."

Further to that they state "Consequently, while these measures recommended above may alleviate the situation, the fundamental principle is that mentally ill persons should not be held in prison but transferred to an appropriate health care facility or, more specifically, the Central Mental Hospital (CMH) given its statutory role. However, the CPT's delegation received several accounts that the new expanded CMH in Portrane, due to open in mid-2020, will not result in enough additional beds being available for mentally ill prisoners despite an increase in the number of beds in the hospital.[17]"

"The CPT recognises that there needs to be a multi-pronged approach to addressing the mental health needs of prisoners. Addressing access to care in the community for homeless persons who are mentally ill is one. In addition, the CPT supports the proposal for the development of two new Intensive Care Rehabilitation Units (ICRUs) to be located in the southern and western regions of the country."

Request for Information

The Committee would like to be updated on the feasibility of such units being opened and the timeline. It would also like to be informed whether there are plans to create additional step-down beds in the community and to increase the provision of psychiatric low-secure settings.

Ireland's Response

The Irish Government launched a new mental health policy "Sharing the Vision – A Mental Health Policy for Everyone" (STV) on 17 June 2020, to refresh "A Vision for Change" (AVFC). It focuses on key areas - promotion, prevention and early intervention, service access, coordination and continuity of care, social inclusion and accountability and continuous improvement. STV also includes an implementation roadmap that will be key to its delivery at a time when our world is rapidly changing, particularly in light of the COVID-19 pandemic.

The new policy focusses on developing a broad based, whole-of-system mental health policy for the whole population while providing effective specialist mental health services, including improved forensic mental health. Central to this policy is the right of people with mental health difficulties to be centrally involved in their own care and recovery, as well as a continuing focus on recovery and the need for recovery to be supported throughout the mental health system. The question of providing additional capacity suggested by the CPT will be considered each year in the context of agreeing new development priorities for mental health each year in light of evolving demand and overall resource availability.

The recently published "Programme for Government – Our Shared Future" contains a commitment to ensure that the HSE provides a dedicated funding line and resources to deliver the necessary health and mental health supports required to assist homeless people with complex needs.

[17] The new CMH will comprises a 120-bed new main hospital, along with a 10-bed Child and Adolescent Mental Health Service (CAHMS) unit and a 10-bed Mental Health Intellectual Disability facility and a new 30-bed Intensive Care Rehabilitation Unit (ICRU). Thus, the overall capacity will increase from 103 beds at the current Dundrum hospital to 170 beds (including 10 CAHMS) at the new CMH in Portrane.

There are no immediate plans to progress additional ICRUs, given the focus on opening the new National Forensic Mental Health Service (NFMHS) facility at Portrane. However, the question of additional ICRUs will be kept under review as already indicated in the light of evolving service need and as overall resources allow.

"Sharing the Vision", which can be accessed at https://www.gov.ie/en/publication/2e46f-sharing-the-vision-a-mental-health-policy-for-everyone/ has recommended the establishment of a Review Committee to examine all acute bed usage and need. This process will involve the health and judicial care systems, along with other relevant stakeholders as appropriate. In addition, the new policy indicates that the performance and uptake of the new ICRU at Portrane needs to be reviewed after it is open.

Comment

The CPT highlight again (paragraph 85) as they did in 2014 that "….if the HSUs and VPUs in prisons are to provide a stepping stone towards admission to a psychiatric hospital or a step-down unit for managing persons returned to prison from a psychiatric facility, it is essential that they be provided with the appropriate resources."

Recommendation & Request for Information

The CPT recommends that the Irish authorities enhance the availability of beds in psychiatric care facilities for acute mentally ill prisoners.

Further, it recommends that the staffing at all HSUs and VPUs be reviewed in order to include the appropriate expertise to offer a structured programme of activities beneficial to the prisoners, in the light of the above-mentioned remarks.

Moreover, the CPT would like to be informed when the new CMH in Portrane is opened and fully functional. It would also like to be informed how many prisoners were waiting to be admitted to the CMH as of 1 May, 1 July and 1 September 2020 and how many of these prisoners were being managed in a SOC.

Ireland's Response

As indicated in briefing given to the CPT prior to its visit, a priority for the Department of Health and the HSE is the scheduled opening in late 2020 on a phased basis of the new 170 bed NFMHS complex at Portrane, Dublin. The new 130 bed main hospital to replace the existing CMH is expected to open in late 2020, along with a new 30 bed ICRU and a new forensic CAMHS unit coming on-stream as soon as possible over 2021. The latter two units are the first of their kind nationally.

Separate from the project team responsible for the construction and commissioning phases, the HSE established a high-level Governance Group for the transition and expansion of the Forensic Mental Health Service to Portrane. This includes the additional staffing resources, as appropriate.

The new hospital will provide acute intensive care for people with severe mental illness, intellectual disability or developmental disorders such as autism who find themselves before the courts, in other

approved mental health centres around the country and in prisons. Apart from meeting the HSE need for a modern forensic hospital, there are urgent pressures on the psychiatric system from the Irish Prison Service and the Courts (Not Guilty by Reason of Insanity), to increase mental health bed capacity.

The NFMHS complex will position Ireland's forensic mental health services as world leaders in best clinical practice and the only forensic mental health service in Ireland. The new facilities at Portrane, and all parts of the Forensic Mental Health Service nationally, will continue to provide a resource for training, research and development of modern care and treatment for people with the most severe mental disorders.

There is a progressive programme of expansion of consultant and support posts by the HSE into the prisons system. The HSE has also invested in additional Prison In-Reach Teams to address the mental health needs of patients within prisons. This, allied to good collaborative structures in place between the HSE and the Irish Prison Service, has helped address increasing and acknowledged capacity pressures.

It is considered that, given the scope and overall investment associated with the new NFMHS project at Portrane, this will significantly enhance over the foreseeable future the capacity of the HSE to improve service in all respects for HSE patients, or those referred by the judicial system.

As indicated, the new STV provides for a detailed review of forensic mental health bed capacity over the medium to longer term. There are no immediate plans to progress the additional three ICRUs. The performance and uptake of the new ICRU beds in Portrane will be reviewed after opening. In particular, STV has recommended the establishment of a Review Committee to examine all acute bed usage and need.

In total, there were 29 prisoners on the waiting list for the Central Mental Hospital, Dundrum (CMH) at 1 May 2020 and 24 at 1 July 2020.

The HSE obtained legal advice on the change of location, which identified potential implications for the Department of Health, the Department of Justice and the Department of Children and Youth Affairs. The advice of the Attorney General was subsequently sought, which interpreted the definition of the Central Mental Hospital in legislation as being the Dundrum building only. Therefore, a legislative change is required to move the existing CMH hospital to Portrane. This process is proceeding in tandem with the objective of opening the new facility in late 2020.

No new legislation is required by the Department to Health to detain patients in the F-ICRU and F-CAMHS under the Mental Health Act 2001. However, the Department of Children & Youth Affairs will need to make legislative changes to enable detention in the F-CAMHS unit. While some work has been done on this, it is unlikely to be ready for inclusion in the Bill on the relocation of the Central Mental Hospital. However, the F-CAMHS unit is not due to open until after the new Central Mental Hospital.

Draft Heads of a Bill have been finalised with input from the Department of Health, the Department of Justice and the HSE. The Department of Health, with support of the Department of Justice, intends to submit the draft Heads of a Bill to Government for approval to draft as soon as possible. The policy

to relocate the Central Mental Hospital has been approved in previous Government decisions. The draft Heads of a Bill are a technical requirement to give legal effect to those decisions.

In line with the response under paragraph 80 above, the Irish Prison Service will review the activities and operational approach of D2 in Cloverhill Prison.

7. Other issues

a. prison staff

Comment

The CPT comment in paragraph 86 that "… the climate in a prison is largely dependent on the quality and resources of its personnel. Ensuring a positive climate requires a professional team of staff, who must be present in adequate numbers at any given time in detention areas and in facilities used by prisoners for activities."

Further to that the CPT state "Prison officers should be able to deal with prisoners in a decent and humane manner while paying attention to matters of security and good order. The development of constructive and positive relations between prison staff and prisoners will not only reduce the risk of ill-treatment but also enhance control and security. In turn, it will render the work of prison staff far more rewarding."

Regarding the ratio of officers to prisoners the CPT state (paragraph 87) "The Irish Prison Service has comparatively one of the more favourable staffing to prisoner ratios among Council of Europe member States. According to the SPACE statistics for 2018, there were 2,547.8 FTE prison officers which is roughly a ratio of 1.5 inmates per custody officer. In addition, there were 342 work training officers (WTOs) responsible for supervising workshops and vocational training but who were also deployed, at times, to cover other prison officer duties."

The CPT outline that despite this favourable ratio "…prisons in Ireland often find that they are unable to operate with a full complement of prison officers which results in certain activities having to be cancelled or access to health care and other services being delayed or prisoners spending longer periods locked up in their cells." A problem which it is particularly problematic at the end of each quarter of the year.

The CPT state (paragraph 87) that "The underlying reason for the staff shortages lies in the massive increase in staff resources required for escort purposes."

Regarding mitigating that risk the CPT state, "The IPS has attempted to mitigate the impact of reduced staffing levels by requiring each prison to draw up a Regime Management Plan which clearly identifies the priority services within a prison that should be kept open when staff numbers fall below their scheduled levels. This is a necessary tool to manage such scenarios. Further, initiatives have been agreed with the POA to enable certain activities such as the supervision of outdoor exercise yards to be carried out with fewer staff. However, it is evident that additional measures are required to ensure that prisons operate full regimes with activities and services not being hampered by staff shortages."

Request for Information

The CPT would like to be informed about the measures being taken to address the increasing burden of escorts on prison-based staff and to tackle absenteeism rates among prison staff.

Ireland's Response

The IPS is currently introducing greater use of technologies to assist with the volume of prisoner escorts. The use of such technological solutions can have a significant and positive impact on the efficient use of resources which can ensure greater delivery of structured activity to prisoners, including education and work training. Absenteeism rates are monitored and managed on an ongoing basis and various different measures are deployed to address these issues consistent with Civil Service norms.

Reducing the need for attendance in court by a person detained in prison or the transfer of prisoners within the prison system itself is essential to addressing the issue of high levels of staff resources being required for the purpose of escorts.

The legislation, the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020, was signed into law by the President of Ireland on the 6 August, 2020 with the relevant video link Sections commenced on the 14 September 2020 by the Minister for Justice.

This permits the use of video link between prisons and courts in much broader circumstances such as bail applications, arraignments and sentencing.

On the 14 September the Presidents of the High and District Courts issued Orders instructing the use of video link in their Courts.

The brief period since the commencement has seen a significant increase in video link traffic from prisons to court, and should demonstrate a marked further increase from October 5th when the Michaelmas Court Term starts.

The use of video link for court appearances by persons in prison has increased significantly with 4,120 appearances via this technology in quarter 2 of 2020 which compares to 1,493 such appearances in quarter 1.

These figures compare favourably to the same periods in 2019 (Q1 2019- 954, Q2 2019- 1024). The IPS is also planning a substantial investment in their infrastructure which will support increased use of video link facilities into the future.

The Consolidated Committal Order acts as an Order in relation to the committal of prisoners (both remand and sentenced) to individual prisons on the basis of Court area, geographical considerations and the jurisdiction of certain courts (such as the Special Criminal Court).

Following a legislative amendment in September 2020, any Governor can now execute a Warrant even in circumstances where that Warrant is made out to the Governor of another prison.

In practical terms, where a prisoner is brought from one prison to Court in another Court area, and where the Court commits that person to the 'local' prison (as opposed to the prison from which the

prisoner came to Court), the prisoner can be returned directly to the originating prison without any need for the associated administrative and other burdens required by the practice heretofore.

The two changes, taken together, will result in very significant reductions in prisoner movements, resulting in cost savings and efficiencies for the Irish Prison Service.

The Prison Service has also engaged with other stakeholders in the sector to attempt to streamline appearances and reduce unnecessary appearances. Where a component of a case may not be ready on time, this causes additional adjournments/escorts. IPS are attempting to manage these unnecessary escorts.

b. discipline

Comment

The CPT noted favourably (paragraph 88) that the 2014 Guidelines on the Imposition of Disciplinary Sanctions were being applied in all the prisons visited. The CPT also noted that the IPS are revising guidelines on the imposition of disciplinary sanctions.

Request for Information

The Committee would like to be provided with a copy once they have been adopted.

Ireland's Response

The Prisoner Disciplinary process (P19) was reviewed in 2019. A new IPS Policy 'The Imposition of Prisoner Disciplinary Sanctions' has been drafted. It is intended to incorporate the Inspector of Prisons Guidelines on the imposition of sanctions into the policy in order to standardise the imposition of sanctions across the prison estate. As requested by the CPT, a copy will be provided upon completion and sign-off.

c. inspection procedures

Comment

The CPT (paragraph 90) raise issues regarding the allocation of resources to the Office of the Inspector which they state "were insufficient (three persons) to enable her to carry out any proper inspections of prisons, especially as her Office was responsible for carrying out an investigation into each death in custody[34] and of having some oversight of the complaints system as well as having to undertake, at the behest of the Minister of Justice, an investigation into alleged surveillance by the IPS on its own staff between 2009 to 2013."

The CPT note the review of the Inspectors office commissioned in 2018 which they state "…that her Office was not fit for purpose and that, above all, it required sufficient resources in order to carry out the mandate of inspecting prisons." Further to that, the CPT note the positive increased budgetary allocation in 2020 which was increased from 0.5 to 1.2 million euros.

Recommendation

The CPT trusts that the Inspector of Prisons is now sufficiently resourced to enable her to start carrying out prison inspections.

Ireland's Response

The Department of Justice is committed to supporting the Inspector of Prisons in implementing its statutory role. The Department of Justice supported the Inspector of Prisons in engaging an independent consultant to assess the resources needed for their office. The review set out the need for a future Preferred Operational Model ("POM") to be implemented, supported by enhanced resourcing. It went further to recommended increasing the staff numbers from 5 to 14 staff (including the Chief Inspector). Acknowledging this, the 2020 budget was increased by €700,000 bringing it to €1.2million and the 2021 budget by a further circa €750,000 bringing it to €1.95million. These increases allow the Inspector of Prisons to recruit additional staff. Competitions for the recruitment of additional staff are currently ongoing and expected to be completed before the end of 2020. This will significantly increase the capacity of the office from its current capacity. The Department will continue to work with the Inspector of Prisons in this regard and in the event they have a role in an established NPM.

C. Psychiatric institutions

1. Preliminary remarks

Comment

During the visit the CPT visited three psychiatric facilities, including the Department of Psychiatry of St Luke's General Hospital in Kilkenny, Sliabh Mis Mental Health Admission Unit at the University Hospital Kerry and St Aloysius Ward, part of the Mater Misericordiae University Hospital, Dublin. These are all approved centres for the purposes of the Mental Health Act 2001. As the CPT outlines (paragraph 91) "… they are authorised to accommodate patients involuntarily placed under the provisions of that Act and are subject to regular inspections at a national level by the Mental Health Commission (MHC)."

The CPT noted that the legislative framework governing mental health care is undergoing a major overhaul.

The CPT states (paragraph 93) that "The Assisted Decision-making (Capacity) Act 2015 (ADMCA) which supports decision making by adults and enables them to retain as much autonomy as possible, even when they lack capacity, will have the most impact when implemented. Part 6 of the Act provides for a review of the situation of all persons who were made Wards of Court under the antiquated Lunacy Regulation (Ireland) Act of 1871 which remains in force until the relevant provisions of the ADMCA become law..."

The CPT noted (paragraph 94) that the ."..delegation received hardly any allegations of ill-treatment of patients by staff in the establishments visited. On the contrary, patients mainly spoke highly of staff and the delegation observed their commitment to provide care and treatment to patients, often in difficult circumstances. That said, the delegation received a few allegations of rough handling of

patients by one or two members of staff and there was one allegation of inappropriate use of force having taken place in the Department of Psychiatry at St Luke's Hospital, Kilkenny, when a female patient's trousers had been ripped off by a male nurse during restraint. Such behaviour is completely inappropriate**."**

Recommendation

The CPT recommends that the management of the Department of Psychiatry at St Luke's Hospital reiterate to staff that no more force than is strictly necessary and proportionate should be used to bring an agitated patient under control. Due regard should be had to gender-specific concerns. Where staff act inappropriately, management must act to sanction them accordingly.

Ireland's Response

The HSE has brought this recommendation to the attention of Management in the Department of Psychiatry, St. Luke's Hospital, Kilkenny.

2. Patients' living conditions

Comment

Regarding living conditions, the CPT state (paragraph 95) that "..all three psychiatric units visited were clean and generally in a good state of repair, with the wards at Sliabh Mis and St Luke's having been recently renovated.[18] However, patients' rooms in all the units were impersonal and equipped with minimal furniture reflecting a clinical environment, rather than a therapeutic setting. Further, the four- and six-bedded rooms of the establishments visited were cramped, stuffy and, at times, noisy, providing hardly any personal space or privacy…."

Recommendation

The CPT recommends that the four- and six- bedded rooms be divided into smaller units and that steps be taken to personalise the rooms.

Ireland's Response

The HSE plan to reduce the use of Multi-Occupancy rooms for both COVID 19 and patient comfort purposes as resources allow. Significant progress has been made in its Long Stay Units over last two months due to the Covid 19 pandemic, but further work is required on this issue generally.

Comment

In respect of St Aloysius, the CPT noted (paragraph 96) "that a patient with a physical disability had been living on the ward for 16 months and yet accommodation on the ward was not adapted for wheelchair users."

[18] At all three establishments there was a focus on eliminating ligature points in the accommodation areas.

Recommendation

The CPT recommends that action be taken to make the ward wheelchair friendly.

Ireland's Response

This has been noted by the HSE.

Comment

The CPT noted (paragraph 97) that generally, the food served at all establishments visited was very good, although there could be long gaps between meals.

Recommendation/comment

Consideration should be given to adjusting the evening mealtime or serving a snack later in the evening.

Ireland's Response

This matter has been referred for action by the Health Service Executive to the Catering Management at the Sliabh Mis facility.

Comment

The CPT stated (paragraph 98) that "All the units visited possessed yards and gardens for relaxing in the fresh air. Patients were also able to smoke in these areas. Small shelters were provided for use in inclement weather. However, patients did not always have effective access to the garden at all times of the day."

Recommendation

The CPT recommends that steps be taken to put in place a clear policy for promoting and facilitating the possibility of patients to access the outdoors every day at all three establishments visited.

Ireland's Response

The HSE indicates that outdoor access is essential to the overall recovery of its In-Patients and that it has worked with local management to both improve communication with patients regarding outdoor access, and also examining Staff Rosters to match patient needs with staff availability.

3. Treatment

Comment

The CPT state (paragraph 99) that "The Mental Health Act 2001 (Approved Centres) Regulations 2006 stipulate that each patient should have their own individual care plan. In each of the establishments visited the CPT's delegation noted that a patient-centred approach was taken in the development of such plans, including the active participation of patients. This care plan was furthermore regularly reviewed by the multidisciplinary care team[19] allocated to each patient. In addition, patients were assigned a "key worker" (individual nurse)."

The CPT outline (paragraph 100) various activities provided at Sliabh Mis. However it is noted that ".. several patients complained that there were not enough activities."

Recommendation

The CPT recommends that a review of the activities on offer at Sliabh Mis be carried out, in consultation with the patients, to ensure that activities more suited to patients' needs are made available.

Ireland's Response

The review of activities will be completed as part of the HSE Covid 19 pandemic response to Business Continuity in the Sliabh Mis unit.

Comment

The CPT (paragraph 101) make a number of observations regarding the range of therapeutic activities on both wards at the Department of Psychiatry at St Luke's.

Recommendation

The CPT recommends that daily meaningful activities be made readily available for patients on both wards alike and that patients on Oak be made fully aware of the activities on offer. In addition, the courtyard for patients on Oak should be made more attractive and the bins provided for cigarette butts should be regularly emptied. Non-smoking patients from both wards should also be provided with a shelter where they can enjoy smoke-free fresh air during inclement weather.

Ireland's Response

A review of activities in the Department of Psychiatry, St Luke's had commenced prior to the Covid-19 pandemic, and will now need to be considered by the HSE as part of the overall Business Continuity process in the future.

Comment

[19] This consists of a consultant psychiatrist, hospital doctor(s), nursing staff, a social worker, occupational therapist and psychologist(s).

The CPT refer (paragraph 102) to various activities on offer at St Aloysius Ward. In respect of patients receiving high doses of olanzapine over a long period of time, the CPT note ."".. at the establishments visited did not always have their blood sugar levels regularly tested and yet, prolonged use of a high dose of this drug can cause high levels of glucose and obesity."

Recommendation

The CPT recommends that all patients taking olanzapine be properly monitored, including as regards their blood sugar levels.

Ireland's Response

The HSE indicates that all patients prescribed Olanzapine should have regular Blood Sugar tests and it has instructed the establishments visited to ensure compliance with this.

Comment

In paragraph 104 the CPT make a number of observations regarding the use of PRN medication. [This is medication where the prescription allows for medication to be dispensed as needed by medical staff in response to circumstances] The CPT state that in their opinion that "PRN medication may be appropriate in the case of patients with an occasional need for medication in specific situations, where PRN prescriptions can offer a rational, safe and efficient tool…."

The CPT also state that "PRN medication could also, in certain instances, amount to involuntary treatment; indeed, at St Aloysius Ward, PRN medication was sometimes administered when the patient refused treatment."

The CPT state that **"Where this is the case, the procedure for involuntary treatment, including safeguards, should apply."**

Recommendation

The CPT recommends that the Irish authorities review the use of PRN at all psychiatric institutions in the light of the above comments, particularly as regards potential overmedication or chemical restraint, and thereafter draw up guidelines on the use of PRN medication. These guidelines should specify that PRN medication should always be prescribed by a fully qualified psychiatrist, preferably the patient's treating psychiatrist, with the consent of the patient, the prescription must clearly state the maximum dose for single use, intervals for use over a period of 24 hours, the route of application and the need to observe the patients' reactions. Long-acting psychotropic drugs (depot and acutard formulations) should not be used as PRN medication. In addition, every use of PRN medication should be documented, it should be administered by a fully qualified registered nurse on duty and should be regularly reviewed.

Ireland's Response

The HSE has noted the CPT recommendation in relation to PRN medication and will work with its National Clinical Advisor to examine the issues raised by the Committee.

Comment

The CPT make a number of comments in paragraph 105 regarding electro-convulsive therapy (ECT). In particular they note the change in legislation "this is regulated by Section 59 of the MHA, as amended. The Mental Health (Amendment) Act 2015, which came into effect at the beginning of 2016, removed the words "or unwilling" from this section, meaning that ECT must not be administered to a person able to give consent against their will. The CPT welcomes this change in legislation which addresses the recommendation made in its report on the 2010 visit to Ireland.[20] "

The CPT outline that the only unit visited that carried out this treatment on site was the Department of Psychiatry at St Luke's. They state that "The suite comprised a treatment, clinical and recovery room and was appropriately equipped. The department had its own written electro-convulsive therapy policy in accordance with the MHC Rules. Use of ECT was relatively rare, with four patients undergoing the treatment voluntarily between April and October 2019. All instances of ECT were recorded in a dedicated register. "

4. Staff

Comment

In respect of staffing the CPT state (paragraph 106) that "Part 5 of the Mental Health Act 2001 (Approved Centres) Regulations 2006 covers staffing and stipulates that a centre must have written policies and procedures relating to the recruitment, selection and vetting of staff and that there must be sufficient numbers of staff with an appropriate mix of skills to meet the needs of patients. There must be an appropriately qualified member of staff on duty at all times. Staff should also receive sufficient and up-to-date training."

The CPT notes that "It is positive that almost all staff working on the wards of the units visited were qualified psychiatric nurses. In addition, staff appeared to be well supported by the management with procedures in place for counselling after incidents in which they had been adversely affected."

The CPT make a number of observations regarding staffing at the centres visited in paragraphs 107 & 108.

Regarding recruitment the CPT state (paragraph 109) "the CPT's delegation was informed that there were extremely bureaucratic procedures for recruiting staff at short notice which often meant that no replacement staff were hired. The minimal staffing situation had an impact on patients" which the CPT outline has a number of negative implications for patients.

Recommendation

The CPT recommends that the procedures for seeking short-term replacement staff be streamlined in order to ensure that all psychiatric establishments are always fully staffed.

[20] See paragraph 125 of document CPT/Inf (2011) 3.

Ireland's Response

Staff recruitment and retention is an acknowledged and on-going challenge for the Irish health service, including Mental Health. Every effort is made by the HSE to provide timely recruitment of staff to meet both short-term gaps and longer-term strategies in this regard.

Given the shortages of both professionals nationally, as well as internationally, the HSE has made funding available for training of these professionals. The HSE has funded additional psychiatric nursing under-graduate and post graduate places in universities and third level colleges across the country. In addition, the HSE has provided further funding for additional Higher Specialist training (HST) doctors in training programmes designed to increase the number of consultants available over future years.

5. Restraint

Comment

The CPT state (paragraph 110) that the "use of means of restraint in psychiatric establishments is highly regulated in Ireland. Seclusion and mechanical bodily restraint are governed by Section 69 of the Mental Health Act 2001 which lays down that a patient shall not be placed in seclusion or be mechanically restrained unless this is necessary for the purposes of treatment or to prevent harm to the patient themselves or to others. The use of seclusion or mechanical restraint must comply with the rules laid down by the MHC. Physical restraint is regulated by a specific MHC Code of Practice."

The CPT state that "The rules and Code of Practice largely comply with the CPT's standards.[21] The one exception concerns where a registered nurse has initiated the measure of seclusion or mechanical restraint - the medical review of the patient might be as long as four hours after the commencement of the measure, which in the CPT's view is too long. When such a measure is initiated, **a medical doctor should be informed immediately and a review should be carried out as soon as possible**."

In respect of the three psychiatric facilities visited, the CPT state that "recourse was only had to physical restraint (manual holds) and seclusion and in general, the emphasis was on prevention and de-escalation."

Irelands Response

Mental Health facilities currently work to comply with the existing Mental Health Commission Code of Practice. If there is any change to the Code, the HSE will respond accordingly.

Comment

In respect of physical restraint the CPT state (paragraph 111) "… a different manual technique was used in each of the establishments visited."

Overall the CPT did not view there being an excessive recourse to the use of physical restraints. However they did have concerns regarding the use of security guards and state "… hospital security

[21] See Means of restraint in psychiatric establishments for adults (Revised CPT standards), published in March 2017.

guards (trained in the use of the Management of Actual or Potential Aggression (MAPA) technique and restraint procedures) were often involved in restraining patients for the purposes of removing them to the seclusion room. In the CPT's view, such interventions are inappropriate and frightening for the patient concerned as well as for other patients observing them. The presence of security guards and the use of force by them could well result in a patient being traumatised. Psychiatric establishments should have a sufficient number of properly trained staff to manage agitated patients with psychiatric disorders."

Recommendation

The CPT recommends that the Irish authorities end the practice of involving hospital security guards in managing agitated patients in psychiatric establishments. Further, all nursing staff in psychiatric establishments should be trained in the appropriate ways of managing agitated patients and they should be offered refresher courses at regular intervals.

Ireland's response

There are a number of different models of training in the management of aggression and violence training. These include Prevention and Management of Aggression and Violence; Therapeutic Management of Aggression and Violence or Management of Actual or Potential Aggression, all of which are similar and have similar content. The important issue with any model is that the people delivering the training are accredited Tutors with evidence that they are competent to provide the training and up-to-date with their refreshers. Likewise, the staff who are training require regular refresher training in order to maintain safe practice in the recognition and management of aggression and violence. Within mental health settings, it is not desirable to have security officers involved in the management of aggression and violence presented by patients. The MHC has a very clear guidance on who can initiate physical restrain on patient (Code of Practice) which states that it can be only be initiated and ordered by registered medical practitioners, registered nurses or other members of the multi-disciplinary care team in accordance with the approved centre's policy on physical restraint. In certain circumstances, and as a last resort to maintain the safety of others, security personnel are called upon to lend assistance to the nurse/clinical staff in the management and containment of a violent incident. At all times, the initiation of physical restraint is managed and led by the registered nurse as allowed for under the MHC Code of Practice.

Comment

The CPT state (paragraph 113) that "Generally, no excessive recourse to seclusion in terms of the number of episodes was noted in any of the three units visited.[22] However, some patients were secluded for long periods, for example, 86 consecutive hours at Sliabh Mis, and over 573 almost consecutive hours in the case of one patient at St Luke's, with another patient being secluded for 108 consecutive hours. In all cases where episodes of seclusion lasted for more than 72 hours (or 7 orders in 7 days), these were notified to the Mental Health Commission, according to normal practice. However, the CPT has serious doubts as to whether the seclusion of patients for such lengthy periods is justifiable."

[22] For example, at Slaibh Mis there had been 5 instances recorded between 26 July and 24 September 2019 and at the Department of Psychiatry at St Luke's, 12 instances during the period from June to the end of August.

Further to that the CPT state "In addition, the justification of the use of seclusion was questionable at times and not always in accordance with the Mental Health Commission's rules."

The CPT state that ".. every patient held in seclusion should be under continuous direct personal supervision from the very outset of the measure (so that the patient can fully see the staff member and the latter can continuously observe and communicate with the patient at all times)."

Recommendation

The CPT recommends that the necessary steps be taken to ensure that these precepts are implemented in practice.

In addition, patients should be secluded for the shortest possible time, have ready access to sanitary facilities without having to ask to use them and it should be ensured that the room itself is kept at a moderate temperature, with the provision of sufficient blankets.

Ireland's Response

The HSE note the CPT recommendations in relation to Seclusion which it will consider in conjunction with the Mental Health Commission. The Executive acknowledge that Seclusion should be used for the briefest period for the safety of patient, other patients and staff.

Comment

In respect of the placement in seclusion twice of a 17 year old voluntary patient At Sliabh Mis, the CPT stated (paragraph 114) " The Committee is of the view that children should in principle never be subjected to means of restraint on account of their vulnerability. In extreme cases where it is deemed necessary to intervene physically to avoid harm to self or others, the only acceptable intervention is the use of manual restraint, that is, staff holding the child until he/she calms down."

Recommendation

The CPT recommends that such an approach be systematically applied to any child in a psychiatric hospital.

Ireland's Response

The HSE note this recommendation. Seclusion and physical restraint are only ever used as a last resort. The rules and regulations surrounding seclusion and the codes of practice on physical restraint clearly articulate how these interventions can be used and authorised with built-in safeguards in terms of checks and balances. Staff are trained to always explore safe alternatives to seclusion and restraint (such as de-escalation strategies) when it is clinical safe and appropriate to do so. Where seclusion and/or physical restraint need to be used, then prescribed reviews are built into the process which is clearly documented and subjected to independent review.

Comment

The CPT state (paragraph 115) that "…less intrusive alternatives to seclusion should be available" The CPT state "a relaxation room had been set aside in in St Aloysius Ward several months prior to the visit, but it had yet to be refurbished. At the Department of Psychiatry, St Luke's Hospital, a de-escalation room was planned for some point in the future."

Recommendation

The CPT would like to be informed whether the de-escalation/relaxation rooms referred to above are now operational.

Ireland's Response

Due to the recent Covid 19 pandemic these de-escalation rooms are not yet operational, but the HSE expect them to open in the near future.

Comment

The CPT refer to the practise of placing some patients in pyjamas day and night (paragraph 116) and state that this "…was particularly prevalent at Sliabh Mis, where patients at risk of absconding were prescribed the wearing of pyjamas to prevent them from leaving the unit. All instances of enforced pyjama-wearing were recorded in a night attire log. Apart from the risk of absconding, reasons for the wearing of night attire included risk of self-harm, for purposes of assessment, first admission, or placement in the high observation unit. As an example, 37 patients were subjected to this pyjama regime from 2 to 27 September 2019. While some of these patients were only in the pyjamas for a few days, others remained in them for weeks. Furthermore, many of these patients were voluntary." The CPT further state that "Placing patients in pyjamas does not necessarily reduce the risk of self-harm. Where the risk of harm is suicide-related, increased supervision and more appropriate, refractive, clothing should be used."

The CPT state that they have "… always considered the practice of continuously dressing patients in pyjamas not to be conducive to strengthening personal identity and self-esteem and that individualisation of clothing should form part of the therapeutic process." And that the "... practice of forcing patients to wear pyjamas should therefore be abolished."

Recommendation

The CPT recommends that the Irish authorities ensure that the above pyjama policy in psychiatric facilities in Ireland be reviewed. Patients should be able to wear their own clothes as much as possible during their stay. Even patients who prefer to wear pyjamas should be encouraged to change into other clothes during the day in order to preserve a sense of normal routine which contributes to a therapeutic environment.

Ireland's Response

The HSE note this recommendation. The HSE will follow up on this to ensure compliance with regulation 7 for approved centres. The CPT recommendation is in line with the requirements of the Mental Health Act.

6. Safeguards

a. placement and review

Comment

The procedure for involuntary placement of adults in psychiatric establishment is outlined and laid down in the Mental Health Act 2001. In respect of the renewal orders, the CPT state (paragraph 117) "welcomes the reduction from 12 to 6 months for the third and subsequent renewal orders as introduced by the Mental Health (Renewal Orders) Act 2018."[23]

Regarding transfers of involuntary patients to psychiatric establishments, the CPT state (paragraph 119) "..persons with mental health-care needs should, in principle, always be transported by health-care staff."[24]

In respect of the Allied Admissions Service which provides specialised mental health patient transport on behalf of the HSE, "the Committee commends the authorities for providing such a service, which aims to ensure that patients are treated in a professional and sensitive manner with due regard for their dignity and privacy."

In respect of Gardaí, the CPT note "..the Garda are given special powers under the 2001 Act to detain persons who pose a risk to themselves or others and may apply to a registered medical practitioner for a recommendation and take the patient to the approved centre themselves. Several of the persons interviewed by the delegation complained that they had been too tightly handcuffed during transfer to the establishment and in one patient's file, there was a note that his wrists had been injured by the handcuffs. Furthermore, staff commented that they saw bruises caused by handcuffs on some persons upon arrival."

In respect of transfers from Garda stations, "The CPT encourages wider use of the Allied Admissions Service (for example including when persons are transferred from Garda stations to approved centres).Where the involvement of members of the Garda is unavoidable, these should receive sufficient training in how to deal with persons with mental disorders and no more force than is necessary should be used when transferring them to approved centres. Furthermore, handcuffs should in no circumstances be excessively tight."

Request for Information

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

Ireland's Response

[23] This Act also provides that a patient may apply to the Mental Health Tribunal for a review of the renewal order three months after the date the renewal order was made.
[24] See CPT/Inf (2019) 4, paragraph 56.

Assisted Admissions for involuntary patients is provided either by HSE staff, external providers or An Garda Síochána depending on the Risk Assessment. There is on-going training of Gardaí by HSE staff in the provision of this service. In light of the CPT comments, the HSE will review the efficacy and frequency of such transfers.

A Mental Health Liaison Inspector is appointed in each Garda Division to liaise with the relevant personnel from the Health Service Executive (HSE) and Mental Health Ireland on issues arising in their respective Divisions. Joint training has previously occurred between these agencies. Unfortunately, due to COVID-19, a meeting between all Garda Liaison Inspectors, the HSE and Mental Health Ireland could not occur. However, options to run this meeting are now being explored between the relevant agencies. Due to the passage of time since previous training occurred (2017), updated lists of relevant assigned personnel are being compiled by each agency.

An Garda Síochána is in full support of the use of Allied Admissions Service, however, its use is often determined by their availability to attend at a certain location. It is acknowledged that the Allied Admissions Service should be utilised in cases when transporting persons with a mental health disorder to an approved centre. However, delays have been encountered in relation to their attendance, resulting in members of An Garda Síochána transporting the detained persons to an approved centre. This is an issue all agencies are working on collaboratively and will be on the agenda for the next meeting.

More recently a workshop was run by An Garda Síochána and Mental Health Ireland for senior managers to assist in providing their teams with an increased knowledge and understanding of supporting persons in mental health distress. The workshop was evidence informed and included real scenarios provided by members of An Garda Síochána. With regards to Garda members receiving sufficient training in how to deal with persons with mental health disorders, the review of the Garda Custody Risk Assessment Form (C.84A) also has relevance. An Garda Síochána are in consultation with external partners seeking to ascertain the availability of various types of training, to more readily identify the needs of persons suffering from mental health disorders, to include neurodiversity training.

Comment

The CPT state (paragraph 120) that "Despite the existence of CAMHS (Child and Adolescent Mental Health Services), children are often admitted to adult psychiatric units as there are only six inpatient CAMHS units for the whole of Ireland: four in Dublin, one in Cork and one in Galway."

Recommendation

The CPT reiterates that, in view of their vulnerability and special needs, children requiring psychiatric care should be accommodated separately from adult patients. It recommends that the Irish authorities take the necessary measures to ensure this is the case in practice.

Ireland's Response

The HSE agrees that, except in exceptional circumstances, under 18s should be admitted when required to CAMHS In-Patient facilities. The number of young people admitted to Adult Units decreased substantially in 2019 and it is planned to ensure this downward trend is maintained this year.

b. safeguards during placement

Comment

In respect of voluntary patients, the CPT note (paragraph 121) "The full entry into force of the ADMCA should resolve the problem observed by the CPT's delegation as regards "voluntary" patients in Ireland. Currently, many so-called voluntary patients do not have the capacity to give valid consent to their admission, stay and treatment in psychiatric establishments."

Further to that the CPT state "Voluntary patients are not afforded the same legal safeguards as involuntary ones, with no regular review of their legal status And yet, the delegation observed that they are often *de facto* deprived of their liberty, being kept in a closed environment with restrictions on their movements; having to ask to leave the ward or to go into the garden. Furthermore, some voluntary patients are subject to measures of restraint, including seclusion, prevented from leaving the unit altogether and if they do leave without permission, they are forcibly brought back to the unit."

The CPT refers to and welcomes the passing of the Mental Health (Amendment) Act 2018 which is not yet in force but which amends the definition of a "voluntary patient." The CPT welcomed (paragraph 122) the response of the Irish authorities in their letter of 27 January 2020 "...that the new definition, together with the deprivation of liberty safeguards which will be incorporated into the ADMCA, will address the currently problematic situation of voluntary patients."

Recommendation

In welcoming this response, the CPT recommends that the Irish authorities ensure that the above-mentioned new legislation, as well as the outstanding provisions of the ADMCA, is brought into force as soon as possible.

Ireland's Response

The Assisted Decision-Making (Capacity) Act 2015 ("the ADMC Act") provides a modern statutory framework to support decision-making by adults with capacity difficulties. The ADMC Act was signed into law on 30 December 2015 but has not yet been fully commenced. The Act provides for the establishment of new administrative processes and support measures, including the setting up of the Decision Support Service (DSS) within the Mental Health Commission.

A number of provisions of the ADMC Act were commenced in October 2016, in order to progress the setting up of the Decision Support Service and to enable the recruitment of the Director of the DSS.

Section 7 of the ADMC Act provides for the repeal of the Lunacy Regulation (Ireland) Act 1871 under which adults are currently being made wards of court. The existing Wards of Court system for adults uses an "all-or-nothing" approach to capacity and once a person is made a ward of court, control over all aspects of their financial and personal life is vested in the court. The court makes decisions based on the best interests of the ward. The ADMC Act changes the law from the current

"all or nothing" status approach to a flexible functional definition, whereby capacity is assessed only in relation to the matter in question and only at the time in question.

The ADMC Act provides for a functional definition of capacity which takes an issue-specific and time specific approach, focusing on the particular time when a decision has to be made and on the particular matter to which the decision relates. This allows for situations where the loss of capacity is temporary or partial and where there may be fluctuations in capacity.

Part 6 of the ADMC Act provides for the phased transition from adult wardship to the new decision-making support arrangements that will be available under the ADMC Act. It provides for the review by the wardship court of the capacity of all current adult wards of court within three years of the commencement of Part 6 of the ADMC Act. In each case, the ward shall be discharged from wardship and the court shall order that the property of the former ward be returned to him or her. The safeguards and procedures of the ADMC Act will apply to a former ward who transitions to any of the new decision-making support arrangements available under the ADMC Act. The current wards of court system will continue to operate until Part 6 of the ADMC Act is commenced. It is not possible to commence Part 6 of the Act until the DSS is operational and ready to roll out the new decision-making support options that will be available under the ADMC Act.

The implementation of the ADMC Act requires that the DSS is fully operational and in a position to offer services including the new decision-making support options. A high-level Steering Group comprising senior officials from the Department of Justice, the Department of Health, the Mental Health Commission, the Courts Service and the HSE, together with the Director of the DSS, is overseeing the establishment and commissioning of the DSS and this work is ongoing. The Steering Group has given detailed consideration to the feasibility of commencing the remaining un-commenced provisions of the ADMC Act however, due to the complexity of the Act and the interconnectivity of its provisions, it is not possible to make any further commencement orders until the DSS is operational. The DSS, led by its Director, is working to put in place the necessary infra-structure to support the full commencement of the ADMC Act. The infrastructure required includes, amongst many other elements, ICT capability for the DSS. These key preparations are being put in place under the oversight of the Steering Group and will allow for the main operative provisions of the ADMC Act to be commenced when the necessary preparations have been completed to enable the DSS to roll out the new decision-making support options.

The DSS has received funding over the last three years to enable the necessary preparations to be made for its establishment. Further Exchequer funding will be sought for 2021 and 2022 and it is anticipated that the DSS will be in a position to commence services in mid-2022.

There are also critical dependencies for the DSS on other organisations, including, for example, the Courts Service, the HSE and the Department of Health amongst others, which need to be delivered in order to achieve this timeline. The Steering Group has been meeting regularly to ensure a co-ordinated approach to the implementation of this project.

The Programme for Government contains a commitment to commence the Assisted Decision-Making (Capacity) Act 2015 to abolish wardship. Responsibility for implementation of the ADMC Act has transferred to the Minister for Children, Disability, Equality and Integration.

In respect of Deprivation of liberty safeguards, the Department of Health state the following:

"In the first paragraph of the 'psychiatric establishments' section on page 7, reference is made to the deprivation of liberty safeguards 'to be incorporated in the ADMCA'. As outlined at the meeting in September 2019 with the CPT, the deprivation of liberty safeguards, to cover certain health and social care settings, are currently being drafted as standalone legislative provisions by the Department of Health and will not form part of the Assisted Decision-Making (Capacity) Act 2015. Paragraph 122 again refers to the inclusion of the deprivation of liberty safeguards in the ADMCA."

In respect of the definition of voluntary patients, the Department of Health state the following "It is stated in paragraph 122 "by letter of 27 January 2020, the Irish authorities confirmed that the new definition, together with the deprivation of liberty safeguards which will be incorporated into the ADMCA, will address the currently problematic situation of voluntary patients." The version of the letter of 27 January provided to Disabilities Unit, Department of Health does not contain this assertion so the inclusion of this sentence is questioned."

At the Department of Health meeting with the CPT delegation in September 2019, it was noted that either amendments to the Mental Health Act 2001 or the deprivation of liberty safeguards, would seek to address the issue of those who were categorised as 'intermediate patients'[25] in the Report of the Expert Group on the Review of the Mental Health Act 2001. A policy decision in relation to which legislative provisions will address these patients has not been made.

Comment

Part 4 of the Mental Health Act 2001 regulates consent to treatment as regards involuntary patients only. The CPT state (paragraph 123) "The patient's consultant psychiatrist must be satisfied that they are capable of understanding the nature and likely effects of the treatment and must give the patient information on this, in a form and language the patient can understand. Consent is required for all treatment, unless the consultant psychiatrist considers that it is necessary to safeguard the life of the patient, to alleviate his/her condition or suffering and the patient concerned is unable to give their consent, by reason of their mental disorder."

Further to that the CPT state "Patients may however be treated without their consent for an initial period of three months, after which time, the administration of medication may not be continued unless the patient gives their consent in writing or, where the patient is unable to give their consent, authorisation for the continued administration of medication by both the patient's consultant psychiatrist and a second consultant psychiatrist is given."

Recommendation

The CPT considers that involuntary placement and involuntary treatment are two separate issues and it recommends that the involuntary administration of medicine should be subject to a separate decision with the possibility of appeal and an independent second opinion.

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[25] In order to address the issue of individuals who do not have capacity and don't satisfy the criteria for detention but who nonetheless require in-patient treatment, the Group proposes introducing a new category of patient to be known as 'intermediate' who will not be detained but will have the review mechanisms and protections of a detained person (Report of the Expert Group on the Review of the Mental Health Act 2001, p.32)

Ireland's Response

The HSE has noted the comments of the CPT regarding the involuntary administration of medicine. The status of voluntary patients will be addressed in the new Part 1 of the Mental Health Act review, to account for voluntary patients lacking capacity. A new Part 6 has been proposed by the Mental Health Commission that would specifically address restrictive practices. The Department is currently considering this proposal in the context of the ongoing review of the Act.

Comment

The CPT state in paragraph 124 that "Voluntary mental health patients are currently covered by common law rules regarding consent to treatment and have an unqualified right to refuse treatment. However, this is not always clearly understood by patients, nor clearly communicated to them upon admission, as confirmed in interviews with patients during the visit. Furthermore, several patients interviewed by the delegation said that they consented to treatment, even though they did not want it, either because they did not think they could refuse, or because they did not wish to be forcibly medicated."

Further to that "The CPT considers that every patient capable of discernment - whether voluntary or involuntary - should be given the opportunity to refuse treatment or any other medical intervention. It welcomes the fact that the Mental Health (Amendment) Act 2018 (see above) will link the Mental Health Act 2001 with the ADMCA in affirming that everyone should be presumed to have capacity to make decisions, with support where necessary. **The CPT trusts that this legislation will enter into force without delay."**

Irelands Response

In respect of new Mental Health legislation, Draft Heads of a Bill, based on the recommendations of the Expert Group Review of the Mental Health Act 2001, was sent to the Mental Health Commission for their consideration in July 2019.

The Commission returned the bulk of their comments to the Department of Health in early March 2020. The Commission's Legislative Committee provided their expert legal and clinical input into its submission. The Department has started to prepare a final draft heads of Bill, on a Part-by-Part basis, with a view to finalising the draft Bill by the end of 2020. Timely progress of the final draft Heads will rely on involving the Health Service Executive and the Mental Health Commission in any further necessary consultation, and on the provision of legal advice by Departmental legal advisors and the Office of Parliamentary Counsel.

The review of the Mental Health Act 2001, based on the recommendations of the Expert Report, the contents of which were broadly accepted by the Government of the day. The Report contains recommendations relating to revised criteria for detention, revised definitions of mental illness and treatment, a greater role for Authorised Officers where involuntary admissions are being considered, improved safeguards for involuntary admission to approved centres, improved safeguards for change of status from voluntary to involuntary patient, greater safeguards for voluntary patients and shorter times for Tribunal hearings. These changes and others, when included in revised mental health legislation, will further improve the protections available to service users in this country.

The Department of Health is working with relevant stakeholders to ensure that the draft amendments to the Mental Health Act 2001 will have due regard for relevant legislation, including the Assisted Decision-Making (Capacity) Act, 2015, which has been enacted but not yet fully commenced, and amendments to the Mental Health Act, 2001 that have yet to be commenced, such as the Mental Health (Amendment) 2018.

The review has further taken into account developments in terms of Ireland's international obligations, such as the ratification of the Convention on the Rights of Persons with Disabilities, as well as recent legislative changes in Ireland, including the Assisted Decision-Making (Capacity) Act 2015, and the proposed Protection of Liberty safeguards.

Before the Expert Group met to discuss the revision of the 2001 Act, there was a full public consultation on what changes should be made. Around 115 submissions were received at that time and the changes proposed fed into the workings of the Expert Group. In addition, as the Bill proceeds through the legislative process, Oireachtas members and all key stakeholders will have an opportunity to provide further input at Committee Stage.

In respect of deprivation of liberty safeguards, the Department of Health state the following:
"In the first paragraph of the 'psychiatric establishments' section on page 7, reference is made to the deprivation of liberty safeguards 'to be incorporated in the ADMCA'. As outlined at the meeting in September 2019 with the CPT, the deprivation of liberty safeguards, to cover certain health and social care settings, are currently being drafted as standalone legislative provisions by the Department of Health and will not form part of the Assisted Decision-Making (Capacity) Act 2015. Paragraph 122 again refers to the inclusion of the deprivation of liberty safeguards in the ADMCA."

Changes to administration of medicine and provision of information to voluntary patients were recommended by the Expert Review Group on the Mental Health Act 2001 recommendations, upon which the review of the Mental Health Act 2001 is based. The Department of Health is currently progressing its review of the Act, with a view to finalising draft Heads of Bill by year-end 2020.

i. complaints

Comment

In respect of complaints procedures the CPT states (paragraph 125) "Regulation 31 of the Mental Health Act 2001 (Approved Centres) Regulations 2006 lays down that there should be written policies and procedures in place at the centre as regards complaints; that patients should be made aware of the procedure; that there should be a nominated person in each centre to deal with complaints; that all complaints should be investigated promptly; that relevant records should be kept of complaints and that there should be no reprisals.

Further to that they state "Where patients are not satisfied with the resolution of their complaint, they may apply to the Ombudsman or Ombudsman for Children."

The CPT make a number of comments (paragraph 126) regarding complaints procedures in the three psychiatric establishments visited.

Regarding the importance of complaints procedures the CPT state (paragraph 127) that "Further, the CPT considers an effective internal complaints mechanism to be crucially important as this can help not only to identify and resolve problems as soon as they arise but can also assist the management and frontline staff to prevent abuses. Such a mechanism should be immediately accessible."[26]

Recommendation

The CPT recommends that the complaints mechanisms at all three establishments be reviewed in the light of these remarks.

Ireland's Response

The HSE Complaints Policy "Your Service Your Say" comprehends all services, including Mental Health, and should be accessible in all units. The Executive will review procedures in all three units visited to ensure this policy is both visible and accessible.

The Mental Health Act (2001) provides for the regulation of mental health approved centres (Section 66). The Mental Health Commission Judgement Support Framework (2018) provides guidance to assist approved centres to comply with the Mental Health Act 2001 (Approved Centre) Regulations 2006. It provides guidance on compliance with regulation 20 which relates to provision of information and regulation 31 which relates to complaints procedures. Both are monitored as part of the annual inspection process. Issues raised by the CPT are also being addressed on an on-going basis by the HSE, with a view to improvements overall for the mental health system.

ii. record-keeping

Comment

The CPT noted (paragraph 128) that the record keeping in the psychiatric establishments visited was mostly paper-based and was not efficient, taking more time than necessary.

Recommendation

The CPT recommends that a review of the record-keeping procedures be carried out with a view to simplifying and modernising them so as to render them more accurate and to enable nursing staff to spend less time on paperwork and more on caring for patients.

Ireland's Response

The comments of the CPT in relation to Record Keeping are accepted by the HSE. The medium-term intention is to move to a paper light system with less onerous and more efficient work for all Clinicians and other staff.

[26] See the CPT's standards on complaints mechanisms (CPT/Inf(2018)4-part).

c. other issues

Comment

The CPT were generally satisfied regarding contact with the outside world (paragraph 129). In respect of leave the CPT state (paragraph 130) "The possibility existed at all three establishments for patients to go on leave, as long as they passed a risk assessment. The patient's status did not seem to affect the decision; some voluntary patients were not permitted to go on leave, whereas some involuntary patients were. Leave could be accompanied (by a member of staff or family), or unaccompanied."

The CPT (paragraph 131) were satisfied that brochures/leaflets existed at all three psychiatric establishments visited which contained relevant information about the establishments and patients' rights and responsibilities. However they state that "a number of patients claimed that they had not received such information."

Recommendation

The CPT recommends that steps be taken in all psychiatric hospitals in Ireland to ensure that information brochures or sheets are systematically provided to newly admitted patients (and their families) and that patients unable to understand the brochures/information sheets receive appropriate assistance.

Ireland's Response

Information sheets are available in all HSE psychiatric units and the Executive is increasingly using web based information also. Given the CPT recommendation, the HSE will review the local practice of providing information leaflets to ensure greater availability.

Comment

Regarding inspections conducted by the Mental Health Service appointed by the MHC, the CPT state (paragraph 132) "The CPT welcomes the existence of this effective inspection mechanism which has led to the improvement of patients' material conditions and treatment in Ireland."

In respect of the three facilities visited, the CPT state (paragraph 133) "Searches were carried out in accordance with Regulation 13 of the Mental Health Act 2001 (Approved Centres) Regulations 2006. At Sliabh Mis and the Department of Psychiatry at St Luke's, searches (either of persons or property) were not carried out systematically, however, one (voluntary) patient at St Luke's complained that she was strip-searched after every outing with a visitor and this appeared to be a standard practice on the ward. The CPT considers that strip-searches should not be a routine measure, in particular within a hospital setting."

Request for Information

The CPT has serious reservations about strip-searching civil psychiatric patients, even more so where voluntary patients are concerned, and would like to receive the comments of the Irish authorities on this issue.

Ireland's Response

The HSE indicates that strip searches are not a routine practice in psychiatric units and are only used after a Risk Assessment. The incident raised by the CPT has been discussed with the local Management Team to ensure national policy is implemented.

Comment

In respect of the assistance of Gardaí in carrying out searches, the CPT state (paragraph 133) "The written policy at the Department of Psychiatry at St Luke's stated that the assistance of the Garda Síochána may be sought in carrying out searches. The CPT considers that the involvement of law enforcement officers is highly inappropriate as it may cause unnecessary alarm not only to the person being searched, but to other patients on the ward."

Recommendation

It therefore recommends that this practice be ceased without delay.

Ireland's Response

The Mental Health Commission have a judgement support framework document, part of which relates to searches which they inspect against. Regulation13 (3) says that "The registered proprietor shall ensure that the approved centre has written operational policies and procedures for carrying out searches with the consent of a resident and carrying out searches in the absence of consent."

The implementation of the resident search policy is monitored and continuously improved. A log of searches is maintained. Each search record is systematically reviewed to ensure the requirements of the regulation have been complied with. The framework document can be found at https://www.mhcirl.ie/for_H_Prof/Guidance/JSF/. The use of Gardaí is in compliance with regulations and the law and is only used in certain circumstances to ensure safety of patients and staff.

Comment

Regarding searches at St Aloysius Ward, the CPT stated (paragraph 133) "... body searches were routinely performed upon arrival and there was an environmental search twice a day. If any illegal drugs were found, these were handed over to the Garda, but the CPT is concerned that the name of the patient found in possession of the drugs was given to the Garda. Such a breach of confidentiality is contrary to the establishment of a therapeutic relationship between staff and patients based on trust."

Request for Information

The CPT would like to receive the comments of the Irish authorities on this matter.

Ireland's Response

The HSE indicates that strip searches are not a routine practice in psychiatric units and are only used after a Risk Assessment. The incident raised by the CPT has been discussed with the local Management Team to ensure national policy is implemented. At all times the HSE operate within the required legislative framework and comply with the law.

D. Social care homes

1. Preliminary remarks

Comment

In respect of Social Care homes the CPT stated (paragraph 134) "The CPT's delegation visited, for the first time, two social care homes: the Hazelwood Centre in Dublin, operated by St Michael's House and Stewarts Care Residential Services for adults with intellectual disabilities located on the Palmerstown Campus in Dublin. Both establishments were registered as designated centres under the Health Act 2007 and as such were subject to regular inspections by the Health Information and Quality Authority (HIQA), a body which could also refuse registration if the centre concerned did not comply with its standards."

Further to that the CPT "… was pleased to note that the general policy of the Irish government to move away from institutionalised "congregated settings" and provide more personalised care in smaller units and the community was in evidence at both centres visited. At both establishments visited, the level of integration of residents into the community can be considered as an example of good practice. Further, the CPT's delegation was impressed by the person-centred approach and standard of care it observed."

The CPT describe the Hazelwood Centre in paragraph 135. Stewarts Care home is described in paragraph 136. In respect of Stewards Care Home the CPT highlight "…the impressive number of written policies of a very good quality concerning every aspect of life at Stewarts Care and an exemplary standard of record-keeping."

2. Safeguarding issues

The CPT state (paragraph 137) that "No complaints about staff behaviour or allegations of ill-treatment were received at either establishment. On the contrary, residents spoke well of staff and the delegation noted their dedication and the caring way in which they interacted with the residents."

In respect of Stewarts Care Home the CPT state (paragraph 138) that "An impressive Safeguarding of Vulnerable Adults Policy was in place at Stewarts Care, covering physical, sexual, psychological, financial, institutional and discriminatory abuse as well as neglect. The emphasis was on prevention and early intervention which was achieved through informing residents of their rights and providing them with support to exercise those rights; providing a well-trained workforce and having a zero-tolerance approach to abuse and a person-centred approach to the provision of services."

In respect of four incidents affecting residents caused by staff in the three months prior to the visit, the CPT state "These consisted, respectively, of poking, bullying, pulling a resident by their backpack on a bus and mimicking which had led to anxiety among the residents. Follow-up to these incidents ranged from reassurance to a verbal warning issued to the staff member concerned and a complaint being submitted. In addition, human resources were informed, and safeguarding was notified. The incidents were also well documented in accordance with the policy of the establishment which reflected national policy."

Recommendation

The CPT considers that in the case of more serious incidents, such as bullying, it would be important that staff members not only receive a verbal warning, but also receive appropriate training to upgrade their professionalism and understand why their actions were completely inappropriate.

Ireland's Response

The HSE accepts the numerous largely positive comments by the CPT around Disability Services in the centres visited. This reflects its overall and ongoing programme of improvement across the sector associated with Transforming Lives and other improvement initiatives. It particularly welcomes the findings around the level of integration of people with disabilities in the community. It values the fact that care is good and appreciate the importance of high- quality accommodation as evidenced. It notes amongst other things what is described as an impressive number of written policies of very good quality concerning every aspect of life.

Notwithstanding the above, and in relation to other comments, it pays particular attention to less positive experiences and issues and complaints in services. The HSE has significant safeguarding structures in place. This is allied more generally to the work of the quality improvement division across the HSE. Specifically, there is consideration on restrictive practice through our regulatory processes and ongoing work on this and many other areas of service under the auspices of our own Quality Improvement office.

In this context, the comments of the CPT in relation to improved training have been noted.

Comment

In respect of inter-resident violence at the establishments visited, the CPT noted (paragraph 139) that there was little or none due to the staff's preventive actions and de-escalation. Where violence did occur, there was a safeguarding procedure in which HIQA would be involved. The CPT state that "In the three months prior to the visit, there had been 76 peer-to-peer incidents involving 33 residents. None however were severe and there had been no physical injuries inflicted by a resident on a fellow resident in the six months preceding the visit. Some residents were however bothered by screaming and the rough behaviour of other residents."

Further to that the CPT state "At the Hazelwood Centre, a resident with autism felt uncomfortable around the other residents and found the noisy environment (constant screaming) upsetting. He had been on the waiting list for individualised care for many months."

Recommendation

The CPT would like to be updated regarding the situation of this resident.

Ireland's Response

St Michaels House report that plans are at an advanced stage to provide an individualised residential service to this person. A property has been leased and St Michaels House are working to progress his transfer.

Comment

In respect of recording of incidents, policies and procedures, the CPT stated (paragraph 140) "Incidents at the Hazelwood Centre were recorded in the records held at the house and entered into the HIQA incident portal. HSE and the National Safeguarding Team were also notified. As was the case at Stewarts Care, incidents included near misses. In cases of abuse, St Michael's House Policy and Procedures for the Protection of Adults from Abuse and Neglect was followed. This meant that preliminary screenings and full investigations would be carried out when necessary in consultation with both HIQA and HSE."

3. Living conditions

Comment

In respect of the homes visited the CPT state (paragraph 141) "The homes visited provided a good level of comfort and quality, and the homely atmosphere observed was conducive to a feeling of normal everyday life. Further, residents had regular contacts with the community, whether in suburban areas, or on the Palmerstown Campus, where the sports centre, swimming pool and restaurant were used by residents and non-residents alike."

In respect of Stewarts Care, the CPT state (paragraph 143) "From its visit to nine of the homes, the delegation noted that the premises were clean, and each resident had their own adequately sized bedroom which was well furnished and decorated in a personalised manner. There were also comfortable communal spaces in the houses. Some homes had a multi-sensory room. Dwellings housed from one to 10 residents. The homes were suitably equipped for the physically disabled (adapted bathrooms, hoists, etc.)."

Further to that it was stated "That said, the bedrooms in bungalow No. 5 were on the small side and there was no activity room and no privacy for phone calls. Some residents in that bungalow, as well as some in other homes, were bothered by screaming from other residents."

Recommendation

Where possible, residents who find it difficult to live in such close proximity to noisy housemates should be moved to more suitable, individualised accommodation.

Ireland's Response

This has been noted by the HSE.

Comment

In respect of Westhaven community house, the CPT state (paragraph 144) "The house consisted of four bedrooms of adequate size, a suitably equipped bathroom, a kitchen with a dining area, living room and a garden. Carers worked at the house from early evening when residents came home from their activities until 10 am the next morning and slept over at weekends. This house, just as the Hazelwood Centre, was an excellent example of how persons with intellectual disabilities can be integrated into the community."

Further to that the CPT state "The food provided to residents was generally very good at both establishments."

4. Staff

Comment

In respect of staffing the CPT state (paragraph 145) "Staff were present at the Hazelwood Centre 24 hours a day, with a total of 10 staff on the roster at the time of the visit. This number was less than it should have been (13), but seemed sufficient for the five residents, with three members of staff on duty during the day[27] and two at night (including at weekends). The staff roster was reviewed every six months. An additional member of staff was recruited for trips. It was always ensured that there was a good skill mix among staff members."

In respect of Stewarts Care Home, the CPT stated (paragraph 146) that they "…employed just over 1,000 staff members across all their services; some 870 full-time equivalents. However, staffing numbers had been reduced in the few months prior to the visit because of financial difficulties."

Further to that the CPT stated "There was a GP service 36 hours a week provided by two doctors five days a week. There was, however, no dentist and the dental hygienist was on maternity leave. Residents needing dental care were provided with transport to attend off-campus consultations."

Regarding the attendance of staff the CPT state "Staff were present 24 hours a day inside the individual houses. In most homes, one nurse was present during the day, accompanied by one to four care staff, depending on the number of residents and their needs. At night, there was at least one health-care assistant present and, where necessary, houses shared the services of a nurse. Management wanted to bolster nursing coverage, especially nurses with specific specialisations, such as dementia."

Regarding sick leave the CPT state (paragraph 147) that they were "…informed that when staff members were on sick leave there were lengthy administrative procedures to secure extra funds to employ replacement staff, and that funds were often refused for such purposes. During the August Service User Council Representatives meeting, a zero-growth budget as of July had been noted, which meant that no agency staff could be recruited to cover staff on sick leave and that people leaving jobs would not be replaced unless staff were urgently needed. A temporary solution was to redeploy staff

[27] On weekdays, one staff member was present from 8 a.m. to 8 p.m., one from 2 p.m. to 8 p.m. and one from 3 p.m. to 9 p.m.; at weekends there were three members of staff on 12-hour shifts.

members from homes where they might be needed less; the aim being that there were enough staff to keep people safe in their homes."

Recommendation

The CPT recommends that in addition to simplifying the procedures for recruiting staff to replace those absent, more funding be allocated to enable their replacement.

Ireland's Response

On the specific issue of staff and staff replacements, there is a process in place for approval of staff cover albeit budget though very extensive is finite and some delays inevitably occur.

5. Treatment and care

Comment

The CPT were generally impressed by the person-centred approach taken at both social care facilities visited (paragraph 148).

Paragraph 149 explores examples of good practise and state "At the Hazelwood Centre, this was exemplified by the creation of special books called "All about me", containing photos enabling residents to express their wishes and dislikes. The autistic resident had a separate book for each day of the week."

In respect of participation of residents with their own plan at Stewarts Care Home, the CPT state "This level of resident participation in their own plan is commendable."

In addition to the PATH plan, the CPT state "..each resident had a personal support plan developed in consultation with the resident, their family, and key worker. This plan was reviewed once a year by the multidisciplinary team working with the resident. The person-centred approach could also be seen through regular meetings between the resident and their key worker, weekly service user meetings involving the resident's multidisciplinary team and monthly meetings of the Service User Council (SUC) which was represented by residents (elected by the other residents) with key workers and facilitators. Issues identified during the SUC meetings were raised with the relevant Stewarts Care service departments. "

Regarding the Hazelwood Centre, the CPT state (paragraph 150) that "… residents received excellent somatic health care.[28] Staff were trained in the safe administration of medicine and, on the whole, although all residents were on benzodiazepine medication and three received neuroleptics as well, they did not appear to be overmedicated. However, one of the residents appeared to be receiving rather high doses of medication, including olanzapine. Reference is made to paragraph 103 above."

[28] An example of the efforts made to ensure that residents understood procedures relating to their physical health was that a female resident on dialysis was provided with a pictorial presentation of a kidney transplant as part of the process to prepare her for the operation.

In respect of the medical unit at Stewarts Care Home where two GPs held their surgeries, the CPT state (paragraph 151) "…Residents went to the surgery for consultation and those having difficulties communicating were referred by their careers. If residents refused to go to the surgery however, a doctor would go and see them at their home. GPs could also be called upon outside working hours. Residents benefitted from an annual medical review."

Regarding medication, the CPT state "…some residents were on several antipsychotics, but the reasons for this were well-documented and the drugs could not be considered to be used as chemical restraint. Furthermore, residents did not appear to be sedated or over-medicated and were closely followed with regular reviews of their individual medication and health-care plans."

The CPT note (paragraph 152) that medicine was not administered in a covert manner. They state that "There was a protocol for involuntary medication and a consent policy to ensure that residents were given all appropriate help and support in making decisions and that where a resident lacked capacity to make a particular decision, that decision was made in the best interests of the resident." Regarding wards of Court, the CPT state "…residents who were wards of court, the court-appointed guardian was contacted for consent to medical tests or treatment."

Regarding communication, the CPT state (paragraph 154) that "Approximately 50% of Stewarts Care residents could not communicate verbally. A Disability Distress Assessment Tool (DisDat) was in place at the establishment to assist staff in identifying symptoms of distress in residents whose communication was severely limited. A document was drawn up for the individual concerned and included a "distress passport". Such a tool gives even the most severely disabled residents a voice, enabling them to express their discontent and therefore obtain some sort of redress. This is to be commended."

Further to that the CPT state "However, the effects of this policy were limited, as there were many cases of self-harm due to feelings of isolation or fear that could not be communicated in the case of autistic or elderly residents. In 2017, 333 incidents of self-harm in Stewarts Residential Services as a whole were recorded, which rose to 408 in 2018; but the number of incidents appeared to have decreased in 2019 with 118 cases recorded during the first eight months of the year."

In respect of residents who were at risk of suicide at Stewarts Care, the CPT state that they "..were referred to special psychiatric services. Any unexplained injuries were referred to the safeguarding officer. All deaths were reported to the coroner who concentrated on unexpected deaths and deaths of those who had not seen a doctor in the recent past. Autopsies were carried out, but there was sometimes a long delay before the establishment received a copy of these reports. From 2017 to the end of August 2019, there had been a total of 14 deaths, only one of which (caused by extensive peritonitis) was scheduled to have a public inquest."

Request for Information

The CPT would like to be informed of the outcome of this inquest.

Ireland's Response

Stewards Care report that the Coroner has advised that due to Covid 19, inquests have been cancelled and are due to recommence in the near future with restrictions. In respect of the specific case raised, it should be noted that the inquest will be scheduled, but there is no date available as yet.

Comment

Regarding placement of some Stewarts Care Residents, the CPT state (paragraph 154) "Unfortunately, financial issues had recently affected the appropriate placement of some Stewarts Care residents. One had had to wait far too long to be placed on the campus, and others who were perfectly able to live in the community with adequate support were prevented from moving because of financial constraints. Lack of funds also prevented agitated individuals from being removed to individualised services in the community."

Request for Information

The CPT would like to be informed of the steps being taken to address these challenges.

Ireland's Response

Stewarts Care and the HSE continue to engage in ongoing dialogue regarding these transitions. Both parties are cognisant of the limited supply of appropriate housing in the community due to the national housing crisis, and the limited funding available within the 2019 and 2020 fiscal years. It is important to note that the HSE has offered three properties to Stewarts Care in 2020 (to-date) to support seven residents to live in the community. Staffing is being made available to support these residents through a reconfiguration of services and additional new funding. The HSE is supporting Stewarts in moving a further two residents to move to a Stewarts Care sourced community home and both parties are actively engaged in consideration of an additional service to two residents in a new community home. Both the HSE and Stewarts Care are supporting the agenda to move residents into community settings with appropriate supports.

6. Activities

Comment

Regarding activities the CPT state "paragraph 155) that "All residents at the Hazelwood Centre attended day services run by the provider, St Michael's House, from 8 or 9 am to 3 pm. One resident benefitted from individual day services. When not attending day service, residents could watch television in the living room, listen to music on their tablets, and go into the garden at the back of the house whenever they liked, or go to the local shops. Residents also engaged in neighbourhood activities. Daily plans were posted on the notice board in the kitchen in a pictorial format that was easy for residents to understand."

Paragraph 156 outlines the impressive range of activities at Stewarts Care Home for its residents.

In respect of both establishments visited, the CPT state (paragraph 157) that "..residents of both establishments visited were provided with a good range of activities and were able to mix with the local community."

7. Restrictive practices

Comment

In respect of restrictive practise regulations concerning older people and children and adults with disabilities[29] , the CPT state (paragraph 158) that "A national policy has been developed specifically for nursing homes (for the elderly) which advocates a restraint-free environment in these establishments.[30] The CPT welcomes such an approach but would like to see the establishment of a similar policy specifically for persons with disabilities. At the moment, the national policy for nursing homes is also used as the reference for establishments for persons with disabilities, whose needs may be different."

Recommendation

The reference to "evidence-based practice" in the Health Act regulations concerning persons with disabilities should be developed in such a policy paper to provide more clarity in the matter.

Ireland's Response

See response under paragraph 159**.**

Comment

In respect of restrictive practises in place in either of the establishments visited, the CPT state (paragraph 159) "These usually consisted of locked doors, for the safety of one or more residents, but which impacted on all residents living in the house concerned. The front door of the Hazelwood Centre was kept locked because one resident was at risk of wandering outside, but this measure obviously affected all residents. In general, restrictive measures were reviewed and were subject to approval by the Positive Approaches Monitoring Group of St Michael's House Services. It had to be shown that less restrictive measures had been tried before applying to this group. Consultation of the files revealed that the authorisation for restrictive measures was formalistic and not based on a clinical assessment of the residents' changing needs."

Recommendation

The CPT recommends that a more personalised approach be applied for the use of restrictive measures.

Ireland's Response

[29] Namely, the Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 and the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2013.

[30] See "Towards a Restraint Free Environment in Nursing Homes".

In relation to paragraphs 158 and 159, the Government is committed to ensuring the dignity, safety and well-being of people with disabilities in residential care through the enforcement of quality standards underpinned by regulations.

The Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 require that where restrictive procedures including physical, chemical or environmental restraint are used, such procedures are applied in accordance with national policy and evidence-based practice.

The policy document *Towards a Restraint Free Environment in Nursing Homes* was developed in 2011 and preceded the development of the Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations in 2013. However, given the shared objective of the older persons and disability sectors to promote the care and welfare of their residents, it remains a useful reference point for disability residential service providers in respect of limiting the use of restrictive practices in their services.

Residential services for people with disabilities are actively monitored by the regulator HIQA on an ongoing basis to ensure that residents are not subjected to a restrictive procedure unless there is evidence that it has been assessed as being required due to a serious risk to their safety and welfare. In line with the regulations, providers of disability residential services are required to have a written policy on the use of restrictive procedures in their services and to limit their use to emergency interventions in line with this policy. Service providers must also keep a record of any occasion on which a restrictive procedure was used and must notify the regulator of all incidents on a quarterly basis. HIQA has produced guidance for service providers on the use of restrictive practices which applies across designated centres for older people and designated centres for people (children and adults) with disabilities (2014 and updated 2016; available at https://www.hiqa.ie/sites/default/files/2017-01/Guidance-on-restraint-procedures.pdf).

8. Other issues

Comment

Regarding complaints the CPT state (paragraph 161) that "Both establishments visited followed the HSE's complaints policy and encouraged residents to complain locally first."

In respect of returns to the HSE regarding the recording of complaints, the CPT state (paragraph 162) that "An Excel file of complaints made was sent to the HSE each quarter. The quarterly complaints report for January to March 2019 showed that 40 complaints had been made, 10 of which related to safeguarding issues."

Request for Information

The CPT would like to be informed about the investigation and outcome of these 10 complaints.

Ireland's Response

Summary by the HSE of investigation and outcome of 10 Safeguarding complaints Q1 2019 is at follows

Complaint 358/ 2019:
Complaint from service user & his family that he is regularly being shouted at & bullied by another resident. A number of incidents were processed and notified to CH07 safeguarding team & HIQA and safeguarding plans in place, which service user and family have been informed about and broadly satisfied with. Safeguarding Plans included

- 2 staff on duty - One staff to stay with living area when both men are present. One staff to facilitate complainant attending activities.
- In the event all three men attend same activities both staff must be present at all times.
- In the event of person of concern physically and verbally aggressive, staff to temporary transition in to local hotel until his transition from that residential service.
- Develop business case for transition of resident of concern.
- Behavioural support plan for service user causing concern.

There have been no safeguarding incidents recorded between these two residents since 18.11.2019

Complaint 360/ 2019:
Complaint from service user that a staff member had been rude & verbally aggressive to another staff on his day service bus and dismissive of his suggestions for solutions. The matter was initially referred to HR department. HR and Programme manager met with the two staff involved in the incident and no further action was deemed necessary The staff concerned went part time shortly afterwards and is no longer working on that bus. The complainant was met with by programme manager and he was satisfied that the complaint was resolved to his satisfaction.

Complaint 365/2019:
Complaint by a resident that another service user was annoying her, ordering her about & wants her moved to another house. Safeguarding notification and plan took place. Summary of the plan was as follows

- Staff to vigilantly monitor and record interactions between the complainant and the service user causing concern; close supervisions across the day, given that both individuals reside in the same house.
- Safe space to be managed by staff in the home, i.e. reduced numbers in the kitchen area/small spaces at any one time.
- Appropriate support provisions to be revisited for person causing concern.
- Safeguarding Training and the Safeguarding Plan to be discussed and reviewed at handover and with all new staff coming to the house.

There have been no recorded incidents between these two residents since September 2019 and the case was closed by CHO7 on the 17.04.2020.

Complaint 366/2019:

Higher ability residential service user complained that a friend of his, another service user and her friend threatened him with a bottle in a public house and were mean to him.

Notification sent to HIQA & CHO7 safeguarding on 5 Feb2019. Safeguarding plan made with complainant. Offer made to assist him to report matter to Gardaí and to arrange mediation with his friend causing concern but he declined both offers. PIC of person causing concern also notified. Complainant was back talking with the person causing concern and was happy with the supports he had received and wanted to close the complaint.

Complaints 368/369 & 370 of 2019

These 3 complaints were from two residents & their families in relation to another resident who was shouting a lot and barging into their bedrooms causing distress.
Appropriate notifications to HIQA and CH07 safeguarding took place and safeguarding plan was as follows;

- Supervision of service users – effectively giving them space from each other.
- Agreement for requirement of person of concern to go to different accommodation to safeguard fellow service users in her living unit due to her behaviours of concern.
- Explaining to service users that that the person causing concern was unwell and receiving help from clinic team.

The service user causing concern was moved to an alternative and more appropriate residence within Stewarts and the complaint was therefore resolved.

Complaint 384/2019

Complaint from mother of a day attender that another service user had hit him.
Notification and safeguarding plan made to CH07 safeguarding.
Support to service user & parent.
1:1 staffing provided to person causing concern, & referral & input from psychiatry& psychology clinical team provided. There have been no further incidents and complainant was satisfied to close the complaint.

Complaint 390 /2019

Complaint from family of a resident that she went missing for a brief period in transition from her day service to her residential service and that there were communication issues with her in relation to her timetable.

A Safeguarding notification was completed, the matter was screened by HR department and programme manager, staff were interviewed. No Grounds for Concern were founded on account of the fact that the service user in question is an independent traveller and did not go ‘missing’ as a result of staff neglect. It was completely reasonable for them to have expected her to adhere to her schedule as she usually had. She chose not to answer her phone which lead to the concern of her being missing. However, there were communication issues identified and the following Lessons learned were applied;

- Improve Communications – Service user needs to be informed of any changes within her timetable as soon as information is received in order to support her.
- Encourage her to inform staff of her whereabouts and ensure she has relevant contact details on her phone.

- Pictorial Easy Read weekly time table to be developed – information is clear and understanding to her.
- Family meeting to be organised to discuss her safety plan following the incident which occurred on the 15/2/2019

The complainant was satisfied that the matter had been dealt with and the complaint resolved.

Complaint 399/2019

Complaint from service user & his family that he is subject to constant noise and sleep deprivation from the screaming of another resident. Safeguarding notifications have been made. Summary of the safeguarding plan is as follows

- Reassure Complainant. Offer support at time of noise. By putting on music, offer earphones in the pm when he is in his room, Offer other evening activities out of house weather permitting. Have his meals at a different time as other resident causing concern so not to have noise or disruption during meal times.
- Generally, this issue has decreased in past two months as resident causing concern was reviewed by the Psychiatrist and medication reviewed and changes made .
- Complainant also has a one to one currently and has a wide range of interests locally and is not attending his day service due to closure because of COVID 19,

Service user causing concern was due for transition - currently no internal movement of clients due to lockdown protocol

Comment

The CPT welcomes efforts to ensure that residents are well informed about all issues relating to their everyday life and they state (paragraph 163) that " At both establishments, information on the functioning of the homes' activities, how to make a complaint, residents' rights, etc. could not be more clearly provided. For example, at Stewarts Care, a Charter of Rights and Residential Service User and Family Information Booklet containing pictures and simple sentences were provided to residents upon admission. In addition, the minutes of the Service User Council meetings were circulated in a suitable format to residents and there was a "right of the month" scheme, whereby each month, information on a particular right was circulated to residents. "