



Briefing Document on Overcrowding in the Prison System

September 2024

1. Introduction

The Office of the Inspector of Prisons (OIP) welcomes the opportunity to make this submission to the “Overcrowding Risk Assessment Taskforce” in relation to the ongoing overcrowding crisis in Ireland’s prisons.

As long ago as 23 December 2022, the Chief Inspector of Prisons informed the Minister for Justice that: “Projected rises in the prison population suggest that unless urgent action is taken, such as imposing an enforceable ceiling on the number of people who can be held in each prison, the dramatic situation observed by my team in Mountjoy Prison for Men will become a grave problem for the prison system as a whole” (see, Appendix 1).

Regrettably, as members of the Overcrowding Risk Assessment Taskforce will be aware, overcrowding has become a grave system-wide problem, permeating all aspects of prison life. It affects both quality of life for people in prison and working conditions for prison staff. The Inspectorate has observed first-hand the detrimental consequences of overcrowding on cell conditions, hygiene and sanitation, violence and safety, and access to activities and services. In the course of its inspection activities, these concerns have been raised with local prison management, the Irish Prison Service as well as successive Ministers for Justice (see, Appendices 1 and 2).

It is the view of the Inspectorate, having regard to its findings during inspections and taking into account its Risk Assessment Matrix (see, Appendix 3), the current risk presented by the levels of overcrowding in Irish prisons is very high.

In this submission to Taskforce, the OIP highlights key observations from its work and shares measures that may contribute to alleviating overcrowding and its resulting effects.

2. International Human Rights Standards & Law

The OIP is a human rights-driven monitoring body. It is within the context of national law and international human rights standards that the OIP assesses the impact of overcrowding during the course of its General Inspection programme.

The Prison Rules 2007-2020 outline the responsibility of the Minister for Justice to ensure suitable prison accommodation:

“The Minister shall, in relation to a prison or part of a prison, certify that all such cells or rooms therein as are intended for use in the accommodation of prisoners are, in respect of their size, and the lighting, heating, ventilation and fittings available in the cells or rooms in that prison or that part, suitable for the purposes of such accommodation.” [Rule 18(1)]

The Rules also provide that the Minister makes decisions on the maximum number of people accommodated in cells:

“The Minister may specify the maximum number of persons who may, in normal circumstances, be accommodated in cells or rooms belonging to such class as may be so specified.” [Rule 18(2)(a)]

International human rights standards establish that accommodation should respect the privacy and dignity of people in prison, and should provide decent and humane living conditions. For example, Rule 18.1 of the European Prison Rules (2020) states:

“The accommodation provided for prisoners, and in particular all sleeping accommodation, shall respect human dignity and, as far as possible, privacy, and meet the requirements of health and hygiene, due regard being paid to climatic conditions and especially to floor space, cubic content of air, lighting, heating and ventilation.”

Crucially, the European Prison Rules provide that overcrowding should not excuse a breach of these minimum requirements. On this, Rule 18.4 states, *“National law shall provide mechanisms for ensuring that these minimum requirements are not breached by the overcrowding of prisons.”*

The Committee for the Prevention of Torture (CPT) also set out minimum standards in relation to accommodation space for people in prison. The CPT’s minimum standard for personal living space in prison establishments is 6m² of living space for a single-occupancy cell (inclusive of sanitary facility), and 4m² of living space per prisoner in a multiple-occupancy cell. In addition, the CPT states that *“in multiple-occupancy cells the sanitary facilities should be fully partitioned (i.e. up to the ceiling).”*¹

It is the Inspectorate’s view that the maximum occupancy of each prison should be reviewed in order to ensure that each prison cell meets, at a minimum, international standards for living space. Maximum prison occupancy should also take account of capacity and space for access to essential prisoner services. Such a review should consider how, aside from medium and long-term investment into the expansion of the prison estate, the prisoner population can be sustainably reduced.

3. Inspection Findings

Since 2022, the OIP has inspected eight prisons across Ireland: Mountjoy Men’s Prison, the Training Unit, Cork Prison, Cloverhill Prison, the Dóchas Centre, Shelton Abbey, Arbour Hill Prison and Midlands Prison. Of these, only three prisons were operating under capacity on the last day of inspection (Training Unit, Shelton Abbey, and Arbour Hill). Findings from these inspections indicate that people generally felt safe and experienced good living conditions.

By contrast, five prisons (Mountjoy Men’s Prison, Cork Prison, Cloverhill Prison, the Dóchas Centre and Midlands Prison) experienced varying degrees of overcrowding, ranging from 101% to 115% occupancy at the time of inspection.² During these inspections, the Inspectorate observed how the prisons were impacted negatively by overcrowding, and how this had adverse effects on people in prison and prison staff.

¹ CPT (2015) Living Space per Prisoner in Prison Establishments: CPT Standards

² Based on official IPS percentage bed capacity on the last day of the respective inspection.

A. Bed Capacity

Overcrowding is captured through percentage bed capacity; this is a measure of prison population over prison bed capacity. However, as illustrated below, this figure does not necessarily reflect the true bed capacity in a prison. In many cases, a portion of beds are unusable at any given time - for example, for reasons of maintenance or operational reasons. With these beds removed, the real prison bed capacity is often lower than the official figure reported. As such, percentage bed capacity often underestimates the scale of overcrowding experienced in a given prison.

To illustrate this, the tables depicted below provide a breakdown of cell and bed occupancy across Cloverhill Prison on 18 May 2023 and the Dóchas Centre on 19 September 2023. The tables highlight how the situation of overcrowding cannot be effectively captured purely based on a total number of prisoner-to-bed calculation.

On 18 May 2023, the IPS percentage bed capacity at Cloverhill Prison was 102%, based on a prisoner-to-bed calculation (443/433)³. However, the total number of unused beds on that day was 51 (excluding Special Observation Cells). As a result, **the real bed capacity for Cloverhill Prison was 108%**⁴ (Table 1).

Table 1: Distribution of Beds, Cells and Occupancy in Cloverhill Prison, 18 May 2023

Location	Location Details	Number of Cells	Unoccupied Cells	Number of Beds	Number of Prisoners	Sleeping on Floor	Unoccupied Beds
A1	General Population	22	2	54	54	3	3
A2	General Population	22	1	54	49	2	8
B1	General Population	22	0	62	59	3	6
B2	General Population	22	0	62	59	2	5
C1	Protection Groups	22	0	54	61	10	3
C2	Protection Groups	22	0	54	61	8	1
D1	Security / Rule 62	9	0	17	17	1	2
D2	Medical / Vulnerable	16	0	21	20	0	1
D1 / D2	Special Observation Cells (not included in cell/occupancy count)	9	1	9	8	0	1
E1	Enhanced	11	0	25	26	1	0
E2	Enhanced	11	0	25	23	1	3
F1 ⁵	Enhanced	6	4	12	3	0	9
F2	Enhanced	6	4	12	2	0	10
Reception	--	--	--	--	1	--	--
Totals		200 (209 with SOCs)	11 (12 with SOCs)	452 (461 with SOCs)	432 (441 with SOCs and reception)	31	51 (52 with SOCs)

³ IPS Daily Statistics, 18 May 2023.

⁴ This calculation is based on the prisoner population provided to the Inspectorate on 18 May 2023 as of 08:46, with a total prisoner count of 441. At this time, eight people were accommodated in Special Observation Cells and one person was accommodated in a reception cell; resulting in 432 prisoners being accommodated in general prison cells. There were a total of 401 available beds to manage 432 prisoners, which results in 108% capacity.

Similarly, on 19 September 2023, the IPS percentage bed capacity for the Dóchas Centre was 105%, based on a prisoner-to-bed calculation of 154 women for 146 beds. However, taking account of the number of people and *available* beds in the prison on that day (132), the *actual* percentage bed capacity was 117%. This calculation considers unoccupied beds in the prison on the day, and further accurately reflects the overcrowding situation in the Dóchas Centre (Table 2).

Table 2: Distribution of Beds, Cells and Occupancy, Dóchas Centre, 19 September 2023

Location	Location Details	Number of Rooms	Unoccupied Rooms	Number of Prisoners	Sleeping on Floor	Unoccupied Beds
Elm	Serving life and long sentences,	10	0	10	0	0*
Willows	Sentenced and remand,	11	1	22	0	2
Maple	Sentenced and remand	10	0	20	0	0
Rowan	Sentenced and remand	10	0	20	1	1
Laurel	Sentenced and remand	10	5 (temporarily closed due to renovation)	10	1	5
Cedar	Sentenced and remand	18	1	30	0	5
Hazel	Sentenced and remand	12	0	23	0	1
Phoenix	Sentenced prisoners (8 on Rule 63)	7 (4 rooms and 3 bedsits)	0	14	0	0
Healthcare / Committal Unit (HCU)	Restricted Regimes, Long-Term Care Needs, New Committals	6	1	6**	0	1
Totals	-	94	8	154***	2	15

* Prisoners accommodated in Elm House were long-term sentenced prisoners in single-occupancy cells; this was good practice.

** The HCU was used both to process newly committed prisoners, and to accommodate prisoners on a long-term basis. The count of six prisoners on this day is broken down to two committal prisoners in one cell, 1 Rule 62 prisoner in a committal cell, 2 prisoners in committal cells and 1 in a "High Support Unit" cell.

*** One additional prisoner was in A & E and is not included in the 154 count.

B. Impact of Overcrowding

In the course of its inspections, the Inspectorate spoke with many prisoners and staff about the impact of overcrowding. Inspection Team members observed cramped, unsuitable and unhygienic shared living conditions; the effects of which infringed upon the privacy and dignity rights of people in prison. Staff deplored the overwhelming impact of rising population numbers as people were increasingly locked behind cell doors for longer periods of the day, and as the demand for access to activities and services could not be matched.

The Inspectorate assessed the impact of overcrowding across a number of thematic areas, including those provided below.

Cell Conditions

Overcrowding led to poor physical prison conditions in terms of basic cell accommodation, as illustrated:

- The number of people sleeping on mattresses on cell floors in Mountjoy Men's Prison increased by 137% in the five months following the inspection in November / December 2022. In December 2022, less than 40 people slept in mattresses on the floor compared to 90 people five months later, in May 2023.

- In Cloverhill Prison, one-third of the prisoner population (152 people) was held four people to a cell, with one occupant sleeping on a mattress on the floor in each of 38 cells. Prisoners accommodated in three- and four-person cells did not have the **minimum personal living space of 4m² per person (exclusive of sanitary facility), as per international human rights standards.**⁶



Throughout the duration of the General Inspection in May 2023, an average of 28 people slept on mattresses on cell floors in Cloverhill Prison. In addition, the design of the windows in the prison limited the airflow in the cells,⁷ and limited ventilation resulted in temperatures exceeding 27 degrees.

- In the Dóchas Centre, on 26 September 2023, 30 women were accommodated three people to a room, in double occupancy rooms. Of these women, ten were sleeping on mattresses on the floor. The imposition of placing mattresses in these rooms resulted in inadequate minimum personal living space within these rooms, and affected 18% (30/165) of the Dóchas Centre population.

- In Midlands Prison, on 26 June 2024, 28 people were sleeping on mattresses on the floor across the prison. In addition, there were a number of four-person cells in use which did not meet minimum standards for personal space. Further, life sentenced prisoners were not accommodated in single-occupancy cells, despite Irish Prison Service policy.



- Prisoners on restricted regimes, particularly those on Rule 63 protection regimes, often experienced extensive periods of time locked in their cells in overcrowded conditions. For example, in the Midlands Prison there was a small number of men living three-people to a double-occupancy cell with less than one hour out of the cell each day. **These conditions were found to amount to inhuman and degrading treatment.**

- In all prisons inspected, remand and sentenced prisoners shared cells and living space. This is contrary to international human rights standards, including Article 10(2) (a) of the International Covenant on Civil and Political Rights (1966) states that “Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons”⁸.

⁶ CPT (2015) [Living Space per Prisoner in Prison Establishments: CPT Standards](#).

⁷ [European Prison Rules \(2020\)](#), Rule 18.2.

⁸ Ireland’s reservation on Article 10(2)(a) of the ICCPR remains in place, see [LRC 124 2020 - Domestic Implementation of International Obligations.pdf \(lawreform.ie\)](#).

Overcrowding in cells resulted in an inability on the part of the Irish Prison Service to meet international minimum standards for personal living space – such as those set out by the CPT and Rule 13 of the UN Mandela Rules.⁹ Rule 13 states that: “All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation”.

Hygiene and Sanitation

Overcrowded cells also resulted in unhygienic and poor sanitation facilities, and impacted on individual privacy:

- In Mountjoy Men’s Prison, Cork Prison, Cloverhill Prison and Midlands Prison, toilets in shared cells were unpartitioned and prisoners were required to use the toilet in the presence of others. This undermined the privacy and dignity rights of prisoners. In overcrowded cells, prisoners frequently ate their meals on floors, or while standing, in close proximity to the unpartitioned, and sometimes uncovered, toilet.
- In Cloverhill Prison, shower facilities were inadequate to meet the demand of the high number of prisoners on landings. For example, on one large landing in Cloverhill Prison, there were two shower rooms, each with three shower stalls, to cater for approximately 60 people. As prisoners were allotted one hour out of cell time - for showering, cleaning cells and phone calls - access to showers was not always feasible. This practice fell below the standards set out in Rule 19(4) of the European Prison Rules (2020) which provides that each prisoner should have access to a shower if possible daily, and at a minimum twice per week.

Using the toilet in the presence of others, in combination with the lack of personal living space, amounted to conditions which the Inspectorate deemed to be **degrading**.

Of note, in 2020, the European Court of Human Rights found a violation of Article 3 (prohibition on Article 3 of the ECHR) with respect to *J.M.B. And Others v France*¹⁰; this case concerned overcrowded cell conditions and the related lack of personal living space and access to private toilet facilities.

Prisoner Safety

Over the course of the inspection programme, both prisoners and staff expressed concerns for their safety as a result of overcrowding. **Table 3** illustrates the perception of safety among prisoners and staff who were surveyed during the course of the OIP’s General Inspections. While there are many factors that contribute to perceptions of safety, the table indicates that perceptions of safety were generally far lower in prisons experiencing overcrowding.

⁹ CPT (2015) Living Space per prisoner in prison establishments: CPT standards; Mandela Rules (2015).

¹⁰ *JMB and others v France*, European Court of Human Rights (2020).

Table 3: IPS Bed Capacity and Perceptions of Safety by Prison

Prison	IPS Bed Capacity*	Perception of Safety - Prisoners**	Perception of Safety – Staff***
Training Unit	91%	98%	54%****
Shelton Abbey	97%	89%	97%
Arbour Hill	98%	88%	94%
Mountjoy Men’s Prison	101%	38%	54%****
Cloverhill Prison	102%	23%	48%
Cork Prison	103%	49%	69%
Midlands Prison	115%	49%	54%
Dóchas Centre	116%	30%	65%

* Based on official IPS percentage bed capacity on the last day of the respective inspection.

** Perception of safety based on the proportion of survey respondents who agreed / strongly agreed with the survey item “I feel safe from being injured, bullied, or threatened by other prisoners in this prison”. In prisons inspected later in the inspection programme (Arbour Hill and Midlands Prison), this question was changed to “I feel safe in this prison”.

*** Perception of safety based on the proportion of survey respondents who agreed / strongly agreed with the survey item “In general, I feel safe working in this prison”.

**** Staff in Mountjoy Men’s Prison and Training Unit were surveyed as one group; it is not possible to separate by prison.

OIP inspection teams identified incidents of bullying and violence amongst prisoners, which were inextricably linked to overcrowding in cells. Some examples include:

- At least one serious in-cell assault occurred during the inspection of Cloverhill Prison. Violence was the inevitable result of confining four people in degrading living conditions in this prison. The OIP highlighted in an Immediate Action Notification (see, Appendix 2) issued in relation to this inspection that “it is almost certain that further severe attacks of this nature will result if prisoners continue to be held in these conditions”.
- In Cloverhill Prison, access to the yard was one of the main activities available to large portions of the general prisoner population. Owing to incidents of violence and very little to do in the yard, some prisoners elected to stay back in their cells rather than go to the yard, refusing one of the few activity options available to them.
- In Midlands Prison, 75% of prisoners surveyed by the OIP identified overcrowding as the single biggest issue in the prison. Particular landings in this prison were afflicted by overcrowding and the imposition of mattresses on the floors of cells; this created a chaotic atmosphere and tensions on these landings, resulting in several altercations amongst prisoners in the weeks preceding and during the course of the inspection.
- Women who were active drug users in the Dóchas Centre were accommodated with women who did not use drugs, and this frequently led to disruptive behaviour in the rooms; sometimes this erupted into physical altercations.

Across all prisons inspected by the Inspectorate, risk assessments of people in prison were not being carried out in a comprehensive way, and in most cases were limited to a brief period of questioning on committal. Rule 18(6) of the European Prison Rules (2020) states that cellular accommodation should only be shared “if it is suitable for this purpose and shall be occupied by prisoners suitable to associate with each other.” **The Inspectorate was not reassured that the committal process could adequately detect, assess and mitigate risk. The lack of robust cell-sharing risks assessments across the prison estate was of concern to the Inspectorate.**

The Irish Prison Service has a statutory obligation to provide safe, secure and humane custody to all people committed to prison. The consequences of overcrowding are such that they undermine the perception of safety, and in some instances the reality of a safe environment, for both prisoners and prison staff.

Access to Supports & Services

Overcrowding negatively impacted on the ability of the prison to provide much-needed access to prisoner support services and activities.

- Across Mountjoy Men's Prison there were 210 work-training places: 120 of which were available to prisoners in the Main Prison, 80 in the Progression Unit, and ten in the Medical Unit on a daily basis (as of 28 November 2022). This meant that in total only 24% of the prisoner population in the Main Prison, 40% of the prisoner population in the Progression Unit and 19% of prisoners in the Medical Unit had access to work training places.
- Similarly, in Midlands Prison in June 2024, there was workshop capacity for 265 individuals, or 30% of the prison's official capacity. On 26 June 2024, the prison population in Midlands Prison was 979, which meant that workshops were only available to 27% of the population.
- Overcrowding placed an increased demand on rehabilitative services that were already under considerable strain. At the end of May 2024, there were considerable waitlists for addiction support services at Cork Prison (92 people), Cloverhill Prison (37 people), the Dóchas Centre (24 people), Midlands Prison (101 people) and Mountjoy Men's Prison (119 people).¹¹
- Similarly, average wait times to access psychology services were of great concern to the Inspectorate, particularly given the immense need for these services across the prison estate¹². At the end of 2023, the average wait times to access psychology services were: Cork Prison (42 days), Cloverhill Prison (44 days), the Dóchas Centre (39 days), Midlands Prison (41 days) and Mountjoy Men's Prison (36 days).¹³
- Prisoners on protection regimes across the inspected prisons experienced very limited, if any access to services or activities; this was exacerbated by overcrowding in that scheduling of access to services and activities prioritised general population prisoners as this cohort was more easily accommodated in larger groups.

¹¹ Information available in [Parliamentary Question \[29183/24\] \(2024\)](#), responded to on 9 July 2024.

¹² OIP (2024) [Thematic Inspection: An Evaluation of the Provision of Psychiatric Care in the Irish Prison System, February – March 2023](#), and IPS (2024) [Recommendation Action Plan](#).

¹³ Information available in [Parliamentary Question \[21314/24\]](#), responded to on 14 May 2024.

4. Section 31(1)(c) Issues of Concern & Immediate Action Notification

Section 31 (1) of the Prisons Act 2007 provides that the Chief Inspector of Prisons “shall carry out regular inspections of prisons and for that purpose may— [...]

(c) in the course of an inspection or arising out of an inspection bring any issues of concern to him or her to the notice of the Governor of the prison concerned, the Director-General of the Irish Prison Service, or the Minister or of each one of them, as the Inspector considers appropriate.”

In line with Section 31(1) (c) of the Prisons Act 2007, the *Framework for the Inspection of Prisons in Ireland* provides that:

“In the event that an Inspection Team identifies concerns, around either current performance or the risk of adverse impact on future performance, of such significance and consequence that an immediate intervention to mitigate is required, then the Chief Inspector may raise an Immediate Action Notification (IAN).¹⁴

The Chief Inspector may raise an issue of concern with the Minister of Justice, the Director General of the Irish Prison Service and / or the Governor of a prison, and in doing so may elect to raise an IAN. To inform the Inspectorate’s decision to raise an IAN, the Inspectorate employs a risk assessment matrix, as provided for in the Inspection Framework (see, Appendix 3). Those concerns which are rated as “Very High” risk could be considered by the Inspectorate as potentially requiring an IAN to be raised. The decision to raise an IAN is a significant step made by the Inspectorate intended to call for immediate mitigating measure to be put in place to address the cause of the concern raised by the Inspectorate.

Since commencing its General Inspection programme in late-2022, the Inspectorate has issued one letter in relation to the inspection of Mountjoy Men’s Prison (Appendix 1) and one IAN in relation to the inspection of Cloverhill Prison (Appendix 2) to both the Minister for Justice and Director General. Both the letter and IAN raised concerns about the impact of overcrowding in these prisons.

Mountjoy Prison - Letter and Engagement on Overcrowding with the Minister for Justice

On 23 December 2022, the Chief Inspector of Prisons wrote to the Minister of Justice to raise an issue of serious concern regarding the *“accommodation of people on mattresses on the floors of cells designed for single occupancy.”*

Following this, the Chief Inspector met with the then Minister for Justice, Simon Harris TD, to discuss the Inspectorate’s concerns about the impact of overcrowding on Mountjoy Men’s Prison, as well as on other prisons across the estate.

Cloverhill Prison - Immediate Action Notification

On 1 June 2023, the Chief Inspector of Prisons issued an Immediate Action Notification (IAN) to the Minister for Justice and the Director General of the Irish Prison Service with respect to *“serious concerns regarding degrading conditions in the cells”* in Cloverhill Prison. The concern related, in particular, to conditions in the cells designed for three persons, which were accommodating four prisoners, one of whom was obliged to sleep on a mattress on the floor.

¹⁴ OIP (2020) Framework for the Inspection of Prisons in Ireland, paragraph 2.3.5.

The Inspectorate considered that the likely impact of the concern was **critical** and that the probability of this impact occurring was **almost certain**. Consequently, the Inspectorate deemed the risk involved to be **very high** (see Appendix 3). The Chief Inspector requested the Minister for Justice and the Director General of the Irish Prison Service to **intervene immediately** to mitigate the very high risk identified in this Immediate Action Notification.

The Chief Inspector met with Minister Helen McEntee on 11 July 2023, at which time he expressed his ongoing concerns about the negative impact of overcrowding on people living and working in prisons in Ireland, and urged the Minister to further consider alternative measures to imprisonment and expansion of the prison estate.

5. OIP Proposals to Address Overcrowding

Based on its inspection findings, the OIP proposes a number of measures that should be taken without delay to reduce the prison population, as well as, to mitigate the detrimental consequences of overcrowded prisons. Building new prison places, many of which may not become available until 2027 at the earliest, will not provide a solution to the overcrowding crisis in Ireland's prisons.

Prison as a Last Resort

Tackling overcrowding in an effective manner requires a renewed commitment to prioritising alternatives to imprisonment, including those set out in the 2022-2024 Review of Policy Options for Prison and Penal Reform.¹⁵

Inspection findings indicate that prisons are not always being used as a last resort, despite a requirement set out in the *Criminal Justice (Community Service) (Amendment) Act 2011*.¹⁶ For example, during the General Inspection of Cloverhill Prison, on 18 May 2023, 11 people in the prison had bail set at €100 or less, and a total of 26 people had bail set at less than €500. Given that there were 24 people on mattresses on the floor in Cloverhill Prison on that date, this was potentially 26 people who, had there been an alternative to imprisonment considered, would not have been in the prison and would therefore have alleviated the number of persons sleeping on mattresses on cell floors.

A review of remand warrants for women in the Dóchas Centre identified that four women were held on bail for amounts equal to or less than €200 and nine women had bonds of less than €500. One woman had a bail amount of €100; she had been remanded in custody for theft of a phone. Associated women-specific actions in the 2022 - 2024 Review of Policy Options for Prison and Penal Reform¹⁷ include scoping and piloting the development of a Women's Supported Bail Service, as well as exploring the feasibility of providing an intensive community-based supervision and support programme for women who offend.

¹⁵ Department of Justice (2022) [Review of Policy Options for Prison and Penal Reform 2022-2024, pages 18-19.](#)

¹⁶ Irish Statute Book, *Criminal Justice (Community Service) (Amendment) Act 2011*

¹⁷ Department of Justice (2022) [Review of Policy Options for Prison and Penal Reform 2022-2024.](#)

Use of Temporary Release

The Inspectorate also found that prisoners who were suitable for early release schemes were often not released on these schemes as a result of shortages of Probation Officers in the community. For example, at the time of the inspection of Mountjoy Men's Prison in late-2022, 22 people were approved for the Community Return Scheme but because of insufficient Probation Service resources were not placed on the scheme.

Review of Prison Capacity

As previously stated, the Inspectorate recommends that a review of prison capacity be carried out in each prison. The review should ensure that each prison cell is configured to meet, at a minimum, international standards for living space, as well as take account of capacity and space required to provide for essential prisoner services. Such a review should consider how, aside from medium and long-term investment into the expansion of the prison estate, the prisoner population can be sustainably reduced.

Based on its inspection activities, the Inspectorate has called for the Minister to introduce a legally-enforceable ceiling on the number of people who can be held in each prison in Ireland.

Review of Committal Interview Process

The committal interview and induction process across the prison estate requires review and amendment to ensure all prisoner placements are based on a formal rigorous and reviewable risk assessment process. The committal interview and induction process should be reviewed to ensure that the allocation of shared cell accommodation is grounded in appropriate risk assessment procedures. As per Rule 18(6) of the European Prison Rules (2020), accommodation should only be shared if the prisoners sharing are *"suitable to associate with each other"*.

The OIP trusts that this submission will be of assistance to the Overcrowding Risk Assessment Taskforce and stands ready to provide the Taskforce with any further information that might assist it in its work. It would like to be informed, in due course, of any proposals and/or recommendations that may emerge from the work of the Taskforce.

Appendix 1: Letter to Minister of Justice, 23 December 2022

Mr Simon Harris TD
Minister for Justice
Department of Justice
51 St Stephen's Green
Dublin 2

23 December 2022

Re: Issue of concern arising from a full inspection of Mountjoy Prison for Men

Dear Minister Harris,

First, allow me to warmly congratulate you on your recent appointment as Minister for Justice. I am very much looking forward to working with you as you take on the many challenges of this great Office of State.

As you may be aware, the Inspectorate of Prisons recently completed an unannounced full inspection of Mountjoy Men's Prison in Dublin, from 28 November to 9 December 2022. This was the first unannounced full inspection of an Irish prison for many years and it heralds the beginning of the Inspectorate's programme of regular inspections of all prisons in Ireland.

The purpose of this letter is to formally bring to your attention as Minister an issue of serious concern arising out of that inspection, namely the accommodation of people on mattresses on the floors of cells designed for single occupancy. The size and design of many of these cells meant that mattresses had to be wedged at an angle next to the in-cell lavatories. At the time of the inspection, an average of some 38 men per day were being kept in these conditions, often with minimal out-of-cell time. These conditions of detention could be considered degrading.

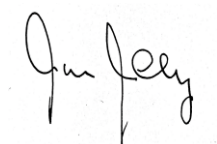
Of course, the root cause of this problem is the rising number of people being held in prison in Ireland, and I understand that Mountjoy Prison for Men is not the only establishment in which the Irish Prison Service is currently unable to offer a bed to everyone in its custody.

Projected rises in the prison population suggest that unless urgent action is taken, such as imposing an enforceable ceiling on the number of people who can be held in each prison, the dramatic situation observed by my team in Mountjoy Prison for Men will become a grave problem for the prison system as a whole.

Consequently, I should be most grateful to learn of any measures that your Department may be envisaging to manage the number of people being held in prisons in Ireland in a manner that respects their basic human rights.

I remain at your entire disposal should you consider that it would be useful for us to meet to discuss this issue in greater depth.

Yours sincerely, and with compliments of the Season,



Mark Kelly
Chief Inspector of Prisons

Appendix 2: Cloverhill Prison, Immediate Action Notification - 1 June 2023



Oifig An Chigire Príosún Office of the Inspector of Prisons⁵

Ms Helen McEntee TD
Minister for Justice
Department of Justice
51 St Stephen's Green
Dublin 2

Dublin, 1 June 2023

**Re: Immediate Action Notification - Cloverhill Prison - OIP/IAN/CH/1/2023:
Serious concern regarding degrading conditions in cells**

Dear Minister McEntee,

Warm congratulations on resuming your duties as Minister for Justice. My colleagues and I are very much looking forward to working with you again.

This is a very challenging time for the Irish prison system, as the Inspectorate of Prisons has again observed during its most recent unannounced full inspection, of Cloverhill Prison in Dublin, from 15-25 May 2023.

It is with regret that I am obliged to mark the resumption of your tenure as Minister by raising an Immediate Action Notification (IAN, attached)¹ regarding the degrading conditions observed by my team at Cloverhill. This concern relates, in particular, to numerous cells designed for three persons which are currently accommodating four prisoners, one of whom is obliged to sleep on a mattress on the floor.

Inter-prisoner violence is the inevitable result of confining four adult men in the degrading conditions described in the attached IAN. At least one serious in-cell assault took place during the Cloverhill inspection and it is almost certain that further severe attacks of this nature will result if prisoners continue to be held in these conditions during the summer months.

¹ Immediate Action Notifications are made under section 31(1) of the Prisons Act 2007 and paragraphs 2.3.5 – 2.3.9 of the Framework for the Inspection of Prisons in Ireland.

Oifig an Chigire Príosún, Oifigi Halla Pheambróg, 38-39 Cearnóg Mhic Liam Thiar, Baile Átha Cliath 2, D02 NX53

Office of the Inspector of Prisons, Pembroke Hall Offices, 38-39 Fitzwilliam Square West, Dublin 2, D02 NX53

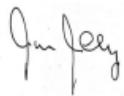
Your officials may recall that I wrote to Minister Harris at the end of last year, expressing concern about the overcrowded conditions observed by the Inspectorate's team in Mountjoy Men's Prison. In that letter (also attached, for ease of reference), I recognised that the root cause of this problem is the rising number of people being held in prison in Ireland. Increases in the capacity of the prison estate might, in time, partially alleviate the problem; however, international experience has demonstrated that overcrowding cannot be tackled solely by building new prison places.

Consequently, the Inspectorate welcomes the Government's commitment to prioritise alternatives to imprisonment, such as those set out in the Review of Policy Options for Prison and Penal Reform 2022-2024. However, immediate action, such as imposing an enforceable ceiling on the number of people who can be held in each prison, is also required to de-escalate Ireland's burgeoning prison overcrowding crisis.

I should very much appreciate it if you could respond to the Inspectorate's Immediate Action Notification regarding Cloverhill Prison by close of business on 14 June 2023.

Of course, as ever, I am at your entire disposal should you wish to discuss this issue in greater depth.

Yours sincerely,



Mark Kelly
Chief Inspector of Prisons

Enclosed: Immediate Action Notification - Cloverhill Prison - OIP/IAN/CH/1/2023
Letter dated 23 December 2022 to Minister Simon Harris

Oifig an Chigire Príosún, Oifigí Halla Pheambróg, 38-39 Cearnóg Mhic Liam Thiar, Baile Átha Cliath 2, D02 NX53

Office of the Inspector of Prisons, Pembroke Hall Offices, 38-39 Fitzwilliam Square West, Dublin 2, D02 NX53



Oifig An Chigire Príosún Office of the Inspector of Prisons

IMMEDIATE ACTION NOTIFICATION

FROM:	Mark KELLY, Chief Inspector of Prisons
TO:	Helen McENTEE TD, Minister for Justice Caron McCaffrey, Director General of the Irish Prison Service
DATE:	1 June 2023
REFERENCE:	OIP/IAN/CH/1/2023
SUBJECT:	Cloverhill Prison: Serious concern regarding degrading conditions in the cells

LIKELY IMPACT:	CRITICAL
PROBABILITY:	ALMOST CERTAIN
RISK LEVEL:	VERY HIGH

1. Section 31 (1) of the *Prisons Act 2007* provides that the Chief Inspector of Prisons “shall carry out regular inspections of prisons and for that purpose may—
[...]
(c) in the course of an inspection or arising out of an inspection bring any issues of concern to him or her to the notice of the Governor of the prison concerned, the Director-General of the Irish Prison Service, or the Minister or of each one of them, as the Inspector considers appropriate.”
2. In addition, the *Framework for the Inspection of Prisons in Ireland* provides that: “In the event that an Inspection Team identifies concerns, around either current performance or the risk of adverse impact on future performance, of such significance and consequence that an immediate intervention to mitigate is required, then the Chief Inspector may raise an Immediate Action Notification (IAN)”¹.
3. In the course of the full unannounced inspection of Cloverhill Prison, completed last week, my Inspection team has identified a **serious concern regarding degrading conditions in the cells.**

This concern relates, in particular, to conditions in the cells designed for three persons, certain of which are currently accommodating four prisoners, one of whom is obliged to sleep on a mattress on the floor.

¹ Framework for the Inspection of Prisons in Ireland, Office of the Inspectorate of Prisons, March 2020, paragraph 2.3.5.

4. At the beginning of the Inspectorate's visit to Cloverhill Prison, 152 people (one third of the prison's population) were being held four to a cell measuring less than 12 square metres, with one occupant sleeping on a mattress on the floor in each of these 38 cells. The in-cell lavatories are not partitioned and prisoners also eat breakfast, lunch and dinner in this highly-confined space.

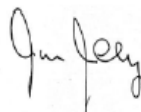
The design of the windows limits airflow in the cells, which are stuffy and malodorous. They are also excessively warm (temperatures in excess of 27C were recorded during the inspection) and reportedly become intolerably hot in high summer.

Inter-prisoner violence is the inevitable result of confining four adult men in degrading conditions of this nature. At least one serious in-cell assault took place during the inspection and it is almost certain that further severe attacks of this nature will result if prisoners continue to be held in these conditions at Cloverhill Prison during the summer months.

5. The Inspectorate of Prisons considers that the likely impact of this concern is **critical** and that the probability of this impact occurring is **almost certain**. Consequently, the Inspectorate deems the risk involved to be **very high**.
6. Given the gravity of this concern, I have decided to raise the following Immediate Action Notification:

*Having become aware of a serious concern regarding degrading conditions in the cells at Cloverhill Prison which is **almost certain** to have a **critical adverse impact** on people living there, the Chief Inspector of Prisons:*

- *Formally notifies the Minister for Justice and the Director General of the Irish Prison Service that this concern has been deemed by the Inspectorate of Prisons to involve a **very high risk**;*
- *Requests the Minister for Justice and the Director General of the Irish Prison Service to **intervene immediately** to mitigate the very high risk identified in this Immediate Action Notification;*
- *Requests the Minister for Justice and the Director General of the Irish Prison Service to inform him, at the latest by 5pm on 14 June 2023, of the steps that they propose to take to **mitigate** the very high risk identified in this Immediate Action Notification.*



Mark Kelly
Chief Inspector of Prisons

Dublin, 1 June 2023



Mr. Mark Kelly
Office of the Inspector of Prisons
Pembroke Hall Offices
38-39 Fitzwilliam Square West
Dublin 2
DO2NX 53

26 June 2023

Dear Mark,

I want to thank you for your letter of 1 June 2023, and to take the opportunity to acknowledge the important work that is being undertaken at pace by your Office. My officials have engaged with the Director General of the Irish Prison Service, who I understand has provided a comprehensive response to the matters raised in your letter.

As you acknowledge, this is a very challenging time for the Irish prison system. You may be aware that earlier this year, Minister Harris brought a Memo to Government outlining the significant pressure that the IPS continues to experience as a result of growing prisoner numbers, the measures being taken to address the capacity issues, and the need to increase capacity in the system. To that end, I will be engaging with my colleague, the Minister for Public Expenditure, NDP Delivery and Reform, shortly to progress the four priority construction projects identified, including in Cloverhill.

Of course we recognise further capital investment will only assist in the medium term and you will also be aware of the Review of Policy Options for Prison and Penal Reform 2022-2024 which was published in August 2022, and makes clear that prison should be a sanction of last resort for the courts, and contains a number of actions aimed at diverting offenders away from the prison system. As part of this consideration, proposals to broaden access to the Community Return Scheme (CRS) for those serving sentences up to and including 18 months, to allow prisoners serving a sentence of between 3-5 years to be considered to be eligible for the CRS at half-way through their remitted sentence and a proposal to expand the eligibility criteria for the Community Support Scheme from the existing 3 month to 12 months to a new eligibility of 3 months to 18 months, have recently been approved.



In addition, a new capital plan for prisons is to be developed before the end of this year. That plan will set out how we will ensure that over the coming years we have sufficient capacity to accommodate all those that the courts send to prison but also that those facilities are of an appropriate and humane standard to support rehabilitation.

Finally, I would be glad of an opportunity to meet with you in the next few weeks to discuss your work. In the meantime, you can be assured that the overcrowding issue is absolutely a priority for the Department, and is a matter that the Department is engaging on with the Director General on an on-going basis.

Yours sincerely,

Helen McEntee T.D
Minister for Justice



Mr. Mark Kelly,
Office of the Inspector of Prisons,
38-39 Fitzwilliam Square West,
Dublin 2,
D02 NX53

Dear Inspector of Prisons,

I refer to your Immediate Action Notification dated 1st June, 2023 in which you raise concerns regarding the unsatisfactory conditions in the cells of Cloverhill Prison.

I can assure you that I am committed to providing safe and secure custody for all people committed to prison and to ensure a safe working environment for my staff.

Additionally, I and my staff in the Irish Prison Service continuously work to identify short, medium and longer term proposals to help manage capacity issues in our prisons as they arise.

However, as you will be aware, we must accept all prisoners committed by the Courts and as such I have no control over the numbers committed to custody at any given time.

Where the number of prisoners exceeds the maximum capacity in any prison, we make every effort to deal with this through a combination of inter-prison transfers and structured temporary release.

Cloverhill Prison is the primary remand prison for the Leinster area and it has been affected more significantly in terms of the increased number of committals we have witnessed particularly in recent months, as you will see from the table below. You will also be aware that prisoners detained on remand or awaiting trial are not legally entitled to be considered for temporary release and so our options for this cohort of prisoner are particularly limited.

Cloverhill Committals from May 2022 to May 2023

Month	Total Committals
May 2023	271
April 2023	220
March 2023	286
February 2023	288
January 2023	235
December 2022	186
November 2022	232
October 2022	228
September 2022	212
August 2022	185
July 2022	251



June 2022	243
May 2022	237

Measures taken to reduce Prison Overcrowding

The Irish Prison Service has witnessed a sustained increase in the number in custody since early 2022 following a return to normal activity within the criminal justice system;

- Provisional Irish Prison Service figures show there were 7,055 committals to prison in 2022 which is an increase of 919 (15%) on committal figures in 2021 (6,136).
- Throughout 2022 and into 2023 the number of people committed to custody has increased from 3,708 at the start of 2022 to 4,246 on the 31st December 2022.
- On the 14th June 2023 there were 4,654 people in custody, the highest ever in the history of the State.
- The Irish Prison Service has a bed capacity of 4,487
- On the 14th June 2023 there were 163 people on mattress across the prison estate including 26 people accommodated on mattresses on the floor of a multi-occupancy cell in Cloverhill Prison.

In the past 12 months, following a submission from the Irish Prison Service, the Minister for Justice approved a number of measures aimed at reducing capacity pressures in the system. These include broadening the eligibility criteria for the Community Return and the Community Support Schemes; amending criteria for considering Temporary Release; and expediting the Department of Justice's review of sentence remission.

Through engagement with the Probation Service, we have also introduced a Community Return Low Intensity Supervision Protocol which allows for greater scope where a prisoner is being considered for Community Return. We are also assisting the Probation Service to develop a plan to provide two dedicated Supervised Temporary Release teams initially in Dublin and Munster (Cork/Limerick). The Unit will enable the flexibility to respond to prison pressures and seamless transition of cases to community teams. This would allow for the restructuring and expanding of the Community Return Scheme, increasing the rolling figure from its current level of 75 prisoners to potentially 400 prisoners, who would be under Probation Service supervision while undertaking Community Service tasks as a condition of their Supervised Temporary Release.

In the year to date, 617 prisoners have been released from prison on reviewable temporary release from prisons across the estate to relieve overcrowding.

Number of individuals releases on Reviewable Temporary Release (RTR) to date in Year 2023

Establishment	Total
Castlerea Prison	34



Cloverhill Remand Prison	15
Cork Prison	97
Limerick Prison (Female)	38
Limerick Prison (Male)	78
Loughan House	7
Midlands Prison	76
Mountjoy Prison (Female)	74
Mountjoy Prison (Male)	138
Portlaoise Prison	3
Shelton Abbey Place	2
Training Unit	2
Wheatfield Prison	53
Total	617

Capital Investment

You will also be aware that the Government has provided significant capital funding to the Irish Prison Service to enhance our existing prison infrastructure.

The commissioning of new male prison in Limerick has recently provided an additional 90 spaces and the female prison accommodation in Limerick Prison will provide 22 additional female cell spaces when it opens in July. In addition, the refurbishment of the Training Unit in Mountjoy last year provided an additional 96 spaces. In respect of Cloverhill Prison the F Block has recently opened to specifically alleviate the overcrowding issue in this location and there are currently 23 prisoners housed in this Block.

The need to ensure the continued availability of modern prison facilities with adequate capacity will continue to be central to the work of the Irish Prison Service and will be core to the development of the new Irish Prison Service Capital Plan. The Irish Prison Service intends to seek funding as part of the 2024 Estimates Process for an accelerated capital programme. This programme includes the provision of additional capacity in Cloverhill Prison.

In this regard, as required by the Public Spending Code rules for capital development, the Irish Prison Service have submitted a Strategic Assessment Report (SAR) to the Department of Justice on the needs and deliverables for additional accommodation at Cloverhill Prison. This SAR was approved by the Department and is now nearing the completion of the Preliminary Business Case (PBC) stage of the progress. This PBC will be submitted to the Department in the coming weeks and once approved the detail design stage of the progress will commence. At this point the IPS are working and exploring the scope for 120 additional cells with the potential to accommodate up to 190 additional prisoners, however this is subject to detail design and



planning requirements etc. This will allow for a significant reduction in the number of 3 man cells in operation within the prison.

Penal Policy Reform

As you are aware the review of Policy Options for Prison and Penal Reform 2022-2024 was approved by Government in August, 2022.

This review seeks to find the balance between ensuring that people who commit serious crimes receive a punishment and a period of incarceration proportionate to that crime, while at the same time acknowledging that sometimes community-based sanctions are more appropriate in diverting offenders away from future criminal activity and that they have a role to play in addressing criminality, reducing reoffending and providing protection to the public, while holding the individual accountable.

The Department of Justice has commenced a policy review of the Criminal Justice (Community Sanctions) Bill 2014. As part of this policy review, due consideration is being given to facilitating the effective and efficient use of community sanctions by the courts, and to ensuring the courts have a range of appropriate options for dealing with people who have committed minor offences. Consideration of this matter is ongoing.

In addition, as you will also be aware the final report and recommendations of the High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector was published by Minister McEntee and the Minister for Health in September 2022.

The recommendations made by the Task Force aim to ensure better support for people at the earliest point at which they come into contact with the criminal justice system. They seek to divert people away from the criminal justice system where possible, while supporting them in their rehabilitation from addiction and in the recovery and management of their illness.

I trust the above sets out the steps that are being taken to alleviate the current situation in Cloverhill Prison. Given the restrictions, as outlined, within which the Irish Prison Service operates it is regrettable that it is not possible for me to take any additional steps to mitigate the high risk identified in your Immediate Action Notification for Cloverhill Prison.

Yours sincerely,

A handwritten signature in black ink, which appears to read 'Caron McCaffrey', is written over a horizontal line.

Caron McCaffrey
Director General
14th June 2023

Appendix 3: Immediate Action Notification (IAN) Risk Assessment Matrix

[extracted from OIP's (2020) A Framework for the Inspection of Prisons in Ireland]

Impact Assessment

The likely impact of a concern should be considered as being one of four levels:

- This concern would have a **critical** adverse impact on prisoners, staff or others
- This concern would have a **significant** adverse impact on prisoners, staff or others
- This concern would have a **material** adverse impact on prisoners, staff or others
- This concern would have a **negligible** adverse impact on prisoners, staff or others

Probability Assessment

The probability of this impact occurring should be considered as being one of five levels:

- This adverse impact is **almost certain** to occur
- This adverse impact is **likely** to occur
- It is **possible** that this adverse impact will occur
- This adverse impact is **unlikely** to occur
- This adverse impact is **very unlikely** to occur

These impact and probability ratings can then be plotted into the risk assessment matrix.

Risk Assessment Matrix

	Impact			
Probability	Negligible	Material	Significant	Critical
Almost Certain	High	High	Very High	Very High
Likely	Medium	High	High	Very High
Possible	Low	Medium	High	Very High
Unlikely	Low	Low	Medium	High
Very Unlikely	Low	Low	Medium	High