



TPN/063/2015

The Permanent Mission of Ireland to the United Nations Office at Geneva presents its compliments to the Secretary General of the United Nations (High Commissioner for Human Rights) and has the honour to refer to the Concluding Observations issued by the UN Human Rights Committee on 14 August 2014 following the Fourth Periodic Review of Ireland under the International Covenant on Civil and Political Rights (CCPR/C/IRL/CO/4).

The Permanent Mission of Ireland has the honour to forward herewith the replies of Ireland to paragraph 25 of the Concluding Observations of the Human Rights Committee, which requested information on the implementation of the recommendations in paragraphs 10, 11 and 15 within one year.

The Permanent Mission of Ireland to the United Nations Office at Geneva avails itself of this opportunity to renew to the Secretary General of the United Nations (High Commissioner for Human Rights) the assurances of its highest consideration.

Geneva, 17 July 2015

Office of the High Commissioner for Human Rights  
(Secretariat to the Human Rights Committee)



OHCHR REGISTRY

20 JUL 2015

Recipients: *H.R. Committee*

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**Follow-up material to the Concluding Observations of the UN Human Rights Committee on the Fourth Periodic Review of Ireland under the International Covenant on Civil and Political Rights**

**Follow-up material to the Concluding Observations of the UN Human Rights  
Committee on the Fourth Periodic Review of Ireland under the International Covenant  
on Civil and Political Rights, Geneva, 14-15 July 2014**

Paragraph 25 of the Concluding Observations issued by the UN Human Rights Committee following the Fourth Periodic Review of Ireland under the International Covenant on Civil and Political Rights recommended that:

*25. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 10, 11 and 15 above*

Relevant information on the implementation of the Committee's recommendations made in paragraphs 10, 11 and 15 of the Concluding Observations is contained below.

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## **Recommendation 10 of the UN Human Rights Committee - Institutional abuse of women and children**

*10. The Committee expresses concern at the lack of prompt, independent, thorough and effective investigations into all allegations of abuse, mistreatment or neglect of women and children in the Magdalene laundries, children's institutions, and mother and baby homes. It regrets the failure to identify all perpetrators of the violations that occurred, the low number of prosecutions, and the failure to provide full and effective remedies to victims (arts. 2, 6 and 7).*

*The State party should conduct prompt, independent and thorough investigations into all allegations of abuse in Magdalene laundries, children's institutions and mother and baby homes, prosecute and punish the perpetrators with penalties commensurate with the gravity of the offence, and ensure that all victims obtain an effective remedy, including appropriate compensation, restitution, rehabilitation and measures of satisfaction.*

### **Magdalen Laundries**

#### **Inter-Departmental Committee Report established the facts concerning the Magdalen laundries**

In June 2011, the Irish Government tasked an Inter-Departmental Committee with establishing the facts concerning the Magdalen laundries. Their Report – the McAleese Report was published on 5 February 2013. The contents of the report, which runs to 1,000 pages, have been fully accepted by the Irish Government as a comprehensive and objective report of the factual position prepared under the supervision of an independent chairperson. The McAleese Report brought into the public arena a considerable amount of information not previously known. It also showed that many of the preconceptions about these institutions were not supported by the facts.

On 19 February 2013, on foot of the findings of the report, the Taoiseach made an apology in Irish Parliament (Dáil Éireann).

#### **Allegations of abuse**

The Committee had no remit to investigate or make determinations about allegations of torture or any other criminal offence. However, it did take the opportunity to record evidence and testimony that might throw light on allegations of systematic abuse. In this context 118 women who had been in these institutions agreed to complete a questionnaire on conditions (food, punishment etc.) in these institutions and/or to meet with and discuss these issues with the independent Chair.

No factual evidence to support allegations of systematic torture or ill treatment of a criminal nature in these institutions was found. The majority of women did report verbal abuse but not of a nature that would constitute a criminal offence. There is no doubt that the working conditions were harsh and work physically demanding. A small number of women did describe instances of physical punishment during their time in the institutions. However, the large majority of women said they had neither experienced nor seen other girls or women suffer physical abuse in the Magdalen Laundries. The majority of women who engaged with the Committee had been at Reformatory or Industrial Schools prior to their admission to a Magdalen Laundry. They stated clearly that the widespread brutality which they had witnessed and been subjected to in Industrial and Reformatory Schools was not a feature of the Magdalen Laundries.

The Committee interviewed a number of medical doctors who had attended the women in the Magdalen laundries and who had in some cases reviewed earlier records. They did not recall any indication or evidence of physical maltreatment

No individuals claiming to be victims of criminal abuse in Magdalen laundries have made any complaints or requests to the Department of Justice and Equality seeking further inquiries or criminal investigations. The group representing the largest number of women who were in Magdalen laundries, Irish Women Survivors Support Network, have stated that:

*"We hope that time is not wasted calling for more statutory inquiries or demanding yet more bureaucratic statutory processes. In their advanced years, the women have repeatedly told us they have no wish for conflict or confrontation."*

While isolated incidents of criminal behaviour cannot be ruled out, in light of facts uncovered by the McAleese Committee and in the absence of any credible evidence of systematic torture or criminal abuse being committed in the Magdalen laundries, the Irish Government does not propose to set up a specific Magdalen inquiry or investigation. It is satisfied that the existing mechanisms for the investigation and, where appropriate, prosecution of criminal offences can address individual complaints of criminal behaviour if any such complaints are made.

### **Magdalen Laundries Redress Scheme**

Following publication of the McAleese Report the Government asked Mr Justice Quirke to make recommendations on an appropriate scheme. He reported in May 2013 and all his recommendations were accepted in principle by the Government in June 2013. A dedicated unit was immediately established, comprising of 9 officials, to work full time on the processing of applications and on the implementation of the scheme.

The Scheme being implemented by the Irish Government was welcomed by the majority of woman. Under the scheme applicants do not have to prove that they suffered any abuse or damages. All that has to be established is that a woman was admitted to and worked in a relevant institution (this may involve records going back over 60 years).

Once this has been established, the woman is eligible for a payment of between €11,500 and €100,000 depending on length of stay. As recommended by Judge Quirke, the balance of lump sums in excess of €50,000 is to be paid by weekly instalments.

To date, a decision has been made on over 90% of the 790 applications received and 541 applicants have already received their lump sum payments at a cost of just under €20m.

In addition to the lump sum, each woman is entitled to a top up payment to bring her weekly income from the State up to the equivalent of the Irish Contributory Pension, €230.30 if 66 or over and €100 if under that age. This is in recognition of the fact that the women were not paid for the work they did while in the laundries.

The women will also be provided with an enhanced medical card which will allow them access to a range of medical services. These services will be free of charge and will include GP services, prescribed drugs, medicines, aids and appliances, dental, ophthalmic and aural services, home support, home nursing, counselling services, chiropody, podiatry and physiotherapy. The legislation that was required to facilitate the provision of these medical services to the women has now been passed. The Health Service Executive expects that the necessary administrative arrangements to

provide the enhanced medical card to the women concerned will be finalised by 1<sup>st</sup> July 2015. Provision will also be made, through administrative arrangements, for medical support for women residing abroad.

### **Residential Institutions Redress Scheme**

The Residential Institutions Redress Scheme was introduced as an exceptional measure to provide compensation for people who were sent as children to, and who were victims of abuse while resident in, industrial schools, reformatory schools and other institutions in respect of which a public body had a regulatory or inspection function. While the Magdalen laundries did not come within the scope of the scheme, a child who was resident in a scheduled institution and who was transferred to a laundry where they suffered abuse while so resident, was deemed at the time of the abuse to have been resident in the scheduled institution. This provision was included on the basis that the State was still responsible for the welfare and protection of children who were transferred to Magdalen laundries from a State regulated institution provided that they were not officially discharged from the institution.

### **Number of applications to the Redress Board**

By the end of April 2015, the Redress Board had finalised 16,623 of the 16,633 applications it received. Of these, 15,554 have resulted in awards, with the remaining 1,069 cases either being refused, withdrawn or resulting in no award. Awards are made in accordance with the framework proposed by the independent Compensation Advisory Committee which advised on the appropriate levels of compensation for injuries related to childhood abuse and was published in January 2002. The average value of awards made to end April 2015 is €62,235 with the overall expenditure on the Scheme being some €1.2bn.

The original closing date for receipt of applications was 15<sup>th</sup> December, 2005, i.e. 3 years following the establishment of the Board. However, section 8 of the Residential Institutions Redress Act 2002 allows the Redress Board to extend the period for receipt of an application in exceptional circumstances and requires it to extend the period when it is satisfied that an applicant was under a legal disability. The Residential Institutions (Amendment) Act, 2011 removed the Board's power to consider applications made on or after 17th September, 2011. A total of 2,766 late submissions were received by this time. Of these 2,204 have been allowed, 360 have been disallowed and 202 have been withdrawn, files closed or deemed invalid. Applicants to the Redress Board are entitled to independent legal advice and the overwhelming majority of applicants availed of such advice.

### **Support and rehabilitation for former residents**

A range of other measures are in place to support former residents of institutional abuse. These include:

- The provision of counselling services through the National Counselling Service. Established in 2000, this is a professional, confidential counselling and psychotherapy service available free of charge in all HSE areas. The service is available to all adults who have experienced trauma and abuse in childhood, with priority given to adult survivors of past institutional abuse in Ireland;
- The establishment of the Origins family tracing service, operated by Barnardos, which is a dedicated and customised service for former residents wishing to trace family members with

whom they have lost contact. By end April 2015, a total of 1,330 tracing cases had been completed.

- The establishment of the Residential Institutions Statutory Fund. Conscious that many survivors continue to suffer the effects of the abuse they suffered, the Government established the Residential Institutions Statutory Fund in March 2013 to support the needs of survivors. Supports across a range of services, including mental health services, health and personal social services, education and social services are available. The Fund, which uses the name **Caranua**, commenced accepting applications in January 2014. The Fund is being financed from the €110m contributions offered by the congregations that ran many of the institutions. Eligibility to benefit from the Statutory Fund is open to those former residents who received awards from the Residential Institutions Redress Board or equivalent court awards.

### **The Report of the Commission to Inquire into Child Abuse (The Ryan Report)**

The Report of the Commission to Inquire into Child Abuse (The Ryan Report) was published in 2009 and detailed disturbing and significant levels of historic abuse of Irish children who were placed, by the State, in residential institutions run by religious orders. The Government accepted all of the recommendations of the Ryan Report, and in response developed an Implementation Plan. The Implementation Plan set out a series of 99 actions which addressed the recommendations to improve services to children in care, in detention and at risk.

The Government has approved the Fourth and Final Monitoring Report of the Ryan Implementation Group which illustrated that the vast majority of the recommendations (i.e. 94 out of a total of 99), have been implemented or are being implemented on an ongoing basis.

The Report, which was published in March 2015, is available on the websites of both the Department of Children and Youth Affairs and the Houses of the Oireachtas (Parliament). It should also be noted that the Monitoring Group, which authored the Report, welcomed the significant positive developments that have taken place over the lifetime of the Implementation Plan.

The five incomplete actions are in relation to the erection of a memorial to the survivors of institutional abuse; a longitudinal study of children in care; the maintenance of records of children in care and the development of an archive for same, and research into best practice in family law court processes.

As the Government has committed to the full implementation of all 99 of the Implementation Plan actions, the Minister for Children and Youth Affairs has undertaken to keep the Government informed of progress until full implementation is achieved. In addition, the Department of Children and Youth Affairs will continue to monitor the delivery of actions contained in the implementation plan in the context of the ongoing monitoring of the Child and Family Agency's Corporate Plan and Performance Statement.

### **Commission of Investigation into Mother and Baby Homes and certain related matters**

The Committee will wish to note that the Irish Government has established a statutory inquiry to provide a full account, in a timely manner, of what happened to vulnerable women and children in Mother and Baby Homes during the period 1922-1998.

People in Ireland and around the world were rightly shocked when media reports in mid-2014 identified what was first described as a mass grave on the site of a former Mother and Baby Home in Tuam, Co. Galway. Following a comprehensive consultation process, including the publication of a

scoping document, the Commission of Investigation (Mother and Baby Homes and certain related Matters) was established by Government Order on the 17th February 2015. A three person Commission comprising Judge Yvonne Murphy (Chair), Dr William Duncan and Professor Mary E Daly has been appointed to lead this investigation.

The Committee may wish to note that the Minister for Children and Youth Affairs sought and received written submissions from a broad range of stakeholders and held discussions interested parties. The views expressed and the information received informed Government's approach to the establishment of the statutory investigation.

In accordance with its terms of reference, the Commission is tasked with thoroughly examining the experience of mothers and children resident in Mother and Baby Homes. The Commission is required to address seven specific questions on the practices and procedures regarding the care, welfare, entry arrangements and exit pathways for the women and children who were residents of these institutions. The primary function of the Commission is to establish the factual position in respect of the detailed matters set out in its Terms of Reference.

The Commissions of Investigation Act 2004 provides for an effective, prompt and transparent mechanism to investigate complex and sensitive matters of significant public concern while also respecting fair procedures and natural justice. This legislation gives the independent Commission robust powers to conduct investigations within its terms of reference in the manner it considers appropriate while adhering to the rules and procedures contained within the Act. The Committee can be assured that all Government Departments and Agencies will fully cooperate with the investigation. It is also notable that the Commission has a wide range of coercive powers available if necessary. For example, it may give directions to attend, to answer questions, to disclose and to produce documents, it has powers of entry and inspection to seize documents and equipment, and powers to make determinations and give directions where privilege is claimed over documents.

The Irish Government is satisfied that both the Commissions of Investigation Act and the terms of reference provide the independent Commission with sufficient powers and scope to examine a broad range of concerns, and to make a determination on their relevance to the central issues in question.

In addition, mechanisms within the terms of reference are designed to take maximum advantage of the investigative powers, resources and expertise of the Commission to ensure that any additional matter which the Commission may deem to warrant investigation can be brought to the attention of Government. This is not limited to matters within the direct scope of its investigations, but may also include issues which it considers to warrant further investigation in the public interest.

On the question of redress, given that these matters have not been central to any previous inquiry, the Commission must first be allowed the opportunity to establish the facts of what happened in these homes. In the absence of relevant information it would be difficult to make determinations on issues as potentially complex as the question of redress.

The Commission has started the process to ensure that what was once hidden and covered up in these institutions, and in wider Irish society, is examined and openly acknowledged. The interim and final reports of the Commission will be published and available to the relevant authorities to decide if criminal investigations and/or prosecutions are warranted.



## **Recommendation 11 of the UN Human Rights Committee – Symphysiotomy**

*11. The Committee expresses concern that symphysiotomy, a childbirth operation which severs one of the main pelvic joints and unhinges the pelvis, was introduced into clinical practice and performed on approximately 1,500 girls and women in public and private hospitals between 1944 and 1987 without their free and informed consent. While noting the publication of a report by Oonagh Walsh in 2012, the review of the findings of the report by Judge Yvonne Murphy and the planned establishment of an ex gratia scheme for the survivors of symphysiotomy, the Committee expresses concern at the State party's failure to: (a) initiate a prompt, comprehensive and independent investigation into the practice of symphysiotomy; (b) identify, prosecute and punish, where still possible, the perpetrators for performing symphysiotomy without patient consent; and (c) provide effective remedies to survivors of symphysiotomy for the damage sustained as a result of these operations (arts. 2 and 7).*

*The State party should initiate a prompt, independent and thorough investigation into cases of symphysiotomy, prosecute and punish the perpetrators, including medical personnel, and provide the survivors of symphysiotomy with an effective remedy for the damage sustained, including fair and adequate compensation and rehabilitation, on an individualized basis. It should facilitate access to judicial remedies by victims opting for the ex gratia scheme, including allowing them to challenge the sums offered to them under the scheme.*

### **1. Practice of Symphysiotomy in Ireland**

Symphysiotomy was an exceptional and rare intervention in obstetric practice in Ireland. It occurred in less than 0.05% of deliveries between 1940 and 1985. The procedure was carried out in Ireland from approximately 1920 until the early 1960s in a number of hospitals. It ceased in most hospitals in the mid-1960s, but continued in one hospital (Our Lady of Lourdes Hospital, Drogheda) until 1984.

- It was considered acceptable medical practice by Irish Obstetricians at least up to the mid-1960s and the numbers of symphysiotomies were published in the annual reports of the three Dublin maternity hospitals and Our Lady of Lourdes Hospital, Drogheda.
- It was gradually replaced by caesarean section as the preferred method of delivery in childbirth, where required.
- The Department of Health commissioned an independent research report into the practice of symphysiotomy. This report by Professor Oonagh Walsh stated that post-natal check-ups indicated no disabilities for some women, but that others reported disability including incontinence, chronic pain, difficulty in walking and sexual dysfunction.

(<http://health.gov.ie/blog/publications/report-on-symphysiotomy-in-ireland-1944-1984-professor-oonagh-walsh/>). In 2013 retired Judge Yvonne Murphy was commissioned by Government to undertake a further independent review on the legal aspects of symphysiotomy in Ireland. Judge Murphy advised Government on the merits and costs of proceeding with an ex gratia scheme relative to taking no action and allowing the court process to proceed.

(<http://health.gov.ie/blog/publications/independent-review-of-issues-relating-to-symphysiotomy-by-judge-yvonne-murphy/>)

- It was estimated (in 2012) that around 1,500 women underwent symphysiotomy and around 350 were still alive.

## **2. Establishment of the Surgical Symphysiotomy Payment Scheme**

The Irish Government has given careful and detailed consideration to this complex and sensitive matter. Following the examination by Government of the two independent reports relating to symphysiotomy it was agreed in July 2014 to establish an ex-gratia scheme for women who underwent the procedure. The Surgical Symphysiotomy Payment Scheme commenced on 10<sup>th</sup> November 2014 (<http://www.payment-scheme.gov.ie>). Under the Scheme applications are being assessed by former High Court Judge Maureen Harding Clark. Judge Clark was elected in 2001 to sit as a Judge at the International Criminal Tribunal for the Former Yugoslavia at The Hague. In 2003 at the end of her first trial she was elected as Judge of the International Criminal Court (ICC) an independent, permanent court that tries war crimes, genocide and crimes against humanity.

Some €34 million has been made available for the Scheme and participants receive awards at three levels - €50,000, €100,000 and €150,000. The Scheme was designed to be simple, straightforward and non-adversarial, and aims to minimise the stress for all women concerned. It was designed following meetings by the Minister for Health with all three support groups, two of which welcomed its establishment. It provides an alternative, non-adversarial option for women, many of whom are elderly and do not wish to pursue their cases through the courts.

The Scheme caters for women who underwent a surgical symphysiotomy or a pubiotomy in the State between 1940 and 1990.

### **Applications under the Scheme**

- The Scheme is working well since it was established on 10, November 2014. It was estimated that 350 women would apply to the Scheme, but in fact 576 applications were accepted.
- As at 22<sup>nd</sup> May 2015, 206 offers have been made to women including 1 offer that was rejected. 194 of those offers had been accepted at that date, with 12 offers awaiting a response. Of the 194 offers accepted by applicants, 118 were assessed at €50,000, 71 were assessed at €100,000 and 5 at €150,000. A large number of applications have been made without medical records or evidence of symphysiotomy, and this information is being sought by Judge Clark in order to progress the applications.
- Where there was a delay arising in the compilation of a woman's supporting documentation due to difficulty in obtaining medical records, applications were accepted by the Scheme, provided the application was received within the time period set out in the Scheme, with a written explanation of the reasons for the absence of the documentation.

### **Women's rights under the Scheme vis-a-vis Court Proceedings**

- The Scheme is voluntary and women do not waive their rights to take their cases to court as a precondition to participating in the Scheme.
- Women may opt out of the Scheme at any stage in the process, up to the time of accepting their award.
- It is only on accepting the offer of an award that a woman must agree to discontinue her legal proceedings against any party arising out of a symphysiotomy or pubiotomy.

- Note: there is no right of appeal under the Terms of the Scheme (see final sentence of the Committee's recommendation above).

### **3. Legal Proceedings**

There have been two High Court cases in recent months in relation to symphysiotomy.

- In the first case the Plaintiff underwent a symphysiotomy in 1963 directly after the birth of her child by caesarean section in the Coombe Hospital, Dublin and she took legal proceedings against the Hospital, which was privately insured at that time. The case was settled on 3<sup>rd</sup> February 2015 without admission of liability in the sum of €200,000. It should be noted that applicants to the Symphysiotomy Payment Scheme with this type of symphysiotomy are entitled to the highest award of €150,000 on submission of the necessary documentary proofs, for example, the relevant hospital records indicating that this procedure was carried out.
- The second case ran in the High Court for 15 days and judgement was delivered on 1 May, 2015. In this case the Judge dismissed the claim for damages by a 74 year old woman who had a symphysiotomy 12 days before the birth of her baby at the Coombe Hospital, Dublin in 1963 and who had also taken legal proceedings against the Hospital. The Judge ruled that even though the woman has suffered since the operation, the practice of prophylactic symphysiotomy (that is before the birth of the baby) "*was not a practice without justification*" in 1963.

These cases suggest that in the courts each woman's case will be taken on the merits of that particular case and that women cannot be sure of the outcome of a court case.

### **4. Services available to women who have had a Symphysiotomy**

The health and social services provided to women who have had a symphysiotomy include:

- the provision of full General Medical Services eligibility on medical grounds i.e. medical card,
- independent clinical assessments/advice (including, where requested a home assessment by an occupational therapist or physiotherapist),
- the arrangement of appropriate fast tracked follow-up care where possible,
- the provision of counselling, physiotherapy and home help services,
- the arrangement of home modifications where necessary.
- A support group which is facilitated by a counsellor was established in 2004 and is still ongoing.

Services are available on request by the women from the HSE nominated Symphysiotomy Liaison Officers based around the country.

### **5. Report by the World Health Organisation and a Cochrane Review**

In a paper on “Symphysiotomy for Feto-Pelvic Disproportion” in 2011 <sup>1</sup> the WHO noted that symphysiotomy is controversial, but it could be a life-saving intervention in under-resourced settings where caesarean section is not available.

A Cochrane Review on “*Symphysiotomy for Feto-Pelvic Disproportion*” carried out in 2010 <sup>2</sup> and updated in August, 2012 noted that there was a need for randomized trials to evaluate the effectiveness and safety of symphysiotomy. It noted that the following research questions need to be addressed.

1. Symphysiotomy versus no symphysiotomy for failure to progress in the second stage of labour when caesarean section is not available, not safe or is declined by the mother.
2. Symphysiotomy versus caesarean section in clinical situations in which the relative risks and benefits are considered to be balanced (for example, in women at high risk for abdominal surgery, general anaesthesia or regional analgesia).
3. Symphysiotomy versus no symphysiotomy for obstructed birth of the aftercoming head during breech birth.
4. (Low priority) Symphysiotomy versus no symphysiotomy for shoulder dystocia unresponsive to conventional management.

#### **Summary of Key Points**

- The Government has given careful and detailed consideration to this complex and sensitive matter.
- The Government hopes the implementation of the Payment Scheme will help to bring closure for the women concerned, many of whom are elderly, and their families.
- While the Government is aware of the comments made by the UN Human Rights Committee, it believes that the establishment of this Payment Scheme is a fair and appropriate response.
- The provision of the ex-gratia scheme, together with the ongoing provision of medical services by the HSE, including medical cards, represents a comprehensive response by Government to this issue.

<sup>1</sup>Tukur J. Symphysiotomy for feto-pelvic disproportion (last revised: 1 October 2011). *The WHO Reproductive Health Library*; Geneva: World Health Organization.

<sup>2</sup>Hofmeyr GJ, Shweni PM. Symphysiotomy for feto-pelvic disproportion. *Cochrane Database of Systematic Reviews* 2010, Issue 10. Art. No.: CD005299. DOI: 10.1002/14651858.CD005299.pub2.

## **Recommendation 15 of the UN Human Rights Committee - Conditions of detention**

*15. While welcoming the measures taken by the State party to improve conditions of detention and to increase the use of community sanctions as an alternative to imprisonment, as well as the progress achieved, the Committee is concerned at the lack of progress in eliminating adverse conditions in a number of prisons in the State party, such as: (a) overcrowding; (b) lack of in-cell sanitation facilities; (c) lack of segregation of remand and convicted prisoners, and between detained immigrants and sentenced prisoners; and (d) the high level of inter-prisoner violence. While noting the introduction of a new complaints model in the Irish Prison Service, the Committee is concerned that it does not provide for a fully independent system for dealing with every serious prisoner complaint (arts. 9–10).*

*The State party should step up its efforts to improve the living conditions and treatment of detainees and address overcrowding and the practice of “slopping out” as a matter of urgency in line with the Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977. It should establish a concrete timeline for the achievement of complete separation of remand and sentenced prisoners, juvenile and adult prisoners and detained immigrants and sentenced prisoners. It should also implement the new complaints model for all categories of complaints without further delay and ensure its independent functioning.*

### **(a) Overcrowding**

Significant progress has been made in addressing overcrowding in our prisons in recent years. The average number of prisoners in custody in Ireland rose from 3,321 during 2007 to 4,318 during 2012, an increase of over 30%. Likewise the total number of committals to prison also rose sharply during the same period, from 11,934 in 2007 to 17,026 in 2012 – an increase of over 43%. In addition, the number in custody reached a peak of 4,621 on 23rd February 2011.

Today, 12 June 2015, there are 839 fewer prisoners in custody than there were at the peak level in February 2011, which represents a decrease of 18%.

Overcrowding has been eliminated in Mountjoy Prison, which once held up to 800 prisoners at its peak. Following the complete redevelopment of the prison, all cells have been returned to single cell occupancy and the bed capacity of the prison has been set at 554 which is the level recommended by the Inspector of Prisons.

In relation to Cork and Limerick significant action has been taken to lower the numbers accommodated in those prisons. Such reductions have been possible due to reducing committals and the introduction of structured release programmes for prisoners such as Community Return and Community Support.

As of 12 June 2015 there were 228 prisoners in Cork and 224 prisoners in Limerick. This represents a decrease of 74 (25%) and 75 (25%) prisoners respectively. Construction is ongoing on a new prison

for Cork. The new prison is expected to be operational in late 2015. The new facility in Cork will house 275 prisoners and have a maximum capacity of 310 prisoners.

Plans are also being advanced for the redevelopment of the A and B wings of Limerick Prison which will address the physical conditions and capacity issues. The Irish Prison Service anticipates completion of this build in Q3 2018.

**(b) Lack of in-cell sanitation facilities**

The Government committed, in the Programme for Government, to the ending of slopping out in the prison system. The number of prisoners slopping out in the prison system has reduced from 1,003 at the end of 2010 to the current level of 292 (on 1 April 2015), a reduction of 71%.

Of the 292 (8% of the current prison population) currently slopping out, 207 prisoners are accommodated in Cork Prison with 46 and 36 prisoners accommodated in Limerick and Portlaoise Prisons respectively.

In April 2012, the Irish Prison Service published a 3-Year Strategic Plan which included a 40 month capital plan to provide in-cell sanitation in all cells and radically improve prison conditions in the older parts of the prison estate.

The construction of a new prison in Cork, to replace the existing outdated facility, commenced in late January 2014, and will be completed and operational later this year. This project marks the largest single investment ever in the prison estate and in these times of continuing financial difficulty it represents a very important commitment on the part of Government to the modernisation of the prison estate and in particular to the elimination of slopping out.

In addition to the substantial commitment to Cork prison, the modernisation of Mountjoy prison is almost complete with the refurbishment work of the D Wing due to be completed later this month. Since the closure of the D Wing the practice of slopping out has been consigned to history in Mountjoy prison. Every prisoner in Mountjoy now has access to in-cell sanitation.

The IPS is also advancing plans for the redevelopment of Limerick Prison. The redevelopment of Limerick Prison is planned to go to tender in late 2015 and a contract is expected to be signed in mid-2016 with commencement on site in early third quarter of 2016.

In the final location Portlaoise Prison the IPS is considering the options available to eliminate slopping out there.

**(c) Lack of segregation of remand and convicted prisoners, and between detained immigrants and sentenced prisoners**

All committals to the prison service are dealt with in a manner which seeks to ensure the safety of the prisoner themselves, the staff and the entire prisoner population. Each prisoner is placed in accommodation deemed appropriate to the individual based on the information made available to the prison staff on committal, which would include health, offence, criminal connections and possible conflicts with other prisoners.

Given the number of prisoners in custody it is not possible to segregate those who are in prison for the first time from those who have been in custody on more than one occasion. The Irish Prison Service is

statutorily obliged to minimise the mixing of remand and sentenced prisoners. Every effort is made subject to the availability of accommodation to keep both classes of prisoners separate.

The IPS have a Protocol with An Garda Síochána which aims to ensure that all prison committals due for deportation/removal are dealt with in an effective timely manner, which will minimise the time spent in the custody of the Irish Prison Service.

#### **(d) Prison Complaints**

Following a report by the Inspector of Prisons to the Minister for Justice and Equality in March 2012, regarding the introduction of a new complaints model in the Irish Prison Service, a new complaints model which meets best practice and our international obligations is being introduced in the Irish Prison Service on a phased basis. The model which is being introduced contains four separate categories of complaints and three separate complaints procedures.

Category A Complaints are the most serious level of complaints (assault, serious intimidation of prisoners by staff, etc). Investigation of Category A complaints are by external investigator/s on behalf of the Irish Prison Service. A publicly advertised recruitment campaign was carried out by the Irish Prison Service in September 2012 which sought applications from suitably qualified persons with a legal or investigative background. A panel of 22 Independent investigators was established in October 2012. The Category A Complaints procedure was introduced on 1 November 2012.

Category B Complaints are mid-range in terms of seriousness (discrimination, verbal abuse of prisoners by staff, inappropriate searches etc) and are investigated by a Chief Officer with recourse to appeal to the prison Governor and a subsequent recourse of appeal to the Director General if a prisoner is unhappy with the outcome of his/her original appeal

Category C Complaints are essentially service complaints where a prisoner is unhappy with the level of service in a particular prison (visits, phone calls, etc.) and are investigated by a Prison Officer with the possibility of appeal to a Chief Officer if the prisoner is unhappy with the outcome or resolution of his/her complaint.

Category D Complaints relate to complaints against professionals such as dentists, doctors etc. Such complaints will be referred in the first instance to the prisons' medical officer for possible resolution and, if this is not possible, to the relevant professional body responsible for regulating the professional involved.

The full complaints model is being introduced during the lifetime of the Irish Prison Service Three Year Strategic Plan (April 2012 - April 2015). The Inspector of Prisons has oversight of all categories of complaints.

July 2015

End