



OIFIG AN CHIGIRE PRÍOSÚN  
OFFICE OF THE INSPECTOR OF PRISONS

# **COVID-19 Thematic Inspection of Midlands Prison**

16 - 18 June 2021

IPS Review: 8 September - 7 October 2021  
Submitted to Minister: 19 November 2021

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# EXECUTIVE SUMMARY

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The Office of the Inspector of Prisons carried out the ninth of twelve COVID-19 Thematic Inspections in Midlands Prison on 16 - 18 June 2021.<sup>1</sup> The inspection examined thirteen assessment areas (see Figure 2) across the Five Inspectorate Focus Areas: Respect & Dignity; Safety & Security; Health & Wellbeing; Rehabilitation & Development; and Resettlement.

Over the course of inspection, Midlands Prison Senior Management and members of prison staff were fully co-operative with the Inspection Team.

The Inspection Team noted a number of positive outcomes in the prison, which included:

- Midlands Prison, as the country's largest prison, with a demographic of elderly prisoners, has been successful in preventing widespread transmission of COVID-19.
- There was a common effort amongst prisoners and prison staff to prevent transmission of COVID-19.
- Innovative measures had been introduced in the prison, including the rollout of video calls and in-cell phone provision on some landings.

However, the Inspection Team also noted negative outcomes for prisoners, which included:

- Solitary confinement was used as a measure to prevent the transmission of COVID-19. Prisoners in quarantine and isolation were not provided with sufficient human contact.
- The lack of in-person family visits had a significant impact on prisoners. There was a lack of up-to-date information and communication provided to prisoners, particularly with regard to the vaccination process and the resumption of family visits. This lack of information contributed to increased tensions in the prison.
- Prisoners reported long delays in accessing a general practitioner.

The Office of the Inspector of Prisons is concerned that the strategies implemented in Midlands Prison to prevent the transmission of COVID-19 have not fully considered corresponding negative outcomes for prisoners. These restrictions *at all times* must have a legal basis, be proportionate, and be necessary.

As part of the COVID-19 Thematic Inspections, the Inspectorate examines three over-arching questions:

1. How will prisons in Ireland come out of COVID-19 restrictions?
2. What are the implications of the normalisation of COVID-19 related measures?
3. How will the impact of COVID-19 restrictions on prisoners be redressed?

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<sup>1</sup> The Inspectorate originally planned to carry out its inspection of the Midlands Prison on 22 and 23 April 2021. However, upon announcement of inspection to Senior Management the day prior to the inspection, the Inspector of Prisons was informed of a COVID-19 positive case in the prison. Based on the advice received from the Governor, and in keeping with the principle of "do no harm," the Inspectorate postponed the scheduled inspection. The Outbreak Control Team stood down on 23 April 2021. The inspection was re-scheduled for 16 - 18 June 2021. The prison received 24-hour notification in advance of the inspection.

# 1 INTRODUCTION

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## 1.1 Inspection Function of the Office of the Inspector of Prisons

The Office of the Inspector of Prisons was established pursuant to Section 30 of the Prisons Act 2007 (“the Act”) in January 2007. The Inspector of Prisons is appointed by the Minister for Justice to perform the functions conferred on her by Part 5 of the Act. Patricia Gilheaney is the current Inspector and was appointed on 7 May 2018 for a five-year term in office subject to the provisions of Section 30 of the Act. The Inspector of Prisons is independent in the performance of her functions.

The Inspector of Prisons does not have statutory authority to publish inspection reports, investigation reports or annual reports. In accordance with Section 31 or 32 of the Act as applicable, as soon as practicable after receiving a report from the Inspector of Prisons, the Minister must, subject to the following caveats, lay it before both Houses of the Oireachtas and publish the report.

The Minister may omit any matter from any report laid before the Houses of the Oireachtas if she is of the opinion that:

1. Its disclosure may be prejudicial to the security of the prison or of the State, or
2. After consultation with the Secretary General to the Government, that its disclosure
  - a. would be contrary to the public interest, or
  - b. may infringe the constitutional rights of any person.

Where any matters are so omitted, a statement to that effect must be attached to the report concerned on it being laid before both Houses of the Oireachtas, and on its publication.

## 1.2 COVID-19 Thematic Inspections

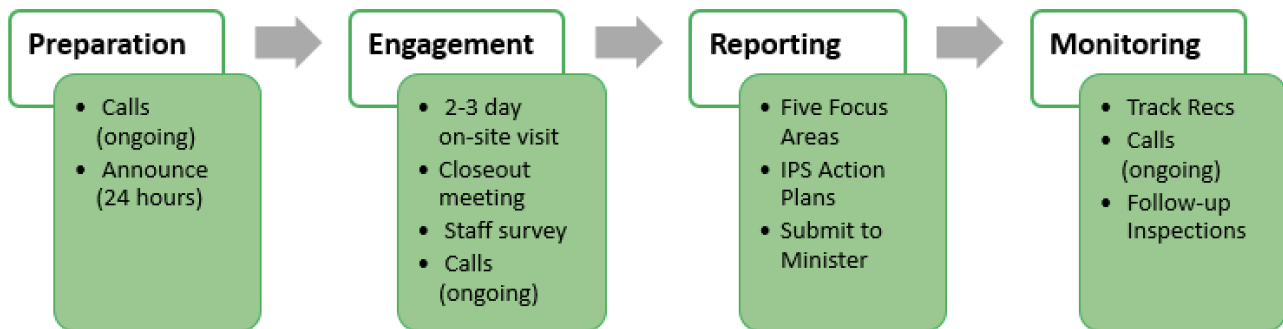
The Irish Prison Service has adopted a number of practices in response to the need to prevent transmission of COVID-19 in Irish prisons, and to subsequently uphold Ireland’s commitment to the right to life under Article 40 of the Irish Constitution and the protection of life under Article 2 of the European Convention on Human Rights (ECHR). These measures include, amongst others, restrictions on family contact (Section 4.2), quarantine and isolation (Section 4.3), restrictions on access to education and exercise (Sections 5.2 & 5.3) and changes to the prison regime (Section 5.1). In response to these restrictive measures, and the need to assess their impact on people living and working in prison, the Office of the Inspector of Prisons prepared a programme of COVID-19 Thematic Inspections to be carried out in all Irish prisons in 2021. The objective of these visits is to provide a human rights informed assessment of the treatment and care of prisoners across the Irish Prison Service. COVID-19 Thematic Inspections are carried out in line with the process provided in the 2020 Framework for the Inspection of Prisons in Ireland<sup>2</sup> (Figure 1), and are designed to examine the five Focus Areas detailed in the Framework, with a particular focus on the impact of COVID-19 on the prison.

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<sup>2</sup> OIP. (2020) A Framework for the Inspection of Prisons in Ireland, available at: <https://www.oip.ie/launch-of-the-framework-for-the-inspection-of-prisons-in-ireland/>

Figure 1: Framework Inspection Process

## COVID-19 Thematic Inspections: Process



COVID-19 Thematic Inspection visits are announced short visits of between two and three days in duration, whereby the focus of the visit is on how people in prison experience and are impacted by COVID-19 related restrictions in the prison. The information obtained through inspections visits is complemented by calls to prisons,<sup>3</sup> continuous communications with the Irish Prison Service, which includes weekly updates on the situation of COVID-19 and the dissemination of an online staff survey in April/May 2021.<sup>4</sup>

COVID-19 Thematic Inspections are carried out on a systematic and risk-informed basis, in line with the Office of the Inspector of Prisons Infection Control Protocol.<sup>5</sup> Based on internal information and information received from the Irish Prison Service, the Inspectorate determines if a visit to a prison is: (i) warranted given the risk, and (ii) in line with the principle of “do-no-harm” (ensure that risk is offset by preventive action). COVID-19 Thematic Inspections are announced, with prisons provided with at least 24-hour notice in advance of the inspection. The Inspection Team is reduced in size, with only two or three Inspectors carrying out the inspection of the prison over a two to three day time span.

The Focus Areas of Inspection are: Respect & Dignity, Safety & Security, Health & Wellbeing, Rehabilitation & Development and Resettlement. Within the five Focus Areas, inspections may assess a number of themes, as outlined in Figure 2. Given time constraints, not all inspections will examine all assessment themes.

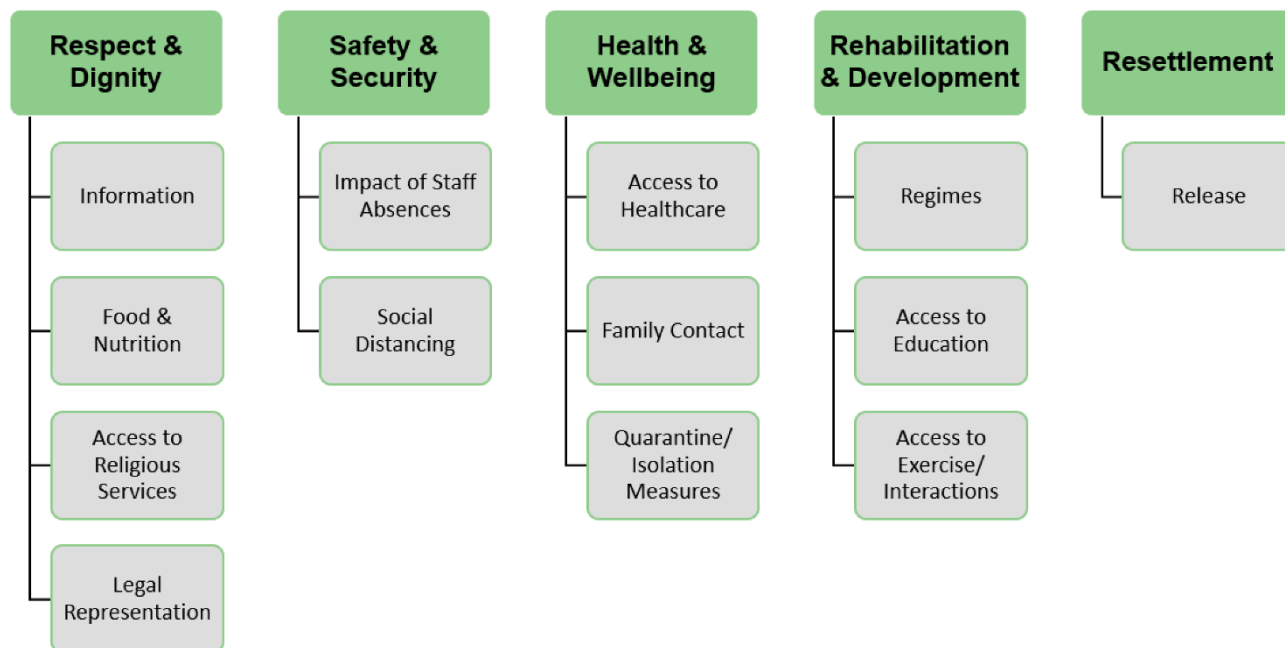
<sup>3</sup> OIP. (2021) COVID-19 Call Template, available at: <https://www.oip.ie/wp-content/uploads/2021/05/COVID-Call-Template.pdf>

<sup>4</sup> OIP. (2021) COVID-19 Staff Survey, available at: <https://www.oip.ie/wp-content/uploads/2021/05/COVID-19-Survey-for-IPS-Staff-2021.pdf>; OIP. Staff Survey Initial Findings (June 2020), available at: <https://www.oip.ie/wp-content/uploads/2021/08/OIP-COVID-19-Staff-Survey-Initial-Findings-Updated.pdf>

<sup>5</sup> OIP. (2021) COVID-18 Infection Control Protocol, available at: <https://www.oip.ie/wp-content/uploads/2021/05/OIP-Infection-Control-Protocol.pdf>

Figure 2: Inspection Focus Areas – COVID-19 Assessment Themes

## Midlands Prison Assessment Themes



The COVID-19 Thematic Inspection process involves the following:

- Observation of the prison environment;
- Discussions and informal interviews with prisoners and staff; and
- Documentation-review and tracing.

Direct quotations from prisoners and staff are included in this report. These quotations describe the lived experience of prisoners and staff as shared with the Inspection Team.

The on-site inspection visit to the prison is complemented by ongoing telephone communications with the prison. These calls are designed to: (i) identify COVID-19 related practices in the prison across the Focus Areas; (ii) highlight areas of concern that may require further attention as part of an inspection visit; (iii) monitor implementation status of Irish Prison Service Action Plans developed to respond to Inspectorate Recommendations; and (iv) provide prison management with an opportunity to indicate positive advancements and challenges related to COVID-19 related restrictions in the prison. Four calls were made to the Midlands Prison prior to inspection: 18 February 2021, 3 March 2021, 17 May 2021, and 3 June 2021. The Inspection Team requested follow-up information via email on 24 June 2021; Senior Management provided the follow-up information on 3 July 2021.

Over the duration of the inspection process, the Inspection Team endeavours to raise awareness about the ongoing inspection and of the role of the Office of the Inspector of Prisons (OIP) more generally. To this end, the Inspectorate developed prisoner information booklets.<sup>6</sup> The information booklet is available on the OIP website in Irish, English (NALA Plain English Mark), Cantonese, French, Polish, Romanian, Russian and Spanish, and have been provided to the Irish Prison Service for ongoing dissemination.

<sup>6</sup> OIP (2021) Information Booklet, available: <https://www.oip.ie/information-booklet/>. The OIP has also prepared an information video for display on the in-cell TV channel in prisons, where this facility is available: <https://prezi.com/v/cggicvqfvpz8/>.

The Inspection Team provided Midlands Prison with approximately 900 OIP information booklets. The Inspection Team requested assistance from the Governor to facilitate distribution of these booklets to the people in custody on the first day of the inspection. However, the Inspection Team was disappointed to observe that approximately half of the OIP information booklets were not distributed and remained in boxes on a table, which was located just outside the main circle of the prison. This observation was communicated to Senior Management at the Closeout Meeting. Senior Management apologised and expressed disappointment that the direction provided to prison staff to circulate all of the booklets to prisoners had not been followed. Senior Management reassured the Inspection Team that all prisoners would receive a copy of the OIP information booklet.

This report on the inspection of Midlands Prison, the ninth of twelve COVID-19 Thematic Inspection reports, provides a human rights-based assessment of the Irish Prison Service's response to the COVID-19 pandemic. The report examines the Focus Area themes to assess the following:

- Compliance with national legislation and international human rights standards;
- The physical and non-physical prison Environment; and
- The Outcome, or impact of compliance or non-compliance with legislation and/or standards and the environment within the prison setting.

The Office of the Inspector of Prisons may provide a recommendation to assist the Irish Prison Service in bringing its procedures and practices in line with international human rights standards and best practice. As part of the Inspectorate's inspection and reporting processes, the Inspectorate engages the prison and the Irish Prison Service to review the report and recommendations and determine recommendation Action Plans. The Irish Prison Service Action Plan in response to the COVID-19 Thematic Inspection in Midlands Prison is provided in Section 7. The Irish Prison Service review, as received by the Office of the Inspector of Prisons, is included in this report. At this time, the Office of the Inspector of Prisons is not in a position to verify the veracity of the information provided. Where the Irish Prison Service (IPS) has made a statement contrary to the findings of the Inspection Team this will be monitored on an ongoing basis by the Office of the Inspector of Prisons. All IPS Review statements in this report are provided in the manner received.

The inspection of Midlands Prison was carried out over a three-day period. The degree of co-operation received in the prison during the inspection was very good. The Inspection Team had full access to all required information in a timely manner. There were no delays in access to the Prisoner Information Management System (PIMS) database.

The Inspection Team would like to express appreciation to the designated Liaison Officer, Senior Management and prison staff for the support provided to the Inspection Team throughout the duration of the on-site inspection. The Inspection Team would also like to thank the people in custody in Midlands Prison for their engagement. Prisoners in Midlands Prison were eager to speak to the Inspection Team, as one prisoner commented: "[It's the] first time people have come to talk to us."

The Inspectorate presented preliminary observations to Midlands Prison Senior Management at a virtual Closeout Meeting on 23 June 2021. The commentary received during this meeting was taken into account in the drafting of this report.

The Inspectorate looks forward to ongoing dialogue and engagement with prisoners, staff and management in Midlands Prison.

## 1.3 Composition of the Inspection Team

The on-site Inspection Team for the COVID-19 Thematic Inspection in Midlands Prison comprised of Chief Inspector Ms Patricia Gilheaney, Senior Inspector Dr Ciara O'Connell, and Inspector Ms Michelle Martyn. The Inspection Team was supported by office-based Administrative Staff.

## 1.4 Overview of Midlands Prison

Opened in the year 2000, Midlands Prison is a medium security prison located in Portlaoise. It is the committal prison for the following counties: Carlow, Kildare, Kilkenny, Laois, Offaly, and Westmeath.

At the time of inspection, there were six accommodation wings in Midlands Prison: A, B, C, D, E, and G. E and G wings were added to the prison in 2013. A, C, E, and G wings accommodated prisoners on protection. B and D wings accommodated the general prisoner population. One landing on B wing accommodated newly committed prisoners in quarantine/isolation. While another landing on A wing accommodated inter-prisoner transfers. C1 Left was a small unit in the main prison, which accommodated up to ten prisoners in single cell accommodation; prisoners accommodated in this area were on Rule 63 and/or required special consideration for mental health issues. The National Violence Reduction Unit (NVRU) was also in the main prison. The NVRU had the capacity to accommodate six prisoners and an additional four prisoners for the purpose of intensive assessment.

At the time of inspection, the Irish Prison Service (IPS) bed capacity for Midlands Prison was 875. On day one (16 June 2021) of the inspection, there were 796 prisoners in custody. On subsequent days of inspection, there were 801 (17 June 2021), and 804 (18 June 2021) prisoners in custody.<sup>7</sup> Therefore, IPS bed capacity at Midlands Prison was at 91%, 92%, and 92% on the three days of inspection.

On the first day of inspection, there were 796 prisoners in the Midlands Prison. One person was held in a Close Supervision Cell.

Prior to the inspection, the Inspection Team received additional demographical information from Senior Management, which indicated that:

- Almost 20% of the population in Midlands Prison were Foreign National prisoners.
- Spoken languages in the prison included: Romanian, Spanish, Polish, Portuguese, Irish and Russian.
- 9% of prisoners in Midlands Prison were serving life sentences.
- 60% of the prisoner population were classed as protection prisoners by virtue of their crime.

The age cohort of persons in custody in Midlands Prison on 21 June 2021 is provided in Figure 3.

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<sup>7</sup> Irish Prison Service, 2021 Prison Population, <https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2021-prison-population/>



**Figure 3: Age Breakdown of the Prisoner Population in Midlands Prison<sup>8</sup> (21 June 2021)**

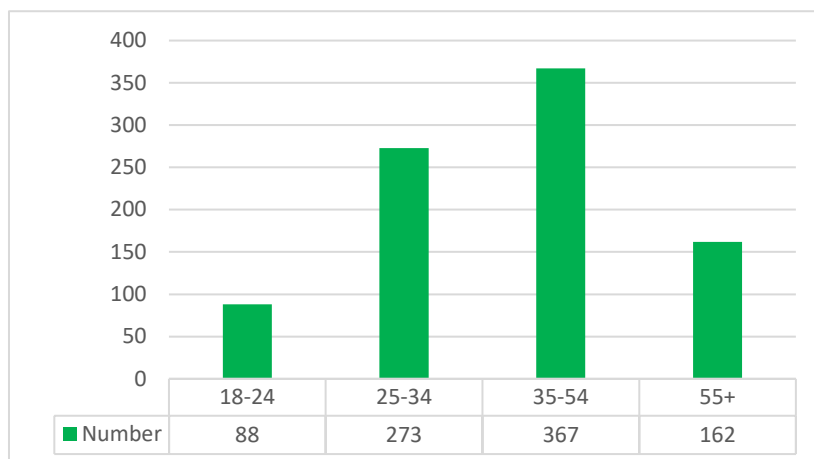


Figure 3 demonstrates that almost one-fifth of the prison population in Midlands Prison may be deemed as elderly (55+) due to the “accelerated” ageing process that occurs for persons in a prison environment.<sup>9</sup> This is important to highlight given the potential impact of COVID-19 on older persons.

Based on COVID-19 status update information provided by the Irish Prison Service to the Inspectorate, Table 1 provides the number of people in custody placed on COVID-19-related restricted regimes in Midlands Prison on 17 June 2021, the second day of the inspection.

**Table 1: People in Custody, COVID-19 Restricted Regimes**

Date	Quarantine	Isolation	Cocooning
17 June 2021	12	3	0

On the first day of inspection (16 June 2021) Senior Management reported 8 people were in quarantine and 1 person was in isolation. On 18 June 2021, there were eight people in quarantine and eight people in isolation.

Midlands Prison had experienced two outbreaks of COVID-19 since March 2020. In total, as of 16 June 2021, there had been 22 COVID-19 positive cases amongst the prisoner population. Of these, six were detected on committal to prison, and the remaining 16 were identified in the general prisoner population. There were 58 cases of COVID-19 amongst prison staff between March 2020 and 16 June 2021.

## 1.5 Immediate Action Notifications (IANs)

The COVID-19 Thematic Inspection of Midlands Prison did not require the Inspectorate to issue an Immediate Action Notification (IAN).

<sup>8</sup> Numbers include those in hospital and on Community Return and Community Support Schemes.

<sup>9</sup> See, IPRT (2016) “In Here, Time Stands Still”: The Rights, Needs and Experiences of Older People in Prison, p.13 [https://www.iprt.ie/site/assets/files/6388/iprt-older\\_people\\_in\\_prison\\_report\\_web.pdf](https://www.iprt.ie/site/assets/files/6388/iprt-older_people_in_prison_report_web.pdf)

## 2 RESPECT & DIGNITY

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### 2.1 Information

Central to the Respect & Dignity Focus Area is the provision of information within the prison. As part of the inspection of Midlands Prison, the Inspection Team assessed how prisoners were provided with information on committal, with a particular focus on what information was provided to prisoners entering quarantine. The Inspection Team examined how people in prison perceived the Irish Prison Service's effort to provide COVID-19-related information, in order to assess if prisoners felt well-informed.

#### 2.1.1 Compliance

The Irish Prison Rules 2007-2020, Rule 13, include the supply upon committal of an explanatory booklet that outlines the entitlements, obligations and privileges for prisoners. Further to this, the Rule provides for, in so far as is practicable, the provision of explanatory booklets to foreign nationals in a language that can be understood by the prisoner, and that in instances where this is not possible, or where a prisoner is not able to read or understand the contents of the booklet, that all reasonable efforts be made to ensure that the prisoner's entitlements, obligations and privileges are explained.

The caveats provided for in the Irish Prison Rules 2007-2020 ("all reasonable efforts" and "in so far as is practicable") allow for a situation in which the national legislation's provisions in relation to information may be curtailed or denied. Further, the Irish Prison Rules place no responsibility on the prison to provide information "as necessary" after the point of committal, thereby leaving open a vacuum of information which may be filled with assumptions and/or incorrect information.

Section 42 of the Irish Human Rights and Equality Commission Act 2014 (the Public Sector Equality and Human Rights Duty) also requires the Irish Prison Service to eliminate discrimination, promote equality, and protect human rights of both prisoners and staff. This law is important in the context of the Irish Prison Service providing information to certain cohorts, such as Foreign National prisoners and prisoners with disabilities.

The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) (2015) provide more specificity about the contents of such an explanatory booklet, with Rule 54 providing that every prisoner shall be provided with written information about applicable prison regulations, rights (including methods of seeking information, access to legal advice and procedures for making requests or complaints), obligations related to disciplinary sanctions and all other matters necessary to adapt to life in the prison. The Mandela Rules also require, under Rule 55.3, that prison administrations display summaries of information in common areas of the prison, and that the written information be made available in commonly used languages in accordance with the needs of the prison population; interpreter assistance should be provided if a language is not available (Rule 55.1).

Alongside, the Mandela Rules, the Revised European Prison Rules (2020) state that at admission, and as often as necessary afterwards, all prisoners shall be informed in writing and orally in a language they understand of the prison regulations and their rights and duties in the prison (Rule 30.1). The European Prison Rules also state that prisoners are allowed to keep in their possession written versions of the information they are given (Rule 30.2).

With specific regard to COVID-19, the European Committee for the Prevention of Torture (CPT) Statement of Principles Relating to the Treatment of Persons Deprived of their Liberty in the Context of the Coronavirus Disease (COVID-19) Pandemic (Principle 4) requires that any restrictive measures

taken to prevent the spread of COVID-19 should have a legal basis and be necessary, proportionate, respectful of human dignity and restricted in time. All persons deprived of liberty should receive comprehensive information, in a language they understand, about any such measures.

The United Nations Subcommittee for the Prevention of Torture (2021) in its Follow-up advice to State Parties and National Preventive Mechanisms relating to the Coronavirus Disease (COVID-19) Pandemic urged all States to: “inform all persons deprived of liberty and their relatives, regularly and comprehensively, about the vaccination programme, including its benefits and possible side effects, and ensure that vaccination is voluntary and based on informed consent.”<sup>10</sup>

## 2.1.2 Environment

Ahead of the on-site inspection, Senior Management provided the Inspection Team with a number of IPS-designed prisoner newsletters related to COVID-19 (Editions 31, 32 and 33). These newsletters contained information on: the re-opening of schools with clear guidelines on physical distancing in classrooms; the prison in-cell television channel, and prisoner swab testing (Version 31). An update by the Director General of the Irish Prison Service on the COVID-19 vaccination process was provided (Version 32). Further information was also included on the roll out of the vaccination process, accompanied by information on overdose prevention awareness (Version 33). In addition to these, the Irish Prison Service provided the Inspectorate with Versions 34 and 35 of the newsletter. The contents of the Version 34 newsletter included information on the wearing of surgical masks by prisoners and on referrals to psychology services. Version 35 of the newsletter was issued the day before the inspection, and contained an update on the vaccination roll out and information on “what to do to prepare for your vaccine.” The newsletter also contained a message that the Irish Prison Service was planning for the resumption of physical visits.

The Irish Prison Service in-cell television channel also provided information to prisoners. The television channel was operational during the inspection. It was reported by Senior Management that Red Cross newsletters were transferred onto the prison television channel.

The Inspection Team observed COVID-19 related signage throughout the prison which contained information on COVID-19 symptoms and basic pre-cautionary measures (e.g., information on social distancing, hand hygiene, cough etiquette, and a poster on “how to use face coverings”) in order to prevent the spread of COVID-19.

Following the on-site inspection, Senior Management provided the Inspection Team with three video clips developed to educate prisoners about the vaccination programme.

Senior Management provided the Inspection Team with an information notice (dated 1 March 2021) which was distributed following a COVID-19 outbreak. The notice outlined the end of the outbreak and was used to communicate to prisoners about the resumption of activities (2 March 2021). It also reminded the prisoner population of steps to take to prevent the transmission of COVID-19.

The Inspection Team welcomed written information provided by Senior Management about quarantine and isolation procedures for prisoners. This information sheet outlined the rationale as to why prisoners were placed in quarantine/isolation and what they could expect during that period, which included: the length of time of isolation (14 days or longer if symptoms persist or if the individual is awaiting a test

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<sup>10</sup> Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), Follow Up Advice of the Sub-Committee to State parties and national preventive mechanisms relating to the coronavirus disease (COVID-19) Pandemic (June 2021), <https://www.ohchr.org/EN/HRBodies/OPCAT/Pages/AdvicesToNPMS.aspx>

result); the daily regime including cell unlock; the delivery of meals; orders from the Tuck Shop; requests to the library and information on family contact.

### 2.1.3 Outcomes

Prisoners raised concerns about the impact of the COVID-19 vaccine, particularly in relation to blood clots. The Inspection Team spoke with prisoners about information they received on the COVID-19 vaccination programme. One prisoner stated: "I haven't heard anything, I don't know much about it to be honest. If I am brought down to get it, I'll ask more about it." Some prisoners reported to the Inspection Team their reluctance to take the vaccine due to the absence of information provided, and one prisoner outlined that "leaflets would be helpful."

There appeared to be a gap in information disseminated to prisoners. Prisoners did not appear to be aware of, or have access to the up-to-date IPS newsletters. Staff reported to the Inspection Team that the print room in Midlands Prison had been closed for three weeks. The Inspection Team raised the issue of vaccine information at the inspection Closeout Meeting; Senior Management committed to distribute Version 35 of the IPS prisoner newsletter.

While the Inspection Team noted that information had been made available on the in-cell television channel for prisoners, a prisoner informed the Inspection Team that "not a lot of people watch it." Some prisoners were aware of the content on the prison television channel and noted that it included programmes on meditation, information on the pros/cons of the vaccine and information from Merchants Quay Ireland.

Prisoners also reported that little information had been made available to them on quarantine procedures. Prior to the on-site inspection, Senior Management provided the Inspection Team with a brief information document outlining the quarantine/isolation process; however, Senior Management reported that this document was not being distributed to prisoners. The Inspectorate is of the view that the already developed written information on the quarantine/isolation processes is informative, and encourages that it be made available and accessible to all prisoners (in a language and format they can understand).

Access to information was reportedly an issue for Foreign National prisoners who were not proficient in English language reading. One Foreign National prisoner reported paying another prisoner to translate information for him prior to entering quarantine so he could set up a phone card. A member of prison staff stated to the Inspection Team that if a prisoner had challenges with communicating in English, a prisoner (with the same language) would be brought down "on many occasions" to explain procedures. However, Senior Management reported that there has been a move away from the practice of prisoners translating for other prisoners, particularly during committal. Senior Management also reported that there was not an occasion during the pandemic in which it was necessary to bring an interpreter into the prison, but that this could be accommodated if required. The Inspection Team did not observe any COVID-19 signage in other languages other than English throughout the prison. As outlined under Rule 37.1 of the European Prison Rules, "positive measures shall be taken to meet the distinctive needs of prisoners who are foreign nationals."

As referenced earlier (Section 1.2), the Inspection Team was disappointed to observe that approximately half of the OIP information booklets provided on day one for distribution to prisoners had not been disseminated at the end of the final day of the inspection.

It is the view of the Inspectorate that all prisoners should be afforded easy access to relevant OIP materials and inspection reports. In a follow-up query to Senior Management regarding prisoners'

access to the OIP website and a facility to download reports, Senior Management advised that only prisoners who had a laptop would be able to access these materials.

### 2.1.4 Recommendations

**Recommendation 1:** In line with Rule 54 of the Nelson Mandela Rules, Midlands Prison and the Irish Prison Service must ensure that written and oral information is provided to all prisoners, in a form they can understand; this may require the assistance of interpreters, prior to and upon entering quarantine and on an ongoing basis over the course of quarantine. Prisoners should be provided with ongoing opportunities to raise questions and to be informed of all matters necessary to adapt to quarantine and prison life in general.

*OIP Comment: The Inspectorate has recommended in the Mountjoy Men's Prison, Cloverhill Prison, Wheatfield Prison, Limerick Prison, Portlaoise Prison, Shelton Abbey, Arbour Hill Prison and Cork Prison COVID-19 Thematic Inspection reports that prisoners should receive written and oral information upon entering quarantine and on an ongoing basis over the course of quarantine. This recommendation has been accepted by the Irish Prison Service on all occasions.*

**Recommendation 2:** In line with Section 42 of the Public Sector Duty and Rule 37.1 of the European Prison Rules, the Irish Prison Service must ensure that Foreign National Prisoners have equal access to the provision of information in a language they can understand.

**Recommendation 3:** The Irish Prison Service should provide prisoners with a written copy of the Framework for Unwinding of Prison Restrictions.<sup>11</sup> Prisoners should be consulted, and updated on future plans relating to family visits, regimes, and sentence progression as COVID-19 restrictions unfold.

*OIP Comment: The Inspectorate has recommended in the Limerick Prison, Portlaoise Prison and Shelton Abbey COVID-19 Thematic Inspection reports that prisoners should receive a copy of the Framework for Living with COVID-19; the Irish Prison Service partly accepted this recommendation, and in response indicated the development of the "Unwinding of Prison Restrictions" Framework. The Irish Prison Service noted in its Action Plan developed to address recommendations made with respect to the COVID-19 Thematic Inspection of Arbour Hill Prison, that the "unwinding of prison restrictions (had commenced) in line with the roll out of the covid-19 vaccination programme in all prisons." Following this, in response to the Cork Prison report, the Irish Prison Service indicated that it had "completed significant unwinding of prison restrictions in line with the roll out of the covid-19 vaccination programme in all prisons." The Inspectorate is of the view that the "Unwinding of Prison Restrictions" Framework should be provided to all persons in custody.*

**Recommendation 4:** The Inspectorate recommends that the Irish Prison Service make all Office of the Inspector of Prisons' materials and reports readily available and accessible to all prisoners.

## 2.2 Food & Nutrition

One of the measures implemented by the Irish Prison Service to prevent the transmission of COVID-19 in Irish prisons has been to change how food is delivered in the prison. At the outset of the pandemic, beginning in March 2020, the Irish Prison Service provided food to people in custody who were cocooning by distributing boxed meals to cells. The Inspectorate noted in the July 2020 report, "Ameliorating the Impact of Cocooning on People in Custody – A Briefing," that it is "important that

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<sup>11</sup> See Irish Prison Service, COVID-19 in Irish Prisons, <https://www.irishprisons.ie/covid-19-irish-prisons-2/>

people (...) are brought meals (and) informed about what is on offer and asked which portions they do and do not want.”<sup>12</sup> Further, the Inspectorate urged the Irish Prison Service to commit to better consultation with people subjected to public health measures or restricted regimes about their food and to consider models used in hospitals for food selection. Given the recommendations made by the Inspectorate in regards to food provision for individuals cocooning, the Inspection Team considered as part of the COVID-19 Thematic Inspection how food is provided in Midlands Prison.

### 2.2.1 Compliance

The Irish Prison Rules 2007-2020 establish a number of standards as regards food and nutrition. The Rules state that prisoners should have a sufficient quantity of food that is properly prepared and well presented (Rule 23.1). The Rules allow, in so far as is practicable, for a prisoner to observe dietary practices of religion and culture (Rule 23.2) and to have any dietary needs met for any medical conditions (Rule 23.3). The Irish Prison Rules also allow for sufficient clean drinking water to be available to each prisoner each day (Rule 23.4). Section 35 (1) (2) (c) of the Prisons Act 2007, legislates for regulation and good governance of the treatment of prisoners, including but not limited to, their diets.

The Irish Prison Rules 2007-2020 are largely in compliance with international standards, but are limited in application by the clawback clause, “in so far as is practicable” in reference to observation of cultural or religious or dietary needs.

According to the Mandela Rules, prisoners should receive food that is healthy and at usual times (Rule 22). Prisoners should have drinking water whenever they need (Rule 22). Food should also be regularly inspected by a physician or competent public health body (Rule 35).

The European Prison Rules state that the food provided should take into account the age, health, physical condition, religion, culture and the nature of prisoners work (Rule 22.1). Food should be served hygienically (Rule 22.3) with reasonable intervals between meal times (22.4).

In May 2021, the CPT published a “Minimum Decency Threshold” for prisons. As a minimum, the CPT stated that prisoners should have ready access to clean water and adequate food both in quantity and of nutritional value.<sup>13</sup> Failure to meet this minimum decency threshold can lead to situations in which prisoners are exposed to inhuman or degrading treatment.

### 2.2.2 Environment

The Inspection Team visited the prison kitchen on the first day of the inspection (16 June 2021). As part of COVID-19 outbreak prevention measures, the eight prison staff were divided into two pods of four, and kitchen workers did not interact with prisoners from other landings. The Inspection Team observed no COVID-19 signage in the kitchen area.

Staggering of meal times for prison staff was introduced to prevent large groups of staff eating at the same time in the dining area.

Meals for the general prison population were served in the servery. Prisoners on B3 landing (i.e., those in isolation/quarantine) had their meals delivered to their cells.

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<sup>12</sup> Office of the Inspector of Prisons and Maynooth University, “Ameliorating the Impact of Cocooning on People in Custody – A Briefing” (July 2020) <https://www.oip.ie/wp-content/uploads/2020/07/Ameliorating-the-impact-of-cocooning-on-people-in-custody-a-briefing.pdf>.

<sup>13</sup> See European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (2021) 30<sup>th</sup> General Report of the CPT, “Minimum Decency Threshold” (see from p.35 onwards) [https://rm.coe.int/1680\\_a25e6b](https://rm.coe.int/1680_a25e6b)



The kitchen operated using a 28-day rotational regular menu, and also provided vegetarian and Halal meals. The daily mealtime schedule for prisoners is outlined in Table 2.

**Table 2: Meal Times in Midlands Prison**

Time	Meal
Breakfast	08:00-08:30
Dinner	12:00-12:30
Tea (light meal)	16:00-16:30

### *Tuck Shop*

Prior to the on-site inspection, the Inspectorate received Tuck Shop pricelists dated: 1 May 2020, 1 February 2021, and 1 May 2021. Items available in the Tuck Shop varied from newspapers, tobacco, toiletries, sweets, cereals, food stuff, health and protein items. Items of prices ranged: a popular brand of Coffee (150g) €5.23, a popular brand of toothpaste (100 ml) €3.01 and microwave porridge €3.11. All prices were identified on the list as “subject to change.” The Tuck Shop continued as a “bag and tag” service i.e. prisoners ordered their items from the Tuck Shop which was subsequently delivered to their cells by prison officers.

### 2.2.3 Outcomes

#### *Kitchen and Food*

Prior to the pandemic, there were approximately 30 prisoners who worked in the kitchen. On the first day of inspection, this had been reduced by approximately half. The Inspection Team was informed that there could be a maximum of 20 prison workers in the kitchen at any one time. One prisoner reported that “working in the kitchen is great.” The Inspection Team was informed that kitchen workers were mainly prisoners who were serving short sentences.

There were mixed prisoner experiences of the food served in the kitchen. One prisoner said: “Some chefs are deadly.” However, other prisoners reported issues with the quality of food and timing of meals. One prisoner explained that a small dish (e.g., a wrap) was provided at 16:00 in the afternoon and that he received no food [apart from the daily allocation of bread and milk] until breakfast the next morning. Another prisoner spoke about the quality of food against the availability of food in the horticultural areas located on the grounds of Midlands Prison: “All this fresh food around us [sowing vegetables], where did all the food go?”

Prisoners also highlighted the repetitive nature of the 28-day rotational menu:

*“Every day is the same.”*

*“Same food every day, month, every year.”*

*“I’m going to turn into an apple, banana or a carton of yoghurt.”*

One prisoner of Muslim faith felt that he could not practice Ramadan in the prison because the food arrived to his cell late and was cold.

During the COVID-19 outbreak at Midlands Prison in February 2021, prisoners reported the delivery of food in Kraft boxes for 14 days in their cells.

The Inspectorate noted that general set meal times did not align with the times at which people in the general community eat their meals, and thus did not reflect the Council of Europe “normalisation”

principle outlined in the Revised European Prison Rules 2020, (Rule 5) which state, “life in prison shall approximate as closely as possible the positive aspects of life in the community.”

### *Tuck Shop*

Prisoners reported that some items in the Tuck Shop were prohibitively expensive, such as toiletries and DVD/game materials. In addition, on two occasions prisoners raised issues about pricing inconsistencies in the Tuck Shop. For example, a prisoner showed the Inspection Team two identical air fresheners in his cell, however the receipt dated 15 June 2021 showed two different prices for the same product, one was priced at €1.50 and the other was priced at €2.50.

## 2.2.4 Recommendation

**Recommendation 5:** In line with the Nelson Mandela Rules, Rule 22 and European Prison Rules, Rule 22.4, the Inspectorate recommends that the scheduling of meal times be amended to ensure meals are served at reasonable intervals and at usual times: breakfast (morning), lunch (midday) and dinner (evening).

*OIP Comment: The Inspectorate has recommended in the Mountjoy Men’s Prison, Cloverhill Prison, Wheatfield Prison, Limerick Prison, Portlaoise Prison, Shelton Abbey, Arbour Hill Prison and Cork Prison COVID-19 Thematic Inspection reports that the scheduling around meal times be amended. This recommendation has been accepted by the Irish Prison Service on all occasions. The Inspectorate welcomes the Irish Prison Service’s intention to roll out an amended meal schedule, following a successful pilot scheme in Castlerea Prison and Mountjoy Prison Progression Unit, and acknowledges that this initiative was curtailed due to industrial relations issues. The Irish Prison Service advised in response to this recommendation with respect to Arbour Hill Prison and Cork Prison, that “the review of prisoner mealtimes (has been identified as a) priority action in the Public Service Agreement 2021/2022,” and that engagement with the staff representative association is ongoing. The Inspectorate encourages an early resolution to these issues, keeping in mind that such issues should not undermine adherence to human rights standards, as outlined in Rule 22.1 of the Nelson Mandela Rules and Rule 22.4 of the European Prison Rules.*

## 2.3 Access to Religious Services

The Chaplaincy Service provided in Irish Prisons is instrumental to ensuring pastoral care, dissemination of information and maintenance of familial contact. As such the Chaplaincy is uniquely positioned to support prisoners as they experience COVID-19 related restrictions.

### 2.3.1 Compliance

The Irish Prison Rules 2007-2020 provide that each prisoner shall, in so far as is practicable and subject to the maintenance of good order and safe and secure custody, be permitted to practice and comply with the rules, observances and norms of behaviour of the religious denomination of which he or she is a follower or member (Rule 34(1)) and shall not be refused access to a chaplain of any religious denomination (including a chaplain of a religious denomination of which the prisoner is not a member) (Rule 34(6)).

The European Prison Rules, Rule 29.2, expand on the provisions provided in the Irish Prison Rules to place a duty on the Irish Prison Service to organise the prison regime insofar as is practicable to allow prisoners to practice their religion and follow their beliefs. This includes enabling private visits from religious representatives.



### 2.3.2 Environment

At the time of Inspection, there was no dedicated Chapel in the Midlands Prison. Prior to the pandemic, in-person religious ceremonies were held in a hall on the prison grounds. In March 2020, all in-person religious services stopped (including weekly Catholic Mass, weekly Church of Ireland and Friday Muslim Prayers). In-person religious services resumed for a period at the end of September 2020. However, based on advice from the Irish Prison Service Emergency Response Planning Team, religious services stopped in November 2020. Mass was recorded every Sunday morning and was aired on the prison television channel on Sunday afternoon. There were approximately 27 prisoners of Muslim faith in the prison at the time of inspection. The Inspection Team was informed that discussions were ongoing to work with an Imam to develop a recording of prayers.

Four Chaplains had been allocated to Midlands Prison, but this had recently been reduced to three Chaplains (two full-time and one part-time) due to the retirement of one of the members of the Chaplaincy Service. To limit interactions across landings, the three Chaplains were each allocated two wings for which they were responsible to maintain prisoner interactions across the pandemic.

At the time of inspection, the majority of prisoners (84%) reporting a religion or faith identified as Roman Catholic. There was a wide range of faiths practiced by prisoners in Midlands Prison, including: Islam, Church of England, Greek Orthodox, Protestant, Presbyterian and Russian Orthodox.

The Irish Prison Service introduced a Tele-Chaplaincy service for prisoners during the pandemic.

### 2.3.3 Outcomes

The Inspection Team was informed that the Chaplaincy Service engaged with prisoners on the landings throughout the pandemic. At times when the Chaplaincy Service operated a “through the door” service, Chaplains reported difficulties for prisoners, particularly for those with disabilities such as hearing impediments. The noise of landings also made communication difficult in particular for the Chaplaincy Service to identify any message of concern for those newly committed to prison.

The Chaplaincy Service spoke of family bereavements as particularly difficult for prisoners throughout the pandemic. Prisoners could not avail of Compassionate Temporary Release. While attempts were made to facilitate a prisoner to watch their close relative’s funeral online, it was reported to the Inspection Team that sometimes the failure of technology led to prisoners being unable to view the funeral.

The importance of Compassionate Temporary Release for funerals was highlighted to the Inspection Team. While access to viewing funerals online was a positive measure introduced during the pandemic, it should not be considered a long-term replacement for Compassionate Temporary Release for funerals post-pandemic.

It was reported by the Chaplaincy Service that prisoners were accommodated during Ramadan, and that the Chaplaincy Service provided prayer mats to prisoners. The Chaplaincy Service informed the Inspection Team that an Imam had not been present in the prison since the onset of the pandemic. Prisoners reported feeling supported by the Chaplaincy Service, with one prisoner commending the Chaplain: “He’s always there.”

The ratio of 2.5 Chaplains to a prison population of approximately 800 prisoners was reported by the Chaplaincy Service as a particular challenge to meet the needs of the prisoner population. The recent retirement of a Chaplain was described as a “huge loss” by staff and prisoners alike. In this respect, the Inspectorate welcomes the Irish Prison Service’s commitment to an audit of Chaplaincy Services.

The reduction in the Chaplaincy Service staffing complement impacted upon the roll out of Tele-Chaplaincy Services with limited prisoner engagement occurring via the Tele-Chaplaincy Service when Chaplains were engaging with prisoners on the landings.

Prisoners and staff raised concerns about the consistency of application of COVID-19 public health related restrictions, specifically with reference to in-person religious services. For instance, staff queried why the gym was open for use and prisoners could not meet in similar size groupings for in-person religious services at certain times during the pandemic.

## 2.4 Access to Court and Legal Representation

### 2.4.1 Compliance

#### *Access to Court*

The right to a fair trial is protected under Article 6 of the European Convention on Human Rights and Article 14(3) of the International Covenant on Civil and Political Rights (ICCPR), was ratified by Ireland in 1989. Article 14(3) states:

In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

- (a.) To be informed promptly and in detail in a language which he understands of the nature and cause of charge against him;
- (b.) To have adequate time and facilities for the preparation of his defence and to communicate with the counsel of his choosing;
- (c.) To be tried without undue delay;
- (d.) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
- (e.) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- (f.) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
- (g.) Not to be compelled to testify against himself or to confess guilt.

The Human Rights Committee in its General Comment No. 32 states that that the fundamental principles of a fair trial should be respected during times of an emergency.<sup>14</sup>

The International Commission of Jurists (2020) recommended the following on the use of videoconferencing, Courts and COVID-19:

The right of any person to be physically present for his or her trial on criminal charges [and on his initial appearance before the judicial authority following his arrest or detention on criminal charges] should be fully respected, including in situations of crisis or emergency such as the COVID-19 pandemic. In particular, national laws and rules should not permit, and in practice

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<sup>14</sup> UN Human Rights Committee (2007) General Comment 32, see paragraph 6, <https://undocs.org/CCPR/C/GC/32>

courts and other authorities should not proceed, with criminal trials in which an accused is denied the right to be physically present for the trial and is instead forced to participate by means of a video link or similar technology without his freely given and fully informed consent.<sup>15</sup>

The *Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020*, states that relevant hearings can be conducted remotely by the Court of its own motion, or on application to the court once it is satisfied that:<sup>16</sup>

- (a.) The application being heard without the relevant person being in the court would not thereby be prejudicial to the relevant person;
- (b.) The interests of justice does not require the presence of the relevant person at the hearing;
- (c.) The facilities provided by a live video link between the court and the place where the relevant person is located are such as to enable such interpretation or translation as may be necessary during the hearing;
- (d.) The relevant person and his or her legal representative are able to communicate in confidence during the hearing;
- (e.) The application being heard without the relevant person being present in court is otherwise appropriate having regard to-(i.) the nature of the application (ii.) the complexity of the hearing, (iii.) the age of the relevant person, and (iv.) his or her mental capacity; and
- (f.) No other circumstances exist that warrant the relevant person's presence in court for the hearing.

### *Legal Representation*

The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) outline a number of standards regarding access to legal representation. On admission, prisoners should receive written information on their rights to access legal advice including information on legal aid schemes (Rule 54). Prisoners should have adequate opportunity to communicate and consult with a legal adviser (Rule 61.1). Should they need interpretation during this process, the prison should allow them access to an independent competent interpreter (Rule 61.2). A prisoner should be able to access legal aid (Rule 61.3), which also applies to remand prisoners who should not be charged for this (119.2). Furthermore, remand prisoners should be provided with writing material for any defence preparation (Rule 120).

The European Prison Rules support the Nelson Mandela Rules by stating that consultations between prisoners and their legal advisers should be confidential (Rule 23.4). Prisoners should have access and keep in their possession documents relating to their legal proceedings (Rule 23.6).

The Irish Prison Rules 2007-2020 largely align with international standards around legal representation. Prisoners are entitled to have privacy during visits with a legal advisor (Rule 38.1). Visits with a legal adviser can take place at any reasonable time (Rule 38.2) and when needed an interpreter can be present (Rule 38.3). Prisoners are also entitled to send and receive letters from their legal adviser (Rule 44.1.a). A prisoner can send a letter to their legal adviser without it being opened before it is sent (Rule 44.3). Any letter sent to a prisoner by their legal adviser can only be opened in the presence of the prisoner. This is strictly to examine that it is such a letter (Rule 44.4). Prisoners are entitled to make a telephone call to their legal adviser (Rule 46.5). Legal documents cannot be retained by a prison officer

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<sup>15</sup> International Commission of Jurists (2020) Videoconferencing, Courts and COVID-19 Recommendations based on International Standards, [https://www.unodc.org/res/ji/import/guide/icj\\_videoconferencing/icj\\_videoconferencing.pdf](https://www.unodc.org/res/ji/import/guide/icj_videoconferencing/icj_videoconferencing.pdf)

<sup>16</sup> See Section 23(4) of the *Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020*.  
<http://www.irishstatutebook.ie/eli/2020/act/13/enacted/en/print#sec22>

or a member of An Garda Síochána during a search (Rule 7.2). Prisoners are also entitled to privacy when communicating with their legal advisor using video link (Rule 42).

Under Article 6 of the European Convention on Human Rights, an individual has a right to a fair trial. In this respect, adequate access to legal representation is essential to allow an individual remanded into custody to effectively participate in court proceedings. The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) outline a number of standards regarding access to legal representation. On admission, prisoners should receive written information on their rights to access legal advice including information on legal aid schemes (Rule 54). Prisoners should have adequate opportunity to communicate and consult with a legal adviser (Rule 61.1). Should they need interpretation during this process the prison should allow them access to an independent competent interpreter (Rule 61.2). A prisoner should be able to access legal aid and not be charged for this (Rule 61.3), which also applies to remand prisoners (119.2). Furthermore, remand prisoners should be provided with writing material for any defence preparation (Rule 120).

## 2.4.2 Environment

In 2020, prisons and prisoners availed of 13,326 remote appearances from prison locations linked to courts.<sup>17</sup> Since the onset of the COVID-19 pandemic in March 2020, the use of remote courts hearings expanded from 30 to 58 courts in Ireland, with more than double the number of cases heard via video-link compared to 2019.<sup>18</sup>

The Irish Prison Service's *Escort and PPE Guidance* document determines what should happen for various categories of prisoners for court appearances during COVID-19:

- Prisoners in isolation/precautionary isolation should be sick noted for court appearance and video link should be explored. If this type of prisoner is required for court, then full PPE must be worn with single escort use. Video link is the preferable option for prisoners in quarantine. If the court did not record the appearance as "video link," the following procedure was in place by the Irish Prison Service: Prisons or PSEC should contact the court to have the appearance moved to video link. Where the court does not have a video link option, the prison/PSEC should have the case moved to the court that has video link. However it is outlined in the Guidance document that the Irish Prison Service cannot refuse to present the physical attendance of a prisoner to court.
- Quarantined prisoners could travel with other quarantined prisoners of the same group or else alone. The prisoner will return to cell to continue quarantine if social distance can be maintained and there is no breach of PPE on escort. If a breach occurred, the prisoner would be required to reset and begin Day 1 of quarantine upon return.
- Under the guidance, all court appearances for prisoners under protection (Rule 63) and the general prison population should take place via video link where possible.

At the time of inspection, there were six video booths (three for access to the courts and three for access to solicitors) in Midlands Prison. District court sessions occurred in the mornings and large trials occurred in the afternoons. Prior to the pandemic, the video booth rooms were used to facilitate enhanced family visits.

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<sup>17</sup> Courts Service, *Courts Service Annual Report 2020*, [https://www.courts.ie/acc/alfresco/b47652ff-7a00-4d1f-b36d-73857505f860/Courts\\_Service\\_Annual\\_Report\\_2020.pdf/pdf#view=fitH](https://www.courts.ie/acc/alfresco/b47652ff-7a00-4d1f-b36d-73857505f860/Courts_Service_Annual_Report_2020.pdf/pdf#view=fitH)

<sup>18</sup> EuroPris, Videolink-Maximising Resources for Service Delivery, M O' Mahoney, Europris, 11 November 2020 cited in Penal Reform International (2021) *Global Prison Trends 2021*, <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>

Professional legal visits occurred in the afternoons and were also accommodated for during the “reserve” period (17:00 – 19:00).

### 2.4.3 Outcomes

#### *Access to Court*

On the first day of inspection, 11 prisoners used the video booths for court hearings, some of which were bail hearings. Prisoners expressed both positive and negative opinions in relation to participation with courts via video link. Some prisoners reported feeling that they were not able to effectively engage with the court, with one prisoner stating with respect to “severe trials” that, “[you] need to be there to really interact with the case” and another prisoner stating “I couldn’t understand them.”

Other prisoners described the use of video-link remote access to courts as a positive measure: “(It’s) very good - it’s like sitting in the court”, “less hassle” and “better because you don’t get dragged around.” Some prisoners indicated that the remote video-links were a benefit because they reduced the time spent waiting in escort vans when brought to court in-person.

For one prisoner, the experience of leaving the prison to attend court was a way to feel connected to the outside world. He stated, “The experience of leaving the prison is treasured - you can see your presence in the real world... see people walking, the sun... I’m alive.”

Video-link court access has assisted in ensuring timely access to the courts for many prisoners. However, the Inspectorate is of the view that engagement with courts via video-link warrants continuous examination and review. Remote court hearings may result in access to justice issues for prisoners.<sup>19</sup> Research on video-link access to courts has shown that these experiences diminish prisoners’ opportunities for engagement with and expressive participation in legal procedure.<sup>20</sup> These findings are important in the context of a person’s right to a fair trial.

#### *Access to Legal Representation*

Some prisoners expressed difficulties with access to a solicitor through video calls. Prisoners reported that it was difficult to hear their solicitors and that the interaction did not “feel private.” The short duration of a phone call (six-minutes) to a solicitor was also raised as an issue. Less than a handful of prisoners reported delays in obtaining legal post. Some prisoners alleged that Rule 44 letters were being opened prior to their receipt and not in their presence.

### 2.4.4 Recommendation

**Recommendation 6:** Taking into consideration Article 6 of the ECHR and Article 14 (3) of the ICCPR, the Irish Prison Service should continuously monitor and engage with prisoners on the impact of remote court hearings.

*OIP Comment: The Inspectorate has recommended in the Limerick Prison, Portlaoise Prison, Shelton Abbey and Cork Prison COVID-19 Thematic Inspection reports that the Irish Prison Service should continuously monitor and engage with persons in custody on the impact of remote court hearings. The Irish Prison Service has partly accepted this recommendation, noting that video link courts are not the default and that “approximately 60% of Court appearances are now taking place via video link” and the “use of video link will allow the Service to redirect vital resources into the provision of prisoner services.”*

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<sup>19</sup> Written Evidence submitted by the Equality and Human Rights Commission, <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/public-accounts-committee/transforming-courts-and-tribunals-progress-review/written/106341.html>

<sup>20</sup> C. McKay, “Videolinks from Prison: Court ‘Appearance’ within Carceral Space” (2018) 14(2) *Law, Culture and the Humanities*.

## 2.5 Other Issues

In the process of inspecting Midlands Prison, the Inspection Team made a number of findings that also warrant inclusion under the Focus Area of Respect and Dignity.

### *Management of COVID-19*

In response to the efforts made by the prison to prevent transmission of COVID-19 in the prison, prisoners largely praised Senior Management and prison staff regarding their approach to COVID-19 with comments such as:

*“You won’t hear me say this often, I have to give them a certain level of kudos. I never felt in danger of getting COVID. I felt safe.”*

*“They’re doing their best to keep it out.”*

*“If it’s going to stop it coming into the jail, it’s well worth it.”*

*“They did a pretty decent job about it.”*

*“They’ve done really well.”*

*“They done brilliantly keeping COVID out.”*

*“I never felt in danger of getting COVID.”*

Given the size of Midlands Prison, and the number of elderly prisoners in the prison, the Inspectorate commends the work of Midlands Prison management and staff to ensure that prisoners felt safe over the course of the pandemic.

### *Ventilation*

The Inspection Team was informed that all the windows in Midlands Prison had recently been replaced. The Office of Inspector of Prisons has, in previous Death in Custody investigation reports and annual reports called for the replacement of all broken windows, so the replacement programme is welcomed. However, the Inspection Team observed that the windows emitted little light into the cells and that the airflow into the cells was minimal. The Inspection Team observed very poor ventilation in a cell occupied by two prisoners. The cell had no air coming in from the window, or through the vent. One prisoner reported difficulty with breathing in the cell at night because of the lack of ventilation in the cell.

The issue of ventilation was also highlighted in the COVID-19 Thematic Inspection report for Cloverhill Prison.<sup>21</sup> International human rights standards are clear. Rule 13 of the Mandela Rules states all accommodation provided for the use of prisoners, and in particular all sleeping accommodation, shall meet all health requirements with due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation. Rule 18.1 of the European Prison Rules states the accommodation provided for prisoners, and in particular all sleeping accommodation, shall respect human dignity and, as far as possible, privacy, as well as meet the requirements of health and hygiene, with due regard being paid to climatic conditions and especially to floor space, cubic content of air, lighting, heating and ventilation.

### *Treatment of Marginalised Groups*

Over the course of the three day on-site inspection, the Inspection Team received mixed reports about the treatment of marginalised groups in Midlands Prison. The Inspectorate was informed that a small

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<sup>21</sup> OIP. (2021) COVID-19 Thematic Inspection of Cloverhill Prison, p.18. <http://www.justice.ie/en/JELR/Pages/COVID-19-Thematic-Inspections-of-Prisons-2021>



number of prison officers misgendered a prisoner. In relation to Foreign National prisoners, one Foreign National prisoner stated, “Foreigners face a big, big issue in this prison,” while another prisoner stated that he was not treated differently and that, “when you’re new, they (prison officers) try to help you.” A prisoner who was a member of a minority group in the prison, reported that he had experienced discrimination in the prison and been told by prison staff not to speak about racism; he stated “I can’t have this mentality that I don’t matter.”

The issue of discrimination has been raised in relation to three previous COVID-19 Thematic Inspections, and is a matter of concern for the Inspectorate.<sup>22</sup>

### *Complaints System*

On observation, the availability of complaint boxes and complaint forms on the prison landings was lacking. Complaint boxes were only clearly visible to the Inspection Team in the National Violence Reduction Unit. This complaint box was located on the landing wall, where a prisoner would have to request the form from an officer and then return the form to an officer for submission, or place the form in the complaint box in the presence of an officer.

Many prisoners from the general prison population commented on their lack of faith in the complaints system. Prisoners stated that the complaint system was “open to intimidation” and that they could be put in situations where they felt compelled to withdraw complaints. Rule 70.9 of the European Prison Rules (2020), provides that “prisoners shall not be exposed to any sanction, retaliation, intimidation, reprisals or other negative consequences as a result of having submitted a request or complaint.”

### 2.5.1 Recommendation

**Recommendation 7:** In line with Rule 70.9 of the Revised European Prison Rules, and the need to ensure prisoners are able to submit a complaint without fear of reprisal, the Inspectorate encourages the Irish Prison Service to promptly replace the current complaints system that has been identified as unfit for purpose by this office over many years.

### 2.5.2 IPS Review

#### *2.5 Other Issues – Marginalised Groups*

*Earlier this year I wrote to all staff to remind them of their obligations in this regard. In 2020, the Service appointed its first Equality and Diversity Lead to advance a number of actions in this area. In March 2021, the Equality and Diversity Lead rolled out an Anti-racism awareness campaign via our Intranet Portal.*

*It is concerning that prisoners in Midlands Prison feel that they have been discriminated against and that some prisoners have reported a fear of speaking up in the prison. I have discussed these issue with the prison Governor. The Governor has advised that he will not tolerate a culture of discrimination in Midlands Prison and he will engage the appropriate resources to ensure that a culture of discrimination does not exist within the Midlands Prison.*

*I can advise that there are over 230 prisoners in custody at Midlands Prison who are either non-Irish or who identify as a Traveller and there were 3 complaints of discrimination recorded in the prison this year. The investigation into these complaints is ongoing.*

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<sup>22</sup> OIP. COVID-19 Thematic Inspection of Mountjoy Men’s Prison: 1 - 4 March 2021, 15 <https://www.oip.ie/wp-content/uploads/2021/08/Mountjoy-Prison-COVID19-Thematic-Inspection-Report-2021.pdf>; OIP. COVID-19 Thematic Inspection of Cloverhill Prison (n 21); OIP. (2021) COVID-19 Thematic Inspection of Cork Prison 31 May 2021 -1 June 2021, p. 25.

*I have referred the observations contained in the Report to our Equality and Diversity Lead for review with regard to identifying further actions that can be taken by the Service to address this issue. It is my intention to place a particular emphasis on this issue in 2022 and roll out a number of actions to raise awareness and ensure that all persons in custody are treated with dignity and respect.*

*To inform the work in this area it is intended to carry out an estate wide survey of prisoners to garner more information on their lived experiences of the Irish prison system and any experience of racism or discrimination. This will then inform what actions need to be taken in this regard.*

*It is also important that prisoners feel that they can raise issues of concern and make complaints without any fear of reprisal and that prisoners feel open to engage with your Office and other bodies including the visiting Committee so that they can raise issues of concern.*

*In addition, I have asked our Communications Team to work with your Office with regard to the development of an information and awareness campaign for broadcast on the Prisoner TV Channel and inclusion in the prisoner information literature to raise awareness of the role of the Office of the Inspector of Prisons and the process for contacting your Office should they wish to do so.*

## *2.5 Other Issues – Complaints System*

*(The Governor) has advised that seven complaints boxes are located on A1, B1, C1, C2, D1, E1 and G1. Prisoners pass these boxes at mealtimes and can submit complaints without being in the presence of an officer.*



## 3 SAFETY & SECURITY

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### 3.1 Impact of Staff Absences

At the time of inspection, Midlands Prison had experienced two COVID-19 outbreaks since March 2020. During the outbreak in February 2021, there were 47 COVID-19-staff related absences (12 February 2021) in Midlands Prison. On the week leading up to, and during inspection, there were five staff COVID-related absences (10 June 2021, 17 June 2021) in Midlands Prison.<sup>23</sup> Non-COVID-19 related staff shortages occurred in the Midlands Prison on a number of occasions, these shortages were exacerbated during the end of each quarter of the staffing roster.

#### 3.1.1 Compliance

The European Prison Rules 2020, Rule 83(a), requires that prison authorities ensure prisons are adequately staffed at all times in order to maintain a safe and secure environment and to meet requirements of national and international law. Rules 83(b) states that the prison authorities should introduce a system of organisation and management that are capable of withstanding operational emergencies and returning to ordinary standards at the earliest opportunity. Rule 83(c) states that prison authorities should facilitate, “proper co-ordination of all departments, both inside and outside the prison, that provide services for prisoners, in particular with respect to the care and reintegration of prisoners.”

With specific reference to the situation of COVID-19, the March 2020 CPT Principles provide that staff availability be reinforced and that staff should receive professional support (Principle 3).

The UN Common Position on Incarceration (2021) outlines that staff are the most valuable resource in the prison system:

An enhanced investment in the most important resource of the prison system, namely, its personnel, is crucial in this regard. Supporting an ethos and self-perception among prison officers, including senior management that they are not merely guards or wardens, but rather agents for change, can help to harmonize the legitimate security requirements with those of rehabilitation and reform.<sup>24</sup>

The SPT in its Follow-up Advice of the Subcommittee to State Parties and National Preventive Mechanisms relating to the Coronavirus Disease (COVID-19) Pandemic (2021) states that all prison personnel should be a priority in National Vaccination Programmes. Furthermore, the SPT advises Member States to:

Continue the systematic screening for COVID-19 symptoms of all persons entering any detention facility, including new inmates, personnel and visitors, as long as the pandemic continues.<sup>25</sup>

#### 3.1.2 Environment

Staff absences directly impact on the implementation of the Regime Management Plan (RMP) in the prison. The RMP, which is unique to each prison and agreed upon by the Irish Prison Service and the Prison Officer’s Association, sets out posts of priority to be covered in a prison to ensure the security of

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<sup>23</sup> Information provided to Office of the Inspector of Prisons, *IPS Status Updates*, as dated in text.

<sup>24</sup> United Nations (2021) *United Nations System Common Position on Incarceration*, p. 14 [https://www.unodc.org/res/justice-and-prison-reform/nelsonmandelarules-GoF/UN\\_System\\_Common\\_Position\\_on\\_Incarceration.pdf](https://www.unodc.org/res/justice-and-prison-reform/nelsonmandelarules-GoF/UN_System_Common_Position_on_Incarceration.pdf).

<sup>25</sup> SPT Follow-up Advice (n 10), Section 15(c).

the prison, safety of the staff and the safe custody of prisoners. The RMP outlines the priority of posts and services, and determines how and when prison officers need to be redeployed to provide escorts and cover other posts.

Senior Management provided the Inspection Team with a list of “COVID-19 extra posts” and changes to the RMP. These included:

- “An Assistant Chief Officer and seven officers on video calls on Sunday in order to facilitate family contact while visits were restricted.
- Two extra posts to facilitate drug counsellor meetings. Due to social distancing, drug counsellors were moved from the surgical area to the visits area.
- One extra prison officer on B1 to assist the Class Officer in the facilitation of pods (i.e., small groups of prisoners during unlock).
- Two Work Training Officer (WTO) Kitchen Posts (seven days a week from 8:00 to 17:00) with staggered meal breaks due to COVID-19.
- An extra post of Industrial Cleaning (sanitisation) 8:00 to 20:00, seven days a week as an additional infection control measure.
- An extra post of waste management reserve<sup>26</sup> every day as an additional infection control measure.
- An extra gym post for E and G wings Monday to Friday from 8:00 to 17:00 to enhance the regime activity.
- Four members of staff assigned to contact tracing for both prisoners and staff.
- Two posts on B, D, E, and G were not to be redeployed; this permitted extra activity for pods during out-of-cell time.”

Senior Management noted the strength of a drug called “spice” that was reportedly entering the prison through post. The Inspection Team was informed that an additional member of prison staff was allocated to the Censor’s Office to enable a total of two posts (officers) for the purposes of photocopying correspondence received by post. This additional allocated post had an opportunity cost with a negative knock-on effect for the operation of prisoner rehabilitative services.

### 3.1.3 Outcomes

On the first day of Inspection, Midlands Prison had a reduced staffing level, with 27 prison staff absences. There were three COVID-19-related absences (these individuals were either symptomatic or a close contact).

Senior Management explained the recurring issue of prison staff shortages at the end of each quarter. At the end of the quarter (14 and 15 June 2021), just prior to inspection, the allocation of staff in the prison was reduced by 40-50. Senior Management acknowledged that this had an adverse effect on the capacity to effectively deliver services to prisoners. The posts outlined in the RMP are impacted upon when there is an increase in staff absences, with activities and services for prisoners closed when staff are re-assigned to provide escorts or manage activities. The RMP has a post-based rather than task-based structure, which means that officers are assigned to a particular post in the prison rather than assigned tasks over the course of the day. At the end of every quarter, workshops and the school were reportedly closed.

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<sup>26</sup> The “reserve” period is a two hour period in the evening, approximately from 17:00 - 19:00.

At one point during the pandemic, the number of staff absences peaked at approximately 60. On another occasion (3 June 2021), the prison had 41 staff absences, which again impacted on service delivery to prisoners.

Senior Management acknowledged the impact of the “withdrawal of goodwill”<sup>27</sup> by prison staff in April 2021. The prison experienced a slowdown of staff entering the prison at the main gate and also disruptions to the education service.

The impact of staff absences in Midlands Prison existed prior to the COVID-19 pandemic, and at points was exacerbated by COVID-19 related absences.

### 3.1.4 Recommendation

**Recommendation 8:** In line with Rule 83 (a) of the European Prison Rules, the Irish Prison Service must ensure that the management of prisons is done in such a way as to ensure prisons are adequately staffed at all times to meet a safe and secure environment and to effectively deliver on the provision of services.

## 3.2 Social Distancing

In April 2020, the Irish Prison Service Staff Newsletter, “COVID-19: What It Means for Prison Staff” focused on the need for staff to enforce social distancing. The Newsletter suggested the following “practical ways of social distancing”:

- Avoid the canteen if you cannot sit 2 meters apart from others
- Avoid crowded rooms / busy areas particularly at popular times e.g. locker rooms
- In an office environment, re-arrange the furniture so you don’t directly face others
- Drive your own car to work
- Smoke on your own or stop smoking
- Politely ask others not to invade your space

Despite the Irish Prison Service efforts to implement social distancing in prisons, prisons are a difficult context in which to physically distance. Prisons are often overcrowded, poorly ventilated, and with limited space and resources, prisoners must share phones, showers and common areas.<sup>28</sup> Similarly, prison staff may share small offices and locker rooms, and eat in common areas. While social distancing is recognised as the most effective way to prevent transmission of COVID-19, it is not practicable at all times in the prison context; additional measures such as proper use of PPE and improved sanitation and hygiene practices are needed.

### 3.2.1 Compliance

Given that it is not always possible to implement social distancing in prison settings, the World Health Organization recommends the continuous use of a medical mask for prison staff when making contact with detainees at distances of less than one metre, during security and health checks, and during

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<sup>27</sup> Prison Officers “Withdraw Goodwill” in Dispute over COVID-19 Vaccine (16 April 2021) The Irish Times, <https://www.irishtimes.com/news/crime-and-law/prison-officers-withdraw-goodwill-in-dispute-over-covid-19-vaccine-1.4539388>

<sup>28</sup> S. A., Kinner, et al, “Prisons and Custodial Settings are Part of a Comprehensive Response to COVID-19” (2020) 5 *Lancet Public Health*, e188-189.

transfer of COVID-19 cases to other prisons or hospitals. WHO guidance on management of masks<sup>29</sup> includes the following:

- Perform hand hygiene before putting on the mask.
- Inspect the mask for tears or holes, and do not use a damaged mask.
- Place the mask carefully, ensuring it covers the mouth and nose, adjust to the nose bridge, and tie it securely to minimize any gaps between the face and the mask. If using ear loops, ensure these do not cross over as this widens the gap between the face and the mask.
- Avoid touching the mask while wearing it. If the mask is accidentally touched, perform hand hygiene.
- Remove the mask using the appropriate technique – untie it from behind, avoiding touching the front of the mask.
- Replace the mask as soon as it becomes damp with a new clean, dry mask.
- Either discard the mask or place it in a clean plastic re-sealable bag where it is kept until it can be washed and cleaned. Do not store the mask around the arm or wrist or pull it down to rest around the chin or neck.
- Perform hand hygiene immediately after discarding a mask.
- Do not reuse single-use mask.
- Discard single-use masks after each use and properly dispose of them immediately upon removal.
- Do not remove the mask to speak.
- Do not share your mask with others.

In terms of hand hygiene and the need to prevent the spread of COVID-19, the Health Service Executive in conjunction with the WHO and the Center for Disease Control and Prevention<sup>30</sup> recommends the following etiquette to be observed:

1. Wet your hands with warm water and apply soap.
2. Rub your hands together palm to palm until the soap forms a lather.
3. Rub the back of one hand with your palm and fingers spread so you wash between fingers. Repeat with the other hand.
4. Interlock the top of your hands and rub your fingertips - this cleans your fingertips and knuckles.
5. Then finally grasp your thumb tightly and twist to make sure your thumbs are cleaned. Repeat with the other hand.
6. This should take at least 20 seconds.
7. Rinse your hands under running water.
8. Dry your hands with a clean towel or paper towel.

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<sup>29</sup> World Health Organization, "Preparedness, Prevention and Control of COVID-19 in Prisons and Other Places of Detention Interim Guidance" (8 February 2021) 25-27.

<sup>30</sup> Center for Disease Control and Prevention, "Show Me the Science - How to Wash Your Hands" (9 December 2020) and can be accessed here (<https://www.cdc.gov/handwashing/show-me-the-science-handwashing.html>)

The United Nations (2020) highlighted the difficulties in achieving physical distancing in prisons and recommended that options for release and alternatives to detention should be available to mitigate risk of COVID-19 for the elderly, particularly those with underlying health conditions.<sup>31</sup>

Furthermore, the SPT (2021) urges States to consider the needs of particular groups:

Strengthen the efforts to consider the particular needs of women, juveniles, persons with disabilities, and LGBTIQ+ persons deprived of liberty, and since the pandemic exacerbates their vulnerability, assess the possibility of alternatives to detention.<sup>32</sup>

Given the challenges that arise in confined settings, and the need to ensure safety and social distancing throughout the prison estate, a continued reduction in general prison population numbers is fundamental. As highlighted by the United Nations in its (2021) Common Position on Incarceration:

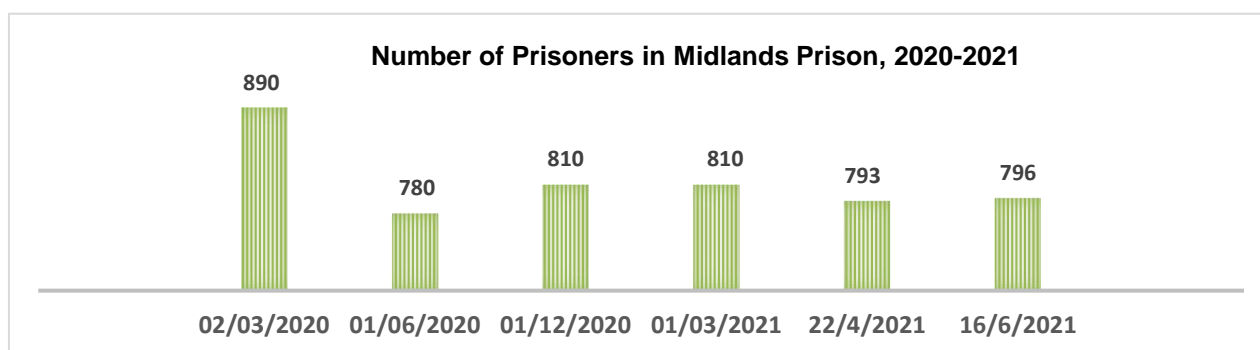
The post COVID-19 recovery will provide an important opportunity for criminal justice systems to address their chronic shortcomings and engage in holistic prison reform. Building on the emergency initiatives adopted by Member States, which have authorized the release of at least 700,000 prisoners globally, a concerted effort is needed to fully implement these results in a sustainable manner and to urgently rethink the overuse of incarceration.<sup>33</sup>

The SPT in its Follow-up Advice of the Subcommittee to State parties and National Preventive Mechanisms relating to the Coronavirus Disease (COVID-19) pandemic (2021) advised States to: “Continue efforts to reduce the prison population by pursuing policies such as early release, parole and non-custodial measures.”

### 3.2.2 Environment

Since the start of the pandemic, the population of prisoners in Midlands Prison has decreased, with a total reduction of 10.6% between 2 March 2020 and the first date of the inspection, 16 June 2021 (Figure 4).<sup>34</sup>

**Figure 4: Prisoner Numbers in Midlands Prison, 2020-2021**



Reduction in prison numbers reduces the number of people cell-sharing, which in turn minimises the risk of COVID-19 transmission, and enables prisoners to practice social distancing. The Inspectorate welcomes the overall reduction of the numbers of people in Midlands Prison, and would like to see this trend continue. Signage, such as social distance floor markings, was visible in the reception area of the

<sup>31</sup> United Nations (2020) Policy Brief: The Impact of COVID-19 on Older Persons, p. 7 <https://www.un.org/development/desa/ageing/wp-content/uploads/sites/24/2020/05/COVID-Older-persons.pdf>

<sup>32</sup> SPT Follow-up Advice (June 2021) (n 10).

<sup>33</sup> UN Common Position on Incarceration (2021) (n 24).

<sup>34</sup> IPS Statistics, 2020 Prison Population: <https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/>; IPS Prison Statistics, 2021 Prison Population: <https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2021-prison-population/>

prison and was generally good throughout common areas of the prison. The Inspection Team observed full and well-placed hand sanitiser dispensers across the prison.

Senior Management reported that the Staff Parade, which would normally be held daily in the prison, had been suspended due to COVID-19; this was a measure taken to limit interactions across prison staff. Staff were divided into six units (one per division). This policy aimed to reduce the potential of infection. As noted above (Section 2.2.2), staggered meal times were implemented for prison staff in order to reduce the number of prison staff using the mess at any one time.

### 3.2.3 Outcomes

As the largest prison in Ireland, Midlands Prison has overcome significant challenges in managing and responding to COVID-19. At the time of inspection, there had been two COVID-19 outbreaks in the prison. In total, there were 22 COVID-19 positive cases among the prisoner population. Of these, 16 were in the general population and six were detected upon committal. Given that prisons are inherently challenging places in which to prevent transmission of COVID-19, and that Midlands Prison has a significant population of elderly prisoners with disproportionate levels of healthcare needs, Midlands Prison should be recognised for its achievement in protecting prisoners from the virus in a congregated setting with approximately 800 persons in custody on any given day. There were no COVID-19-related hospitalisations or deaths among the prisoner population in Midlands Prison.

One of the positives during the COVID-19 pandemic, which was remarked on by Senior Management, has been the reduction in prisoner numbers. There were 796 people in Midlands Prison on the first day of inspection, which compared against a population of 870/880 prior to COVID-19.

Senior Management informed the Inspection Team that no person over the age of 50 had been released on temporary release throughout the COVID-19 pandemic.

A reduction in prisoner numbers is essential to provide for the safety of prisoners to maintain a distance in various common areas, while also allowing prisoners to continue to engage in rehabilitative activities (e.g., school, work, and training), an essential purpose of imprisonment.

### 3.2.4 Recommendation

**Recommendation 9:** The Inspectorate recommends that the Irish Prison Service engages with the Department of Justice to maximise all opportunities available for reducing the prison population. The reduction in prison numbers reduces the number of people cell-sharing, minimises the risk of COVID-19 transmission, and enables prisoners to practice social distancing.

*OIP Comment: The Inspectorate has recommended in the Mountjoy Men's Prison, Cloverhill Prison, Wheatfield Prison, Portlaoise Prison, Shelton Abbey, Arbour Hill Prison and Cork Prison COVID-19 Thematic Inspection reports that the Irish Prison Service engage with the Department of Justice to maximise all opportunities to reduce the prison population. This recommendation was accepted on all occasions, with the Irish Prison Service indicating partial acceptance in relation to the Cloverhill Prison report, citing the fact it is a remand prison with little control or input into prisoner numbers.*

## 3.3 Other Issues

At the outset of the on-site inspection, Senior Management brought to the attention of the Inspection Team an incident that had occurred in the prison three days prior to the on-site inspection visit. The Inspection Team was informed that 28 prisoners had refused to come in from the yard, and that attempts

at de-escalation were made but were unsuccessful; this then led to the application of Control and Restraint techniques.

During the second day of the on-site inspection, a small number of prisoners raised this issue with the Inspection Team. Prisoners described the incident as a peaceful protest centred on access to in-person family visits. Prisoners reported that they were aware of the relaxation of COVID-19 restrictions in the community and that the restrictions in the prison did not align with the easing of community restrictions. A small number of prisoners alleged physical ill-treatment by prison staff during the incident. Healthcare records demonstrated that prisoners were seen by nursing and medical staff.

The occurrence of this incident was demonstrative of a growing unrest among prisoners in relation to the prolonged duration of COVID-19 restrictions, in particular the impact on the right to family life, which is further examined in Section 4.2. It is also indicative of the need to ensure an enhanced level of information provision and communication exchange with prisoners in order to alleviate tensions.

### 3.3.1 IPS Review

#### 3.3 Other Issues (Peaceful protest)

*The incident referred to followed the refusal of a small number of prisoners to respond to the lawful orders issued by prison staff to return to their accommodation and vacate the prison yard. I note that the Reports states that some prisoners have alleged “physical ill-treatment by staff” during this incident.*

*Under the Prison Rules 2007, (Schedule 1, Breach of Prison Discipline No. 1) it is a breach of prison discipline for a prisoner to fail to comply with any lawful order issued by the governor or prison staff. In such circumstances staff are trained in, and use, conflict resolution techniques and every effort is made to resolve such matters without the use of physical force.*

*The Governor has advised that, following the continued refusal of prisoners to comply with the lawful order of staff, a decision was taken, having exhausted all efforts to get the prisoners to return to their cells voluntarily, to use physical force and the application of control & restraint techniques. The Governor has stressed that all other efforts to de-escalate this incident were unsuccessful.*

*It should be noted that in management’s opinion, the incident was primarily due to action taken by management to prevent illicit substances reaching the general prison population, including a measure introduced to control the risk of psychoactive substance entry to the prison. This involved the photocopying of prisoner correspondence.*

*As noted in the action plan, Midlands Prison has since introduced the Ion Scanner, which reduces need to photocopy incoming post to prisoners. The Prison also continues to unwind Covid-19 measures in line with Irish Prison Service guidelines.*



## 4 HEALTH & WELLBEING

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### 4.1 Access to Healthcare

Over the course of the pandemic, access to healthcare in Midlands Prison has largely mirrored the situation in the general community, with medical appointments and procedures being delayed or cancelled. In assessing access to healthcare, the Inspection Team examined the impact of COVID-19 on services provided to prisoners.

#### 4.1.1 Compliance

Underpinning healthcare provision in the prison setting is the Principle of Equivalence. The CPT Standard on Health Care Services in Prisons mandates that “a prison health care service should be able to provide medical treatment and nursing care, as well as appropriate diets, physiotherapy, rehabilitation or any other necessary special facility, in conditions comparable to those enjoyed by patients in the outside community.”<sup>35</sup> The Principle of Equivalence operationalises the principle of non-discrimination, as enshrined in the Mandela Rules, Rule 2:

In order for the principle of non-discrimination to be put into practice, prison administrations should take account of the individual needs of people in prison, in particular the most vulnerable. Measures to protect and promote the rights of people in prison with special needs are required and should not be regarded as discriminatory.

The risk of torture or ill-treatment increases for older persons in places of detention due to their deteriorating health and mobility, high prevalence of psychosocial disabilities and cognitive impairment including dementia-related conditions, as well as any individual risk factors. The European Court of Human Rights has considered the potential human rights impact of prolonged detention of older persons in prison. The Court has noted that age, in conjunction with other factors, such as health, may be taken into account when a sentence is determined or while a sentence is being served. The Court has determined breaches of Article 3 of the European Convention on Human Rights (No one shall be subjected to torture or to inhuman or degrading treatment or punishment) in instances where elderly prisoners with health issues were held in conditions of detention that were inconsistent with the specific healthcare needs of the prisoner.<sup>36</sup>

Ireland is obliged under Article 12 of the International Covenant on Social, Economic and Cultural Rights (ICESCR) to recognise the right of everyone to the highest standard of physical and mental health:

The States Parties...recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

As highlighted by the CPT (2020) in its Statement of Principles relating to the Treatment of Persons Deprived of their Liberty (Principle 6) in the Context of the Coronavirus Disease (COVID-19) Pandemic: “detained persons should receive additional psychological supports from staff at this time.”<sup>37</sup>

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<sup>35</sup> CPT Standard on Health Care Services in Prisons (1993) CPT/Inf(93)12-part <https://www.refworld.org/pdfid/4d7882092.pdf>

<sup>36</sup> *Farbtuhs v. Latvia* (2004) European Court of Human Rights, 4672/02 (§§ 56-61) and *Contrada v. Italy* (no 2) (2014) European Court of Human Rights, 7509/08 (§§ 83-85).

<sup>37</sup> CPT Statement of Principles relating to the Treatment of Persons Deprived of their Liberty in the Context of the Coronavirus Disease (Covid-19) Pandemic (20 March 2020) CPT/Inf (2020)13, <https://rm.coe.int/16809cfa4b>.



One of the basic principles (Principle 4) of the Revised European Prison Rules (2020) states: "Prison conditions that infringe prisoners' human rights are not justified by lack of resources."

According to the Council of Europe, healthcare in prisons should be preventive (e.g., prevention of the spread of transmissible diseases and the promotion of mental health support).<sup>38</sup>

The guidance from the UN Subcommittee on Prevention of Torture's Follow-up Advice (June 2021), states: "Include in the national vaccination programme, with priority, all persons deprived of liberty, all personnel, including medical, security, social, administrative and other personnel, of places of deprivation of liberty and staff of the national preventive mechanism." Further, the SPT Protocol for National Preventive Mechanisms undertaking On-site Visits during the Coronavirus Disease (COVID-19) Pandemic, reiterates a key message: "The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and they should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status."<sup>39</sup>

A key observation made by the United Nations in relation to post COVID-19 recovery was the need for States to address challenges associated with imprisonment including that coordination between justice and health sectors should be key to "build back better."<sup>40</sup>

#### 4.1.2 Environment

##### *General Healthcare*

At the time of inspection, there was one full-time permanent doctor, one full-time locum doctor and a part-time locum doctor assigned to the prison. The full-time locum doctor was allocated to cover patients in E and G wings (elderly men who had higher levels of medical need were accommodated on these landings). The permanent full-time doctor and part-time locum doctor were assigned to patients on A, B, C and D wings (the part-time locum doctor was on sick leave at the time of inspection). A permanent full-time doctor, who replaced the locum full-time doctor, commenced working on E and G wings the week following the inspection (Monday 21 June 2021).

The nursing team operated using a triage system. In total, there were 21 full-time nurses and 11 posts to be covered each day. There was one nurse on night-time duty. There were also six care assistants allocated to Midlands Prison E and G wings.

The prison is to be commended for the introduction of tele-hospital consultation rooms during the pandemic. This initiative facilitated prisoners' virtual access to hospital consultations that would otherwise not have taken place.

##### *Psychology and Addiction Counselling Services*

The Inspectorate was informed by the Irish Prison Service Head of Psychology Services that Midlands Prison was one of the most challenging locations in which to fill psychologist posts. There had been 24 psychologists employed in Midlands Prison over the past eight years, and of these, only four remained in post at the time of the inspection visit. However, the Inspection team were informed that another psychologist was due to vacate their position soon. The majority of psychologists had either left the

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<sup>38</sup> Council of Europe (2019) *Organisation and Management of Healthcare in Prison*, <https://rm.coe.int/guidelines-organisation-and-management-of-health-care-in-prisons/168093ae69>

<sup>39</sup> Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), Protocol for National Preventive Mechanisms undertaking On-site Visits during the Coronavirus Disease (COVID-19) Pandemic\* (June 2021) <https://www.ohchr.org/EN/HRBodies/OPCAT/Pages/AdvicesToNPMS.aspx>

<sup>40</sup> UN Common Position on Incarceration (2021) (n 24).

service and sought a post with the Health Service Executive, or had transferred to other prisons in Dublin.

The Inspection Team was informed that three assistant psychology posts were due to be filled in Midlands Prison from August 2021. These allocated posts were to be designated to work with prisoners eligible for primary mental healthcare in the community and those who were within the 18 - 24 year old cohort and who would not have post-release supervision from the Probation Service.

According to a report commissioned by the Irish Prison Service, the recommended ratio for clinical psychology is 1:150.<sup>41</sup> At the time of inspection, there were approximately 400 prisoners on the waiting list to access psychology services. The waiting list for triage was approximately six to 18 months. The Inspectorate was informed that Midlands Prison had the longest waiting list (up to two years) in the prison estate.

At the time of the Inspection, the Inspectorate was informed that there was one consultation facility for four wings (A, B, C and D). The rooms that were previously used by psychologists were now being used to accommodate video calls with prisoners' families, which created logistical challenges. Prior to the pandemic, one consultation room could accommodate five prisoners a day (three in the morning and two in the afternoon). During the pandemic, and as a result of reductions in out-of-cell time and the limited availability of space, two people could be seen by a psychologist in the morning, and a maximum of two people could be seen in the afternoon.

At the time of inspection, there were two Merchants Quay addiction counsellors allocated to Midlands Prison. This was two addiction counsellors for nearly 800 prisoners.

#### *COVID-19 Healthcare*

At the time of the Inspection, Midlands Prison operated under the 30<sup>th</sup> version of the "*IPS Risk Assessment for People Presenting to and in Prisons - Clinical Criteria for Prisoner(s) to be Tested.*" The algorithm outlines the criteria as follows:

1. A prisoner with acute respiratory infection - sudden onset of at least one of the following: cough, fever, Shortness of breath (SOB). Consider other aetiology that may explain the clinical presentation. If general population only 1 swab is required on symptom onset; OR
2. Special consideration should be made for atypical presentations, particularly in our high risk prison population. Vigilance is required for the following: Loss of sense of smell or taste, Fever, Cough, SOB, lethargy, confusion, loss of appetite, unexplained change in baseline condition. If general population only 1 swab is required on symptom onset; OR
3. A prisoner who has been identified as a close contact of a confirmed case must be tested on Day 0 (Day the index case gets a positive result) AND Day 7 (8 days after last exposure to the index case) - (if day 0 and day 7 are within 24 hours only 1 test is required on Day 7)  
All close contacts must remain in isolation for 14 days inclusive even if they return 2 negative results; OR
4. All new committals (N/C) must be tested on Day 7 (8th day in custody); OR
5. If symptomatic N/C test on day of symptoms onset and Day 7 (*if within 24 hours of each other test on Day 7*); OR

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<sup>41</sup> JF Porporino, "New Connections" Embedding Psychology Services and Practice in the Irish Prison Service. (Dublin: Irish Prison Service, 2015) [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/New-Connections-Report-2015.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/New-Connections-Report-2015.pdf)

6. All new committals returning from outside the island of Ireland - Swab Day 1 and Day 10 (remain in isolation 14 days).

In the event that a prisoner received a positive COVID-19 result, they were required to isolate in their cell for a minimum of ten days. According to the risk assessment algorithm, in the last five days the individual should be free from any symptoms of COVID-19. If a prisoner (non-committal) received a negative result, isolation was stopped once they had been asymptomatic for 48 hours.

Healthcare management informed the Inspection Team that prisoners had been provided with the HSE COVID-19 vaccination booklet. At the time of inspection, Healthcare Management had informed the Inspection Team that 57 prisoners had been vaccinated. Of these 50 were aged-based vaccinations and seven vaccinations related to persons with underlying medical conditions. For those aged over 70, vaccinations in Midlands and Arbour Hill occurred on the 31 March 2021 (1<sup>st</sup> dose) and 28 and 29 April 2021 (2<sup>nd</sup> dose). The National Ambulance Service vaccinated these prisoners.

### 4.1.3 Outcomes

#### *General Healthcare*

At the time of inspection, the Inspection Team spoke with prisoners who reported having varying unmet healthcare needs and difficulties in accessing a General Practitioner.

*“Access to healthcare is ridiculous.”*

*“Healthcare worst I’ve ever experienced in my life.”*

*“Unless I was pregnant or dying you won’t see a doctor.”*

One prisoner stated that he was waiting to see a doctor for over 15 months. Another said he had been waiting to see a doctor every Wednesday for the past two and a half months.

There were also reported delays in accessing surgical medical appointments. One prisoner reported that he had been awaiting surgery for the past four months. Another prisoner stated: “[it] keeps getting put back during COVID.” While another man stated: “two years waiting for an operation.”

On the first day of inspection, the Inspection Team met with a man who reported he had recently had surgery. He reported that he had not seen a doctor in the two weeks following his return to prison. The Inspection Team requested a check of the healthcare interactions recorded on the Prisoner Health Management System (PHMS). Although the prisoner had been seen by a nurse each day, he had been on the waiting list to see the doctor since his return from hospital. In the presence of the Inspection Team the doctor was contacted and was requested to review the prisoner.

The Inspection Team met with a prisoner who reported ongoing health issues and that he had not been seen by the doctor despite numerous attempts made to put his name on the list. The Inspection Team checked and verified this information with healthcare management. The patient had been recorded as on the waiting list to see a doctor on seven occasions. The reasons the doctor did not see the patient on five of these occasions was recorded on the healthcare management system as “out-of-time.” On the other two occasions, it was recorded as “out of time-no GP.”

Access to a doctor appeared to be a significant issue for prisoners on particular landings. In situations where patients on the allocated wings for review by a doctor on Mondays and Tuesdays were not seen, this had a knock-on effect on the number of patients seen by a doctor on landings allocated to Wednesdays and Thursdays. It was explained to the Inspection Team that while nurses put the names of prisoners on the list to see a doctor, it was the doctor who selected who they prioritised on the day.

The Inspection Team was informed that situations could arise where an appointment may not be rescheduled by a doctor if the prisoner was not seen on the scheduled day.

On 10 June 2021 there were 66 people on the list to be seen by a doctor. Of these, 27 were on the landing allocated for that day, and the remainder were carryover of persons on the list for previous days who had not been seen. 30 prisoners were seen – some were for repeat prescriptions, 20 were recorded as “out of time – no locums” 16 files were blank, i.e. not seen by a doctor but no reason given. In summary 36 prisoners on the list to be seen by a doctor on that day were not reviewed. Access to a doctor was raised by prisoners on C wing in particular.

A member of medical staff indicated that challenges arose in attending to the high numbers of patients on the waiting list to see a doctor given the limited number of medical staff allocated to Midlands Prison and the administrative duties required of medical staff.

It was prison practice for committal prisoners, those in quarantine, and patients in Special Observation Cells to be prioritised by the doctor.

In relation to access to other healthcare services, there were 56 prisoners on the waiting list to see an optician. One prisoner reported a four to five month delay in seeing a dentist. The dental records on the PHMS indicated there were three prisoners on the waiting list to see a dentist.

Senior management in the Prison informed the Inspection team that a substantive post of GP (in place of a Locum position) was commencing on 21 June 2021. In addition, a meeting with the Director of Clinical Care, National Nurse Manager, General Practitioners and Chief Nurse Officer was scheduled to convene on 24 June 2021. The Inspectorate awaits publication of the Health Needs Assessment of the Irish Prison Service.<sup>42</sup> This Assessment is necessary to ensure that adequate healthcare resources are in place to meet the needs of the prisoner population and to determine if any further provision of resources is required in Midlands Prison.

#### *Psychology and Addiction Counselling Services*

The toll of the COVID-19 pandemic on the mental health of prisoners was reported to the Inspection Team numerous times. Prisoners stated:

*“It’s heavy on the mental health.”*

*“I’m feeling like two sentences, a prison inside a prison.”*

*“This is like double prison.”*

*“You feel alone.”*

*“Everything’s a waiting list.”*

*“I feel like there’s no help out there.”*

Illicit drug use was described as a significant issue on the landings where prisoners stated they had “nothing to lose.” One prisoner reported that the use of tablets was “way worse” during COVID-19. Prisoners engaged with addiction counsellors reported positive experiences, but also had the view that more access to addiction services for prisoners was needed.

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<sup>42</sup> Department of Justice, Parliamentary Question 115, 13 June 2019, <http://www.justice.ie/en/JELR/Pages/PQ-13-06-2019-115>.

## COVID-19 Healthcare

At the time of inspection (16 - 18 June 2021), the Inspection Team was informed that 57 prisoners in Midlands Prison had been vaccinated. Of these, 50 were aged-based vaccinations and seven were prisoners who had underlying medical conditions. On 10 June 2021, the Irish Prison Service commenced roll-out of the vaccination programme for all prisoners and prison staff under the age of 40.

Table 3 provides information received post-inspection visit on the uptake of the roll-out of the COVID-19 vaccination programme for prisoners in Midlands Prison.

**Table 3: Roll-out of Vaccination of Prisoners in Midlands Prison**

Dates	Numbers (%) Vaccinated	Numbers (%) Declined
28 and 29 June 2021 (1 <sup>st</sup> dose)	663 (90%)	83 (10%)
26 and 27 July 2021 (2 <sup>nd</sup> dose)	669 (97.9%)	15 (2.1%)

The Inspectorate has recommended in previous COVID-19 Thematic Inspection reports that the Irish Prison Service continue ongoing efforts to advocate for the prioritisation of COVID-19 vaccinations for people living and working in prisons. The Inspectorate welcomes the rollout of the vaccination programme, and commends the Irish Prison Service in its efforts to ensure people in prison receive the COVID-19 vaccination in accordance with the Principle of Equivalence and HSE eligibility guidelines.

In order to ensure completion of the vaccination programme for prisoners due for release, information was provided to the HSE which would enable administration of the second dose; prisoners provided consent to share their information. The Irish Prison Service provided the HSE with a list of impending releases on the day of vaccination; this enabled follow-up upon release. A member of prison staff reported to the Inspection Team that in certain cases where prisoners contracted COVID-19, no information was provided to their families on the outside: “No one had contacted their families when they had contracted COVID-19.”

The Inspectorate recommended across the first six COVID-19 Thematic Inspection reports in relation to Mountjoy Prison, Cloverhill Prison, Wheatfield Prison, Limerick Prison, Shelton Abbey and Portlaoise Prison that prisoners should be provided with their COVID-19 test results in writing; the Irish Prison Service has not accepted this recommendation in response to each of the above-mentioned reports. As such, while the Inspectorate remains of the position that prisoners should be provided their COVID-19 test results in writing, it has determined it will no longer make this recommendation.

### 4.1.5 Recommendation

**Recommendation 10:** The Inspectorate recommends that Midlands Prison and the Irish Prison Service take measures to reduce healthcare waiting lists and to ensure effective scheduling and timely access to a doctor for all prisoners.

## 4.2 Family Contact

Contact with family members and friends is essential to the health and wellbeing of people in prison. As part of the inspection of Midlands Prison, the Inspection Team assessed the impact of restrictions

on family contact, in particular the loss of in-person visits. The Inspectorate also examined how the Irish Prison Service has compensated for the loss of family contact.

#### 4.2.1 Compliance

In response to the need to prevent transmission of COVID-19 in prisons the Irish Prison Rules 2007-2017 were amended in 2020 to include Rule 36A. Rule 36A places a restriction on implementation of Rules 35 and 36 as a means to prevent the transmission of infectious disease in prisons. Rule 35 includes provisions for ordinary visits whereby convicted adult prisoners are entitled to receive not less than one visit from relatives or friends each week of not less than 30 minutes duration. For unconvicted prisoners, the visit entitlement under Rule 35 is one visit per day from relatives or friends of not less than 15 minutes in duration on each of six days of the week, where practicable, but in any event, on not less than on each of three days of the week. Rule 36 provides for the regulation of visits, including provisions on the designation and searching of visitors, visits from legal representatives and visits for foreign nationals. The 2020 Amendment to the Rules, under 36A, permit the Director General (36A(1)) or the Governor, subject to any direction made by the Minister or Director General (36A(2)) to suspend the entitlement to visits or restrict or modify the entitlement to visits under Rule 35, as regards frequency, duration and arrangements, particularly in relation to the number and age of visitors permitted to make visits, for a specified period or periods. The lack of a sunset clause for the newly added Rule 36A is of concern to the Inspectorate.

Given the restrictions imposed by Rule 36A of the 2020 Amendment to the Prison Rules, there exists an obligation for the Irish Government and the Irish Prison Service to ensure that COVID-19 related restrictions have a legal basis, are necessary, proportionate, respectful and restricted in time (CPT Principle 4).

Rule 43 of the Irish Prison Rules 2007-2020 entitles a prisoner to send letters to his or her family or friends, and to receive as many letters as are sent to him or her by his or her family or friends. Rule 46.4 of the Irish Prison Rules states that unconvicted prisoners are entitled to no less than five telephone calls per week to a friend or family member.

Article 8.1 of the European Convention on Human Rights provides that “Everyone has the right to respect for his private and family life, his home and his correspondence.”

Children who have a parent in prison are also independent rights holders. Under Article 9.3 of the UN Convention on the Rights of the Child, it states:

States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child’s best interests.

Rule 58.1 of the Nelson Mandela Rules states that prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals by corresponding in writing and using, where available, telecommunication, electronic, digital and other means.

The European Prison Rules 2020, Rule 24.1, provide that prisoners shall be allowed to communicate as often as possible by letter, telephone or other forms of communication with their families, other persons and representatives of outside organisations and to receive visits from these persons. Rule 24.5 states that prison authorities shall assist prisoners in maintaining adequate contact with the outside world and provide them with the appropriate welfare support to do so.

In May 2021, the CPT published its “Minimum Decency Threshold.” This threshold provides for “regular possibilities to remain in contact with the outside world” for prisoners.<sup>43</sup> The CPT welcomed the increasing availability of in-cell telephones and secure prison mobile phones, as well as internet-based solutions to enable prisoners to maintain family contact.

In June 2021, the SPT advised member states to: “Improve the environment in areas of quarantine inside places of deprivation of liberty so that they do not correspond to places of solitary confinement, and compensate for the social isolation by using any means to improve social and family contact.”

#### 4.2.2 Environment

On 30 June 2021, the Inspectorate was provided with information by the Irish Prison Service on the restoration of prison visits. As part of the unwinding of prison restrictions, the Irish Prison Service planned for the resumption of visits on 5 July 2021. However, this date was revised by the Irish Prison Service for Midlands Prison following infection control advice it received regarding the Delta variant. Visits resumed seven days after the second vaccination dose was administered to prisoners, 3 August 2021.

Guidelines for the re-introduction of prison visits included:

- One physical visit per fortnight for a 15-minute duration
- A maximum of two visitors: one adult and one child
- One video call per fortnight of 20-minutes duration (the physical visit will not take place on the same week)
- Or two video calls per fortnight of 20-minutes duration

The Irish Prison Service permitted an extended prison day to facilitate visits from 9.30; concluding no later than 19.00, seven days a week. The scheduling of visitation times was to be determined by each prison, taking into account local infrastructure.

The Irish Prison Service allocated a 45-minute period for each visit in order to facilitate (i) movement of the prisoner, (ii) the 15-minute visit and (iii) cleaning after each visit. Visitors would be subjected to screening in line with COVID-19 guidelines.

Neutral venue visits were not carried out throughout the pandemic.

#### *Incoming Mail*

In advance of the on-site inspection, the Inspection Team was provided by Senior Management with a *Prisoner Notice on Incoming Mail*. This notice outlined, that as of 16 January 2021, and as a result of COVID-19-related external delays with personal mail and newspapers being issued to prisoners, a new system for postal communications was to be introduced in the prison. The system allowed for inward personal prison communications, where communications from partners, friends and families are sent to an email and then printed off and distributed to prisoners. The new postal communications procedure did not apply to correspondence under Rule 44.

At the time of the on-site inspection, incoming mail from family and friends was being photocopied and distributed to prisoners. Prisoners did not receive original copies of artwork, photographs or letters. The Inspection Team was informed by Senior Management that this measure had been introduced to prevent admission of drugs into the prison.

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<sup>43</sup> CPT Minimum Decency Threshold (n 13)



### 4.2.3 Outcomes

#### *Visits*

Senior Management and prisoners reported an incident to the Inspection Team that occurred in the days prior to the on-site inspection (Section 3.3). Prisoners reported to the Inspection Team that the focus of the incident had been a peaceful protest to advocate for the return of in-person visits. Prison staff expressed their understanding of the frustrations felt by the prisoners. One member of staff stated, “Visits, phone calls and letters are the only three life lines a prisoner has.” Many prisoners spoke about the importance of family visits: “We need our visits back.”

In relation to the unwinding of restrictions and the re-introduction of visits for a 15-minute period during the summer of 2020, prisoners explained that the screens and masks inhibited the visit experience and that prisoners were not as likely to book a visit with these measures in place. The restriction on the number of children allowed to visit their parent in prison was a particular concern, with one prisoner stating: “How can I just choose one of the kids?”

Senior Management cited a new pilot initiative with *New Directions*, a support service for families of prisoners, starting in the Midlands Prison from September 2021. It aims to offer free, confidential information and provide emotional support for families and the challenges they experience.<sup>44</sup> The Inspectorate welcomes this initiative which is even more vital given the prolonged impact COVID-19 restrictions have had on family life and reunification.

The Inspectorate notes the strong desire of prisoners to see the *full* return of in-person visitation. The Inspectorate acknowledges that the restriction on in-person visitation was introduced to protect the lives of prisoners. However, this measure should always be balanced against the principles of proportionality and necessity, and take into account due consideration for the right to family life and privacy (ECHR, Article 8).

#### *Video Calls*

Video calls were used as a substitute for in-person visits during the pandemic. Information provided by Senior Management indicated there were approximately 415 video calls a week. Of these, the average number of successful video calls was 78%, with 22% of video calls (on average) being unsuccessful.

Prisoners raised some technology issues related to the video calls. For example, the auto-generated message sent out to families the night before a video call often went to the recipient’s spam box. However, many prisoners expressed appreciation for video calls stating that they were “superb”, “great, get to see the kids” and “you get to see your house.” On the other hand, some prisoners found it difficult to use video calls: “It would be upsetting almost to see them and not touch them,” “rather not see them at all” and “not to hold me grandson; that hurts.” One prisoner reported difficulties in seeing their families due to the small size of the screen: “I have to put the glasses on to see it.”

While it was clear from prisoners that video calls were hugely beneficial during the pandemic, these were no substitute for in-person family contact. A number of prisoners informed the Inspection Team that the lack of in-person visits had negatively impacted on their relationships with family. One man stated, “my relationship is after going on the rocks, this is going to break families” and another stated, “you try and keep a relationship going for four minutes a day.”

One prisoner in the National Violence Reduction Unit (NVRU) suggested that longer video calls would be of benefit to people in the NVRU because they were unable to mix with other prisoners.

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<sup>44</sup> See, *New Directions, Supporting Families of People in Prison*, <https://familiesofprisoners.ie/>.

The Inspectorate is of the view that video calls should not be used in the long-term as a replacement for in-person visits, but rather should complement in-person visits. In an effort to uphold Article 2 of the European Convention on Human Rights (Right to Life), the Irish Government has allowed for restrictions to be imposed both in the general community and for people in prison. While the law allows for this restriction in the context of prisons under Rule 36A of the Irish Prison Rules, the Prison Service has a positive obligation to ensure that the restrictions to the right to private and family life under Article 8 are necessary, proportionate, respectful and restricted in time. To this end, the Irish Prison Service must ensure that people in prison are able to maintain family contact to the greatest extent possible.

### *Phone Calls*

The Inspectorate welcomes the installation of phones in cells in E and G wings of Midlands Prison, alongside plans for the further installation of phones across the prison. There were some issues reported regarding the operation of in-cell phone provision: “[Since last year] phone in-cell doesn’t work, still don’t work.”

Accessing phones was an issue for prisoners on some landings, and this could lead to tensions, as explained by prisoners: “ten lads waiting on phone, yard has only one phone,” and “one phone for 50 people and that’s what causes fights.”

The installation and full operation of in-cell phone provision would resolve this issue. At the time of inspection, the installation of phones in A1 (prisoners on Rule 63) and A2 landings (committals) were ongoing according to Senior Management.

One prisoner reported there was a lack of compassionate phone calls available.

### *Post*

Prison staff reported that all incoming packages for prisoners are quarantined for a period of five days. The photocopying of post was an issue raised by prisoners across the prison, with one man stating, “I don’t know if I’m allowed a card for Father’s Day.” Being prohibited from receiving original photos of family was described as a “huge loss” for prisoners. The Inspection Team observed a photocopy of a letter that had been provided to a prisoner instead of the original letter. The quality of the photocopy was poor, to the point that the letter was illegible. The Inspection Team also observed photocopies of photographs, which were black and white and poor in quality.

The issue of photocopying of post was discussed at the virtual Closeout Meeting (23 June 2021). Senior Management stated that the Irish Prison Service Operational Support Group had been working to determine strategies to detect illegal substances in post. The Inspection Team was informed by prison staff that all original postal communications were stored with the persons’ belongings in lockers in the committal area of the prison; the Inspection Team observed three lockers that had original letters and photographs stored within. Prison staff reported that these items would be returned to the prisoner upon release. The photocopying of postal communications was additional work for prison staff working in the committal area.

The Inspectorate is of the view that the Irish Prison Service’s response to the photocopying of mail must at all times meet the principles of necessity and proportionality, and should be reviewed on a regular basis with the reasons for its implementation justified.<sup>45</sup>

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<sup>45</sup> See, HM Prison & Probation Service (16 August 2021) Use of Narcotics Trace Detection Equipment on Correspondence Policy Framework. Available at: <https://www.gov.uk/government/publications/use-of-narcotics-trace-detection-equipment-on-correspondence-policy-framework>

## 4.2.4 Recommendation

**Recommendation 11:** The Irish Prison Service should develop a clear policy on the photocopying of post. This policy should apply key principles (e.g., proportionality, necessity, review and the recording of reasons for its justification) and balance the rights of prisoners against security concerns.

**Request for Information 1:** The Inspector of Prisons requests to be provided with information on the direction given to Midlands Prison by the Irish Prison Service to implement S.I. 250 - Prison (Amendment) Rules 2020 - Rule 36A of the Irish Prison Rules.

## 4.3 Quarantine/Isolation Measures

People placed in quarantine and isolation include: new committals to the prison; prisoners who tested positive for the COVID-19 virus; those showing symptoms of the COVID-19 virus, while awaiting test results; and those who are identified as close contacts of a person with COVID-19, while awaiting test results; and those who present with a travel history.

### 4.3.1 Compliance

The CPT Statement of Principles relating to the Treatment of Persons Deprived of their Liberty in the Context of the Coronavirus Disease (COVID-19) pandemic, state:

While it is legitimate and reasonable to suspend non-essential activities, the fundamental rights of detained persons during the pandemic must be fully respected. This includes in particular the right to maintain adequate personal hygiene (including access to hot water and soap) and the right of daily access to the open air (of at least one hour).

In cases of isolation or placement in quarantine of a detained person who is infected or is suspected of being infected by the SARS-CoV-2 virus, the person concerned should be provided with meaningful human contact every day.<sup>46</sup>

Recent CPT guidance (2021) defines a “Minimum Decency Threshold” for prisons which includes that all prisoners should be provided with the means to keep themselves clean including access to a shower (if possible on a daily basis but at a minimum twice a week).<sup>47</sup>

In circumstances where prisoners are confined for more than 22 hours a day without meaningful human contact, this is solitary confinement; as defined by the 2020 European Prison Rules (Rule 60.6.a) and Mandela Rules (Rule 44).

Furthermore, SPT advice published in June 2021 recommends to State Parties: “Improve the environment in areas of quarantine inside places of deprivation of liberty so that they do not correspond to places of solitary confinement, and compensate for the social isolation by using any means to improve social and family contact,” It goes on to state: “Ensure that persons deprived of their liberty whose mental health is affected by COVID-19 measures, including those persons in quarantine, in medical isolation units, in psychiatric hospitals or in places of detention, receive adequate counselling and psychosocial support.”<sup>48</sup>

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<sup>46</sup> CPT Statement of Principles (n 37) Principles 6 and 8.

<sup>47</sup> CPT Minimum Decency Threshold (n 13).

<sup>48</sup> SPT Follow-up Advice (June 2021) (n 10).

### 4.3.2 Environment

Upon committal to Midlands Prison, all new committals were met by a nurse at the entrance of the prison and underwent COVID-19 screening. New committals or prisoners placed in isolation (Rule 103) were escorted to the back entrance of the prison brought to the B wing. A prisoner who came from court or an inter-prisoner transfer came through the main reception of the prison and was placed on C wing.

A prisoner held in quarantine was provided with “socks and jocks,” or could request these from the prison.

The Inspection Team observed a member of prison staff carrying a Russian-language book, and was informed that the book was to be delivered to a prisoner in quarantine; the Inspectorate welcomes this practice.

As referenced earlier (see Section 2.1.2), Senior Management provided the Inspection Team with a document detailing the daily regime in quarantine/isolation, but this document was not being disseminated to people entering quarantine/isolation at the time of inspection. This document included the following information:

#### 1. Isolation:

- The rationale for why a prisoner would be placed in isolation, and the time limit - a 14-day period, or more if symptoms persisted or if the prisoner was awaiting a test result;
- Cells would be unlocked twice a day, for dinner and tea - prisoners were required to wear a mask during the delivery of meals to the cell; and
- If a prisoner required medication, Tuck Shop items, cleaning supplies, or hygiene products, these would be delivered during one of the scheduled door openings. Prisoners were not permitted to hand out letters - however letters sent in could be given to the prisoner.

#### 2. Quarantine:

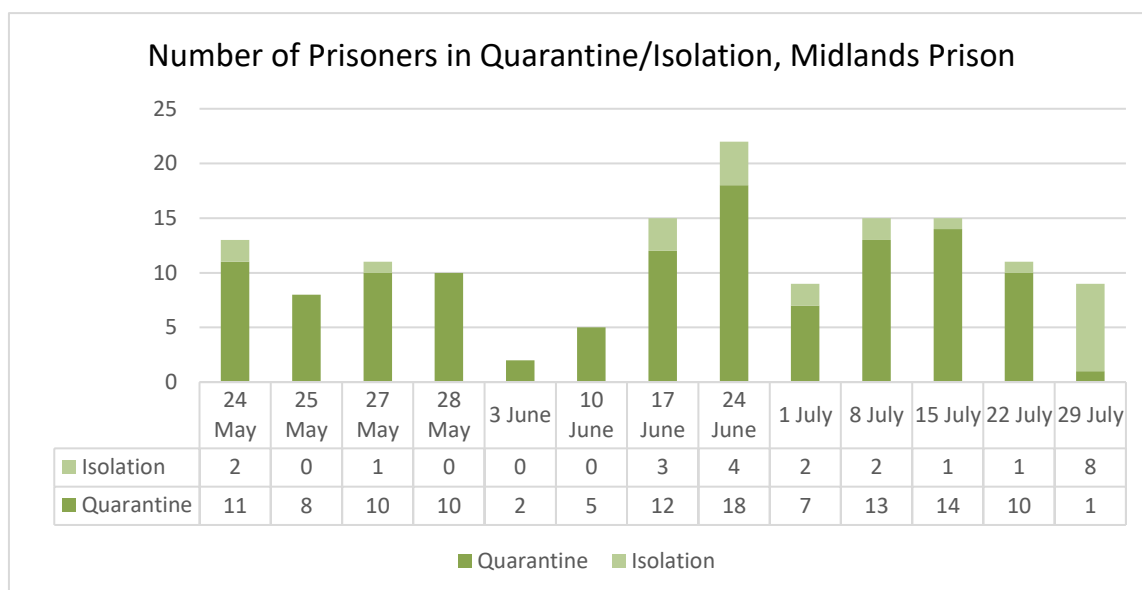
- The reason as to why an individual prisoner might be placed in quarantine, and the time limit of up to 14 days.
- The cell was unlocked twice a day to provide dinner and tea in which a prisoner was required to wear a mask.
- Other items (i.e., Tuck Shop items) were also delivered during one of these door openings. Prisoners in quarantine were not permitted to hand out letters but similarly to prisoners in isolation, could be handed in incoming post.
- Prisoners in quarantine had the opportunity to access daily outdoor exercise.

In the Closeout Meeting with Senior Management, the Inspectorate requested that all prisoners be provided with a written copy of the information document on quarantine/isolation in an accessible format and in a language they understood.

On 16 June 2021, there was one prisoner in isolation and eight prisoners were in quarantine. On 17 June 2021, an IPS COVID-19 status update noted there were three prisoners in isolation and 12 prisoners in quarantine. On the third day of inspection, 18 June 2021, prison staff reported there were eight prisoners in isolation and eight prisoners in quarantine. The Inspection Team was informed by a member of prison staff that on average there were 18 prisoners in Midlands Prison in isolation/quarantine each day. IPS updates provided to the Inspectorate illustrate fluctuation in the number of prisoners on COVID-19 restricted regimes. Figure 5 provides the numbers of people in

quarantine/isolation in Midlands Prison in the six IPS updates provided before and after the on-site inspection; there was an average of 11 prisoners on COVID-19 restricted regimes on the dates noted in Figure 5.

**Figure 5: Number of Prisoners in Quarantine/Isolation, Prior to and After On-Site Inspection (2021)**



### 4.3.3 Outcomes

Members of the Inspection Team visited B2 wing, where prisoners in quarantine/isolation were accommodated. The Inspection Team spoke to prisoners who had experienced quarantine in the past, and also spoke to prisoners while they were in quarantine. One prisoner on the B2 landing stated: “Being 24 hours in cell would just break you.” (The publications of the Census of Restricted Regimes<sup>49</sup> shows that 24 hours in cells was not an isolated case, with eight people spending 24 hours in-cell in Midlands Prison in April 2021 and 14 people spending 24 hours in-cell in January 2021, based on snapshot figures.)

Prison conditions in quarantine/isolation cells were described by one prisoner as “filthy.” A prisoner explained: “On B2 lads no showers for 14 days – no towels provided – no change of clothes for 14 days.” Prisoners in quarantine reported they had no shower and no soap or towel. One prisoner reported the length of time for a phone call as very short: “I would call it three minutes or something.”

It was also reported by prisoners that during the COVID-19 outbreak period (February 2021) in Midlands Prison they did not have access to showers and only had access to what they described as a “bird bath.” A prisoner informed the Inspection team that during the COVID-19 outbreak he had to wash himself in the cell in front of his cellmate.

Some prisoners and prison staff felt that quarantine was a measure being overly utilised by the prison:

- “You’re straight to B2 [quarantine] if you have a sore ear.”
- “People in jail afraid to go cough, put into isolation.”
- “Cough-voom-all the lads were put back in quarantine.”

<sup>49</sup> Irish Prison Service, Census of Restricted Regimes, <https://www.irishprisons.ie/information-centre/statistics-information/census-reports/>

Prisoners subjected to isolation, as a COVID-19 preventive measure, were held in de facto solitary confinement as they were confined for 22 hours or more each day and had significantly less than two hours of meaningful human contact each day. The recent guidance from the UN Subcommittee on Prevention of Torture's Follow-up Advice (June 2021) requires that states "compensate for the social isolation by using any means to improve social and family contact." The Office of the Inspector of Prisons shares the well-documented position that solitary confinement cause's psychological harm to people in prison, regardless of the reason for its imposition. Therefore, solitary confinement should not be used as a means to prevent transmission of COVID-19 in prisons; safer alternatives exist, such as community-based alternatives to custody and expansion and further application of early release criteria.<sup>50</sup>

#### 4.3.4 Recommendations

**Recommendation 12:** In line with the June 2021 SPT Follow-Up Advice relating to COVID-19, the Inspectorate urges the Irish Prison Service to implement all possible measures for improving social and family contact for people in order to compensate for COVID-19-related isolation.

*OIP Comment: The Inspectorate has recommended in the Mountjoy Men's Prison, Cloverhill Prison, Wheatfield Prison, Limerick Prison, Portlaoise Prison and Shelton Abbey COVID-19 Thematic Inspection reports that prisoners in quarantine/isolation be provided with two hours of meaningful human contact each day. On all occasions the recommendation was not accepted by the Irish Prison Service, with the justification being that restrictions on in-person contact are a critical infection control measure.*

*While acknowledging that the University of Essex and Penal Reform International Guidance on meaningful human contact (see Section 5.3.1) requires face-to-face interaction, the recent guidance from the UN Subcommittee on SPT within the context of COVID requires that states "compensate for the social isolation by using any means to improve social and family contact."<sup>51</sup>*

*In relation to the COVID-19 Thematic Inspections with respect to Arbour Hill Prison and Cork Prison, the Inspectorate recommended that all possible measures be taken to improve social and family contact for people in quarantine/isolation; the recommendation was partly accepted by the Irish Prison Service. The Inspectorate is of the view that improving possibilities for human contact can be facilitated for people in quarantine/isolation. More human contact can be provided by way of lifting limits on telephone calls and by providing people in quarantine/isolation with tablets to access video calls, education and services. In cases where people are denied meaningful human contact for at least two hours a day and also confined for more than 22 or more hours a day, the result is de facto solitary confinement.*

**Recommendation 13:** In line with the Revised European Prison Rules Rule 19.4 and the CPT Decency Threshold for Prisons, prisoners in quarantine/isolation must be permitted to shower, if not daily, at a minimum, two times in a seven-day period.

*OIP Comment: This recommendation was partly accepted by the Irish Prison Service in the Mountjoy Men's Prison, Cloverhill Prison, Wheatfield Prison, Limerick Prison COVID-19 Thematic Inspection reports. The Irish Prison Service explained that because "cells are not equipped with showers and, due to current Infection control restrictions, showering while in quarantine is not feasible due to the high risk it poses to prisoners and staff. The cells do however facilitate in cell sanitation. All prisoners confined to their cell for the purpose of quarantine have access to hot water and soap to maintain adequate hygiene. This is in line with the European Committee for the Prevention of Torture (CPT), Statement of*

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<sup>50</sup> CPT Statement of Principles (n 37), Principle 5.

<sup>51</sup> SPT Follow-up Advice (n 10).

*Principles relating to the treatment of persons deprived of their liberty in the context of the Coronavirus disease.”*

*However, the CPT Decency Threshold for Prisons, a document dated May 2021, provides that the minimum decency threshold for showers is, if possible on a daily basis, but at least twice a week. The Inspectorate is of the view that it is possible for the prison to facilitate showering by way of cleaning (as noted in the Mountjoy Men’s Prison report Section 3.2.2), but recognises that this would have cost implications.*

*In relation to the COVID-19 Thematic Inspections of Portlaoise Prison and Arbour Hill Prison, the Irish Prison Service has accepted this recommendation. Portlaoise Prison has developed a showering station with a PPE donning and doffing area that enables the provision of showers. In response to the recommendation made with respect to Arbour Hill Prison, the Irish Prison Service noted, “The Infection Control Guidance on the provision of showers for prisoners in Quarantine/Isolation was updated in July by the NICT to allow for two showers in a seven day period – where operationally feasible.”*

**Recommendation 14:** Prisoners in quarantine/isolation must have at least one hour in the open air each day.

*OIP Comment: The Inspectorate has recommended in the Mountjoy Men’s Prison, Cloverhill Prison, Wheatfield Prison, Limerick Prison, Portlaoise Prison, Arbour Hill Prison and Cork Prison COVID-19 Thematic Inspection reports that prisons in quarantine/isolation be provided with access to at least one hour in the open air each day. This recommendation was accepted by the Irish Prison Service with respect to Mountjoy Men’s Prison and Cloverhill Prison. However, it was not accepted in relation to Wheatfield Prison, Limerick Prison, Portlaoise Prison, Arbour Hill Prison and Cork Prison. The rationale for non-acceptance provided by the Irish Prison Service in the Cork Prison Action Plan was as follows: “Prisoners in quarantine have restricted out of cell time, in accordance with Rule 32A of SI 250/2020 Prison Rules 2020. Prisoners are fully informed of the quarantine rules on committal by the Governor on parade. Restrictions are reviewed on an ongoing basis by the Emergency Response Planning Team.”*

**Recommendation 15:** Measures must be taken to mitigate the detrimental effects of isolation or quarantine, including psychological support during and after quarantine/isolation in order to assist prisoners in coping with the impact of COVID-19 and subsequently imposed restrictive measures.<sup>52</sup>

*OIP Comment: The Inspectorate has recommended in the Mountjoy Men’s Prison, Cloverhill Prison, Wheatfield Prison, Limerick Prison, Portlaoise Prison, Shelton Abbey, Arbour Hill Prison and Cork Prison COVID-19 Thematic Inspection reports that measures be taken to mitigate the effects of quarantine/isolation on prisoners. This recommendation has been accepted by the Irish Prison Service on all occasions, with the Irish Prison Service indicating a roll-out of a COVID outbreak specific mental health protocol by mid-May 2021. In response to the Cork Prison report the Irish Prison Service indicated a COVID-19 outbreak-specific mental health protocol had been put in place by the IPS Psychology Service.*

**Request for Information 2:** The Office of the Inspector of Prisons requests to be provided with the COVID-19 outbreak-specific mental health protocol put in place by the IPS Psychology Service.

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<sup>52</sup> SPT. Advice of the Subcommittee to States Parties and National Preventive Mechanisms relating to the Coronavirus Disease (COVID-19) Pandemic (April 2020) <https://undocs.org/CAT/OP/10>, 10(g).



# 5 REHABILITATION & DEVELOPMENT

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## 5.1 Regimes

In June 2021, the Irish Prison Service was in the process of developing a framework to follow on from the Irish Prison Service Framework for Restrictive Measures, entitled the *Unwinding of Prison Restrictions*. The Framework was expected to be published by the end of June 2021.<sup>53</sup> As of late August 2021, the *Unwinding of Prison Restrictions* Framework had not been published.

### 5.1.1 Compliance

In response to restrictive regimes imposed by prison services to prevent transmission of COVID-19, the CPT Statement of Principles Relating to the Treatment of Persons Deprived of their Liberty in the Context of the Coronavirus Disease (COVID-19) Pandemic indicated:

While it is legitimate and reasonable to suspend nonessential activities, the fundamental rights of detained persons during the pandemic must be fully respected.<sup>54</sup>

Further to this, in its Follow-up Statement<sup>55</sup> the CPT noted:

Importantly, temporary restrictions imposed to contain the spread of the virus must be lifted as soon as they are no longer required. This relates, in particular, to limitations on arrangements for detained persons to contact the outside world and reductions in the range of activities available to them.

Ireland ratified and is obliged under Article 10 (3) of the International Covenant on Civil and Political Rights (ICCPR) to provide rehabilitation for prisoners:

The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.

It is essential that the purpose of imprisonment (rehabilitation) is balanced proportionately with the risk of COVID-19 transmission. As outlined under the UN Mandela Rules (Rule 4.1):

The purposes of a sentence of imprisonment or similar measures deprivative of a person's liberty are primarily to protect society against crime and to reduce recidivism. Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life.

The CPT "Minimum Decency Threshold" (2021) stated: "A satisfactory programme of purposeful activities (work, education, sport, training, etc.) is of crucial importance for the well-being of prisoners."<sup>56</sup>

Furthermore, the UN Common Position on Incarceration (2021) recognises the importance of advancing rehabilitation and social re-integration:

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<sup>53</sup> Houses of the Oireachtas, Prison Service, Tuesday 15 June 2021, <https://www.oireachtas.ie/en/debates/question/2021-06-15/1097/>

<sup>54</sup> CPT Statement of Principles (n 37) Principle 7.

<sup>55</sup> CPT Follow-up Statement regarding the Situation of Persons Deprived of their Liberty in the Context of the Ongoing COVID-19 Pandemic CPT/Inf(2020) 21 (9 July 2020).

<sup>56</sup> CPT Minimum Decency Threshold (n 13).

In line with the Nelson Mandela Rules, the United Nations System will promote a rehabilitative approach to prison management that fosters the willingness and ability of prisoners to lead law-abiding and self-supporting lives upon release, and that is embedded in a decent, safe and healthy prison environment and the positive engagement of officers with prisoners.<sup>57</sup>

### 5.1.2 Environment

At the time of inspection, the prison had experienced minimal relaxation of COVID-19 related restrictions. Prisoners accommodated on the same wing were able to mix with each other. The various wings within the prison operated along a general daily prison regime (Table 4). However, some prisoners, particularly those accommodated in the National Violence Reduction Unit, C1 Left, and prisoners on protection experienced significantly more in-cell time; however, this situation was not unique to the time period in which COVID-19 restrictions were in place.

**Table 4: Overview of General Daily Prison Regime**

Time	Regime
08:10 - 08:30	Unlock, breakfast and dispensary
09:15-12:00	Unlock, clean cells, fresh air/exercise or work/training placements
12:10	Dinner
14:10	Unlock, clean cells, fresh air/exercise or work/training placements
15:30- 16:00	Evening meal (tea) and secured in cells
17:00	Unlock, clean cells, fresh air/exercise
19:00	Prisoners return to cells

#### *Incentivised Regimes*

The *Incentivised Regimes* Programme was introduced by the Irish Prison Service in 2012 and is designed to reinforce good behaviour and encourage engagement in structured activities. There are three levels of incentivised regimes: basic, standard and enhanced with different privileges associated with different regime levels. The number of prisoners on the various Incentivised Regimes for Midlands Prison was examined one year apart to determine if there was a significant change in regime allocation since the onset of the pandemic. Table 5 outlines the numbers on each regime in June 2020 and June 2021.

The percentage of prisoners on Incentivised Regimes levels is outlined in Table 5.

**Table 5: Incentivised Regime Levels (Midlands Prison one year apart)**

Date	Total Population	Enhanced	Standard	Basic
16 June 2020	782	64%	30%	6%
16 June 2021	796	67%	28%	5%

### 5.1.3 Outcomes

On day one of the on-site inspection, the Inspectorate was informed by Senior Management of the high number (58) of prisoners requesting to be placed under Rule 63 (protection) regimes. The Inspection

<sup>57</sup> UN Common Position on Incarceration (2021) (n 24).

Team was informed that all of these requests were discussed at Multi-Agency Meetings (MAMS). Senior Management acknowledged it had challenges in meeting its statutory out-of-cell time requirements as a result of the high number of requests of prisoners to go on protection. In one landing there were four factions unable to mix, and who had access to only one yard. A member of prison staff stated that often prisoners preferred to do their time on 23 hour lock-up. Senior Management proposed to resolve the issue of limited access to the yards for protection prisoners by submitting a business case to divide one large yard into three yards; this would facilitate increased out of cell time.

#### 5.1.4 Recommendation

**Recommendation 16:** The Inspectorate urges Midlands Prison to consider all available ways to increase out-of-cell time and maximise access to services for prisoners accommodated under Rule 63 of the Irish Prison Rules.

## 5.2 Access to Education

During the course of inspection, the Inspection Team examined how access to education was facilitated in the prison, and also learned of initiatives and ideas that have great capacity to improve access to education.

### 5.2.1 Compliance

The Irish Prison Rules 2007-2020, Rules 27.2, 27.3 and 110 encompass the prison obligation to provide education programmes for prisoners. Education is recognised as an “authorised structured activity” with the objective of reducing the likelihood of reoffending (Rule 27.2). Rule 27.3 mandates that “In so far as is practicable, each convicted prisoner should be engaged in authorised structured activity for a period of not less than five hours on each of five days in each week.” Rule 110 provides that education programmes should meet the needs of prisoners, be designed to encourage participation, and that special attention should be given to prisoners with literacy and numeracy needs.

The Mandela Rules (Rule 104) state that education of young and illiterate prisoners should be compulsory and that, “so far as practicable” the education of prisoners shall be integrated with the educational system of the country so that after their release prisoners may continue their education without difficulty. In addition, the European Prison Rules (Rule 28.1) state that every prison shall seek to provide all prisoners with access to educational programmes that are “as comprehensive as possible and which meet their individual needs while taking into account their aspirations.” Much like the Irish Prison Rules (Rule 110), the European Prison Rules state that persons with literacy and numeracy needs should be prioritised (Rule 28.2). These Rules also echo the Mandela Rules by stating that education and vocational programmes should be integrated with the country’s general system so that prisons can continue their education and training after release without difficulty (Rule 28.7).

In regards to library access, the Irish Prison Rules require the establishment of a library in each prison (Rule 110.6), to which prisons should be entitled to avail of at least once a week (Rule 110.7). The Mandela Rules (Rule 64) state “Every prison shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.” Rule 28 of the European Prison Rules aligns with these provisions by recommending that “every institution shall have a library for the use of all prisoners, adequately stocked with a wide range of both recreational and educational resources, books and other media.” The European Prison Rules also include a provision that, wherever possible, the prison library should be organised in co-operation with community library services (Rule 28.6).

## 5.2.2 Environment

At the time of inspection, Summer school classes were running through July 2021 and there were no classes scheduled to take place in August. The Education Unit provided a wide range of subjects, including: English, Maths, Business Studies, Accounting, Irish, Communications, Computers, Arts and Crafts, Drama, Personal Development, Metal Work, Yoga and more. There were 34 whole-time equivalent teachers and nine part-time teachers.

926 unique students attended classes throughout the academic year (2020/2021). 39 students participated in the Gáisce awards, however this was reportedly not accredited. Table 6 provides a timetable of the school for the academic year of 202/2021.

**Table 6: Midlands Prison School Timetable**

Time	Monday	Tuesday	Wednesday	Thursday	Friday
AM 1+2 (Art Side)	A	D	C	A	A
AM 1+2 (Cooking)	B	C	A	D	C
PM (Art Side)	C	B	D	C	A
PM (Cooking Side)	D	A	B	D	C
PPM	C				

E/G Wing Classes will operate both morning and afternoon every day.

At the beginning of the pandemic, the school was closed. The Inspection Team was informed that two members of education staff attended the school on a daily basis through to September 2020 when it reopened. A prison officer was allocated to the school and facilitated the delivery of art and craft materials, markers and booklets to cells, which included to prisoners who were not already linked in with the school. 500 school packs were also created by the school and distributed by the designated prison officer. The packs contained: glue materials, Sudoku, word searches, crosswords and any requests from prisoners for example, access to a Spanish dictionary. These packs were distributed to all prisoners with members of Education Staff stating that COVID-19 had created “reach for those who don’t go to school.” The school also developed a Polish phrase booklet to support students from Poland who had limited English.

There were no in-person school services available in the prison from Christmas 2020 through to April 2021. Students enrolled in the school (with the exception of Leaving Certificate and QQI students), were further impacted by the “withdrawal of goodwill” in April 2021. At the time of inspection, 31 students were undertaking Leaving Certificate subjects, of these nine chose to sit exams. There were over 200 QQI courses available from January to June 2021 ranging from Levels 1-5; 170 students were enrolled in QQI courses.

At the time of inspection (June 2021), the Education Unit was open to students with visible social distancing signage (two metre distances at the time of inspection) throughout the unit.

## 5.2.3 Outcomes

The Inspection Team observed very good signage on COVID-19 preventive measures throughout the Education Unit. All students wore FFP2 surgical masks in classrooms.

The occupancy capacity for classrooms in the school was reduced in order to comply with social distancing requirements. For example, in one classroom the class size was reduced from 20 (pre-pandemic) to ten (during pandemic).

The return of the opening of the Education Unit created logistical issues. Before COVID-19 restrictions were implemented, prisoners on B and D Divisions mixed together in the school. At the time of the on-site inspection, attendance in the school was segregated by wing, with students from B and D Division attending the school separately. This equated to less time for students in the school. Enhanced prisoners on B3, who worked in common areas of the prison, only attended the school for one session per week. Those on B2 (quarantine or isolation) did not attend the school. As a result, the timetable for B1 was limited as displayed in the table above. Education staff hoped that with the easing of restrictions, B and D divisions could return to mixing for the new academic year in 2021/2022.

One of the key issues raised by education staff was “the loss of the relationship within the classroom.” As highlighted by a staff member, “our role is far greater than a cert.” In this respect, it is important to re-emphasise the importance of resuming and maintaining physical in-person education.

During the pandemic approximately 200 videos on practical life skills (e.g., “rust repair,” “changing a flat tyre” and “how to refurbish a garden bench”) were created by teaching staff to support student learning. Members of the Inspection Team viewed one video on car maintenance which was informative. Due to security/IT concerns, teaching staff made these videos at home. Teaching staff reported they had purchased software to enable them to develop video content while working remotely. While the videos were of benefit to the prisoners, they were limited in that they did not provide two-way interaction, which was described as essential to learning by teaching staff.

Blended learning courses provide a unique and timely opportunity to consider how access to education might be improved in Irish prisons. The Inspectorate encourages the Irish Prison Service to build upon the positive implications of acquiring digital technology for use by prisoners in that they enable greater access to education, as well as more meaningful interactions with other services. Digital literacy is also an important skill for future employment prospects and to reduce re-offending. If digital tablets were to be introduced to deliver education, the teachers could reach previously unreachable prisoners, such as prisoners in quarantine and isolation or those who are on protection from others.

At the time of inspection, a total of six students of 796 total prisoners (0.75%) had access to laptops, which were used to complete Open University courses.

At the time of inspection, the library was not open, and was described by Senior Management as “one of the casualties we’ve had because of it [COVID].” One prisoner reported there was lack of access to books and that the library trolley had reportedly stopped since Christmas.

## 5.2.4 Recommendations

**Recommendation 17:** To meet the education needs of prisoners (European Prison Rule 28.1), which include facilitating more substantive engagement with education (and other services), the Irish Prison Service should make digital tablets available for prisoner use. These digital tablets could be pre-loaded with education materials.

*OIP Comment: The Inspectorate has recommended in the Mountjoy Men’s Prison, Cloverhill Prison, Wheatfield Prison, Limerick Prison, Portlaoise Prison, Shelton Abbey, Arbour Hill Prison and Cork Prison COVID-19 Thematic Inspection reports that digital tablets be made available for prisoner use. The IPS has indicated their response to this recommendation is under review and that the Service is “developing an in-cell learning strategy to enhance learning from prison cells.” The Inspectorate welcomes this, and will continue to monitor and assess this initiative.*

**Recommendation 18:** In line with Rule 110 of the Irish Prison Rules and on par with public health guidelines in the community, Midlands Prison should pro-actively consider the re-opening of library services in the prison.

*OIP Comment: The Inspectorate has recommended in the Mountjoy Men's Prison, Cloverhill Prison, Wheatfield Prison, Limerick Prison, Arbour Hill Prison and Cork Prison COVID-19 Thematic Inspection reports that prison libraries be made available to prisoners. This recommendation has been accepted by the Irish Prison Service on all occasions.*

## 5.3 Access to Exercise/Interactions

Restrictions on exercise and meaningful human interaction were implemented by the Irish Prison Service to prevent transmission of COVID-19 in Irish Prisons. While recognising the utility of these restrictions, the Inspection Team focused on the impact of these measures on the people in Midlands Prison. As noted in Section 4.3, prisoners in quarantine, and especially those in isolation, experienced significant restrictions as regards exercise and human interaction. However, all prisoners in Midlands Prison experienced a reduction in their access to exercise and interactions.

### 5.3.1 Compliance

Rule 32(1) of the Irish Prison Rules mandate that all prisoners not employed in outdoor work or activities are entitled to not less than one hour of exercise in the open air each day, weather permitting. In addition to this, the Rule states that “in so far as is practicable,” all prisoners must be permitted access to the use of indoor space and equipment for physical recreation, exercise or training.” However, the 2020 Amendment to the Irish Prison Rules 2007-2017, Rule 32A provides an amendment to Rule 32, whereby it permits the Director General (32A(1)) or the Governor, subject to any direction made by the Minister or the Director General (32A(2)) “to suspend the entitlement to physical recreation, exercise or training under Rule 32, or to restrict or modify the entitlement to physical recreation, exercise or training under Rule 32, as regards frequency, duration and arrangements, for a specified period or periods.” The lack of a sunset clause for the newly added Rule 32A is of concern to the Inspectorate.

Although the Irish Prison Rules now allow for a restriction on exercise and physical recreation, international standards require that these restrictions be necessary, proportionate, respectful of human dignity and restricted in time. Further, international prison oversight bodies, such as the CPT, have determined that outdoor exercise facilities “should be reasonably spacious and whenever possible offer shelter from inclement weather.”<sup>58</sup>

With regard to meaningful human interactions, the Irish Prison Rules, Rule 27, provides that “subject to any restrictions imposed under and in accordance with Part 3 of the Prisons Act 2007 and Part 4 of these Rules, each prisoner shall be allowed to spend at least two hours out of his or her cell with an opportunity during that time for meaningful human contact. “Meaningful human contact” is defined in Rule 27.4 as “an interaction between a prisoner and another person of sufficient proximity so as to allow both to communicate by way of conversation.”

In terms of meaningful activity, the Mandela Rules state that prisons shall have a library that is adequately stocked (Rule 64) and that prisoners should have access to exercise (Rule 23) and be able to practice their religion (Rule 65). Rule 88 of the Mandela Rules also states that:

The treatment of prisoners should emphasize not their exclusion from the community but their continuing part in it. Community agencies should therefore be enlisted wherever possible to assist the prison staff in the task of social rehabilitation of prisoners.

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<sup>58</sup> CPT Standards, Revised 2010, <https://www.refworld.org/pdfid/4d7882092.pdf>, 16.



Despite restrictive measures imposed to prevent COVID-19 transmission, the standard on access to meaningful human contact remains, with the CPT stating in its March 2020 Statement of Principles: “on cases of isolation or placement in quarantine of a detained person who is infected or is suspected of being infected by the SARS-CoV-2 virus, the person concerned should be provided with meaningful human contact every day” (CPT Principle 8). For prisoners separated from the general population of the prison, on any grounds, a denial of two hours of meaningful human contact each day is solitary confinement.

While the Irish Prison Rules 2007-2020 provide a definition of “meaningful human contact”, the University of Essex and Penal Reform International’s *Initial Guidance on the Interpretation and Implementation of the UN Nelson Mandela Rules*<sup>59</sup> provides further substance to this principle as it is:

- provided by prison or external staff, individual prisoners, family, friends or others – or by a combination of these;
- human contact that is face to face and direct (without physical barriers) and more than fleeting or incidental, enabling empathetic interpersonal communication;
- contact that must not be limited to those interactions determined by prison routines, the course of (criminal) investigations or medical necessity; and
- direct rather than mediated and continuous rather than abrupt contact, that is an empathetic, sustained and social interaction.

The Guidance also states that it does not constitute “meaningful human contact” if prison staff deliver a food tray, mail or medication to the cell door, and it also does not include situations where prisoners are able to shout at each other through cell walls or vents.

While acknowledging that the University of Essex and Penal Reform International Guidance on meaningful human contact requires face-to-face interaction, the recent guidance from the UN Subcommittee on SPT within the context of COVID-19 require that states “compensate for the social isolation by using any means to improve social and family contact.”

### 5.3.2 Environment

Midlands Prison had two gyms and one sports hall. The Inspection Team observed a cleaning station in the main gym, which was equipped with cleaning spray, a sink, hand sanitiser, and hand towels for the purpose of cleaning down the gym equipment.

There was an addiction counselling phone service through Merchants Quay available on Thursdays and Fridays to prisoners during the pandemic. In total, there were two addiction counsellors allocated to Midlands Prison, which has a capacity of 875 prisoners.

On day two of inspection, the Inspection Team observed approximately 15 prisoners playing indoor football. This activity had resumed the week of the on-site inspection. There was also an outdoor football yard. Midlands Prison had a total of 12 yards, all varying in size. A and B wings shared a yard and C and D wings used the main yard. E and G wings had access to six yards that were not used by the main prison. There was one yard used to facilitate prisoners in isolation/quarantine.

At the time of Inspection the Barber Shop was opened in the Midlands Prison, with another barber shop set to open in the coming weeks. A prisoner was tasked with running of the Barber Shop.

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<sup>59</sup> Essex Paper 3 Initial Guidance on the Interpretation and Implementation of the UN Nelson Mandela Rules (2017) <https://rm.coe.int/16806f6f50>.



Table 7 outlines the list of activities suspended in the Midland Prison at the time of Inspection:

**Table 7: Activities Suspended during the Pandemic**

Activities Suspended
Traveller Workshop Group
Stone Mason Classes in Building Skills
Furniture Restoration Workshop (external trainer not available, but prisoners still attending)
Barbers Workshop
Men's Health Workshop (provided by Cuisle Centre)
Contact sports
Alternatives to Violence Project In-Person (facilitated through a postal service)
Citizens Information In-reach (since April 2021, weekly video link clinics were being used)

During the first COVID-19 outbreak in Midlands Prison, workshops were closed from 28 October 2020 to 17 November 2020. The gym was closed from 31 October 2020 to 14 November 2020. During the second COVID-19 outbreak in the prison, workshops were closed from 12 February 2021 to 2 March 2021. The gym was closed from 20 February 2021 to 3 March 2021.

The Inspection Team was informed of the postponement of workshops facilitated by external facilitators. For example, the Cuisle Centre typically provided two workshops for staff and two workshops for prisoners on pre-cancer awareness checks, but these had not been facilitated over the course of the pandemic.

External facilitation for furniture restoration workshops had stopped, although prisoners still attended the workshop, and there was no graduation for the completion of furniture restoration workshops. Stonemason, wood cutting classes, building skills, and carpentry were on hold at the time of inspection. Positive initiatives, such as seven-a-side football in conjunction with Kildare Football Club, were also suspended due to COVID-19.

Garden projects were postponed with a reduced number of prisoners working in the horticulture areas. There were two horticulture areas, with one of the horticulture areas being allocated ten prison workers. Flowers were sold to prison staff. There was also two greenhouses. COVID-19 impacted on the number of prisoners attending horticulture workshops. Prior to COVID-19, 30 prisoners were in horticulture workshops. This was reduced to a maximum of 20 during COVID-19.

At the time of inspection, the Inspection Team was also provided with information on work and training services that were open:

- Kitchen: maximum allocated prisoner numbers to the kitchen during COVID was 25.
- Staff Mess: maximum allocated prisoner number was 15, and two cleaners for the staff area.
- Laundry: accommodated 12 prisoners.
- Waste Management: accommodated ten prisoners in the morning and ten prisoners in the afternoon.
- Industrial Cleaning: facilitated three work parties, which included two work parties of seven prisoners and one work party of four prisoners.

The maximum allocated numbers for various workshops was small. The picture-framing workshop maximum capacity was five prisoners, and for the construction workshops (e.g., building, carpentry and metal) the maximum number of attendees was ten prisoners per workshop.

Before the pandemic the maximum capacity for work and training attendance was 354, and this was reduced to 234 during the pandemic (Table 8). This is a 34% reduction in capacity. However, it should be noted that prior to the pandemic (17 June 2019), the prison population in Midlands Prison was 843; which means that only 42% of the population of prisoners in Midlands Prison would have had the opportunity to engage in work and training. This number could be further reduced in the event that one prisoner attended more than one workshop.

Table 8 provides the maximum occupancy for work and training activities in Midlands Prison, prior to and during COVID-19 restrictions.

**Table 8: Maximum Occupancy – Work/Training (pre-/during-COVID-19)**

Workshop	Pre-COVID	COVID-19	Cleaners
Horticulture 1	30	20	5
Horticulture 2	16	10	
Waste Management	10	10	
Kitchen	30	20	
Staff Mess	19	15	
Laundry	24	12	
Industrial Cleaning	8	11	
Picture Framing	8	5	
Engraving	10	8	2
Building Skills	18	8	
Carpentry	16	6	
Metal	16	6	
Print	10	6	
Computers 1	8	4	
Computers G	10	6	
Computers E	13	8	1
Paint	3	3	
Furniture Restoration	5	3	
New Gym	20	14	2
Sport Hall	20	14	2
Factory Gym	20	14	2
C1 Left	2	1	
E Division	12	8	
G Division	12	8	
<b>Totals:</b>	<b>340</b>	<b>220</b>	<b>14</b>

### 5.3.3 Outcomes

Gyms in the prison were open throughout COVID-19, albeit with reduced capacity due to social distancing requirements. The Inspection Team visited one of the gyms; 12 men were in the gym at that time. Prior to COVID-19, there would be an average of 30 men in the gym. The gym timetable provided to the Inspectorate indicated that A1 wing, which accommodated prisoners on protection, were not

timetabled access to the gym. There were also some issues raised around access to the gym; for example, some prisoners reported that prison staff “picked their favourites.”

On observation, the yards in the prison were grey and bleak; there was no green space and some of the yards were very small in size. In the larger yards many of the prisoners spent their time walking in circles. Many prisoners viewed the yard as one of limited regime options available: “yard or clean” and “yard or cell.” Another prisoner queried why certain activities, such as use of the pool table, were not open for use by “No recreation-why can’t we use the pool table?”

There was no printing service available in Midlands Prison over the three weeks leading up to the on-site inspection; only one member of staff was trained in operation of the print shop and this person was on leave for a prolonged period. The result was that prisoners were not able to access magazines and other information materials, such as the most recent IPS-provided COVID-19 information booklet.

Generally, prisoners reported frustration with the lack of rehabilitation services available in the prison:

*“No rehabilitation, institutionalisation.”*

*“I’m institutionalised.”*

*“I’ve been in and out for 20 years, this has been my worst sentence.”*

*“You’re thrown on the landing and we’ll see you at the end of your sentence.”*

*“It’s like you’re in a maximum security prison - 23 hours lock up.”*

While addiction counselling was viewed as “good” by one prisoner, more counsellors in the prison were required in order to meet demand. One prisoner stated it was “hard to get to see an addiction counsellor.”

Prisoners on certain landings expressed frustration with what they perceived to be as unequal access to jobs or other activities:

*“To get a job you need to be on B3 and you can’t get on to B3 without a job.”*

*“They [other landings] get everything.”*

*“Give fellas through the system a chance.”*

Lack of access to work and training activities featured heavily in reports from prisoners and staff. An area where the limited access was readily observed was in one of the horticulture areas, where only ten prisoners were allowed access, despite the allocation being 16 during COVID-19. Given the vast space in which the horticulture area is located, there appeared to be ample room to allow more prisoners to engage with horticulture while also safely observing social distancing guidelines.

While workshops had resumed in the prison at the time of inspection, the Inspection Team noted that there was no certification in place for prisoners engaged in building skills, carpentry and metalwork; this was despite City & Guilds certification being available to people in prison. The Inspectorate is of the view that formal accreditation is essential to allow prisoners an opportunity to achieve milestones for their development, progress in their sentence and take up employment upon their release from prison.

The Inspection Team welcomed initiatives such as the “Happy to Chat” benches. This was particularly important set against the context of the COVID-19 pandemic in that the initiative continued to connect prisoners with the larger community. The “Happy to Chat” benches was an initiative in which there were plans for prisoners to make 50 benches for three communities. This was a joint initiative funded by both the Irish Prison Service and the County Council.

### 5.3.4 Recommendations

**Recommendation 19:** In line with the requirement to ensure “meaningful human contact,” the Inspectorate recommends that Midlands Prison develop and implement measures designed to mitigate the impact of restrictions imposed on prisoner exercise and interactions by Rule 32A of the Irish Prison Rules; this should be done in consultation with prisoners and staff working in the prison.

*OIP Comment: The Inspectorate has recommended in the Mountjoy Men’s Prison, Cloverhill Prison, Wheatfield Prison, Portlaoise Prison and Cork Prison COVID-19 Thematic Inspection reports that measures be taken to mitigate the impact of restrictions imposed on prisoner exercise and interactions. On all occasions, aside from in relation to Cork Prison, the recommendation was not accepted by the Irish Prison Service, citing the need to restrict prisoner movements as an infection control measure. With respect to Cork Prison, this recommendation was partly accepted by the Irish Prison Service, which stated that “Rule 32A is implemented, when necessary, as a measure to ensure the health and safety of all prisoners and staff working in prisons. Prisoners are fully informed of the quarantine rules on committal by the Governor on parade. Restrictions are reviewed on an ongoing basis by the Emergency Response Planning Team.”*

**Recommendation 20:** Midlands Prison should consider maximising the capacity of activities and services in the prison, in accordance with social distancing guidelines. In particular, access to activities that allow for safe social distancing, such as horticulture, should be increased.

**Recommendation 21:** In line with the Revised European Prison Rules (2020), Rule 26.7, Midlands Prison should ensure wherever possible that prisoners are provided with opportunities to achieve formal accreditation, particularly in areas that may assist in gaining employment upon release from prison.

**Recommendation 22:** The Inspectorate urges the Irish Prison Service and Midlands Prison to put in place resources to ensure the print shop is operational, especially because provision of timely information is integral to the unwinding of COVID-19 restrictions in the prison.

**Recommendation 23:** The Inspectorate recommends that efforts be made to include green spaces in and around the yards.

*OIP Comment: The Inspectorate recommended in the Cloverhill Prison, Wheatfield Prison, Portlaoise Prison and Cork Prison COVID-19 Thematic Inspection reports that the prisons should include green spaces in around the yards; this recommendation was accepted by the Prison Service with respect to Cloverhill Prison and partly accepted with respect to Wheatfield Prison, Portlaoise Prison and Cork Prison. The IPS indicated that “consideration will be given to enhancing the aesthetics of the prison yards” and that “security considerations will be taken into account when considering any enhancement to the prison yards.”*

**Request for Information 3:** The Inspector of Prisons requests to be provided with information on the direction given to Midlands Prison by the Irish Prison Service to implement S.I. 250 - Prison (Amendment) Rules 2020 - Rule 32A of the Irish Prison Rules.

## 5.4 Other Issues

### *Rehabilitation Services – Building Better Lives (BBL) Programme*

The Irish Prison Service Head of Psychology Services informed the Inspectorate that a Group Room had been made available in Midlands Prison to run Group Therapy courses; however an agreement to proceed was awaited. At the time of inspection, there was no group psychology work taking place in Midlands Prison. This meant that prisoners enrolled in Part One of the therapeutic programme, *Building*

*Better Lives*,<sup>60</sup> could not transition to Part Two of the Programme. An overview of each of the stages of the BBL programme is provided below in Table 9.

**Table 9: BBL Programmes Overview**

Programme Section	Programme Aim
<b>Exploring Better Lives Group (EBL)</b>	The aim of this group is to help prisoners to recognise how they can bring about positive change in their life. This group runs twice per week for two months. Once completed prisoners will progress to the next group.
<b>Practicing Better Lives Group (PBL)</b>	The aim of this group is to help prisoners to develop a better understanding of the factors in their life that contributed to their offending. A key part of this group is to support prisoners in developing positive and realistic future plans and skills. This group runs twice weekly for six months.
<b>Maintaining Better Lives (MBL)</b>	The aim of this group is to provide ongoing support for prisoners who are serving long sentences for sexual offences. Taking part in the group will help prisoners to maintain the benefits they achieved in their previous work and help them link up with community supports. The group runs once per week for four months. The PBL group must be completed at least one year prior to the MBL.

The Inspectorate was informed that the BBL programme has strict inclusion and exclusion criteria for participation. The qualifying criteria includes: admission of the offence and harm caused; stability of mental health and personality; sufficient sentence length; risk of re-offending; capacity to engage in the group programme; and pre-and post-assessment reports. Engagement with the BBL programme typically occurs in the last two years of a person’s sentence.

Between 2015 and 2019 (pre-COVID) an average of 20-25 people participated in the BBL programme annually. In 2020, nine people completed the BBL programme.

The Inspectorate was previously informed by the Head of Psychology Services that, as a result of emerging research evidence, discussion with field experts, and new Council of Europe recommendations, the Irish Prison Service had determined the need to review the current BBL programme and to seek to implement appropriate revisions. Many of the emerging recommendations for change require a significant reduction in the barriers to accessing treatment. For example, the Inspectorate was informed that research shows early engagement for assessment and treatment is of benefit, rather than engagement in the final two years of imprisonment. Additionally, the Inspectorate was informed that research indicates that programmes designed to address sexual offending were not only effective for people serving long sentences who have admitted their crime, but also for people with short sentences and those who deny their offence.<sup>61</sup>

The Head of Psychology Services informed the Inspectorate that, the following psychology staffing resources were needed to work with people convicted of sexual violence:

- 2 x Staff Grade Psychologists (one in Midlands Prison and one in Arbour Hill Prison)
- 0.4 WTE locum Senior Psychologist based in Arbour Hill Prison

The Inspectorate was informed that the following resources for psychology would be required in order to provide a service to all people convicted of sexual violence:

<sup>60</sup> The Building Better Lives (BBL) programme is a "therapeutic programme for men who acknowledge that they have committed a sexual offence and who have a desire to build a better life for themselves."

<sup>61</sup> OIP. COVID-19 Thematic Inspection of Arbour Hill Prison, 12 - 13 May 2021, pp. 48-49.

- 5 Staff Grade Psychologists
- 1 Full-time Senior Psychologist based in Arbour Hill Prison

Other group work programmes such as *Living with Life*, a programme for prisoners serving life sentences, had also not returned. These stoppages in programmes impacted on the progression of rehabilitative milestones for prisoners. Prisoners reported delays in Parole Board hearings and fulfilment of Parole Board recommendations because of COVID-19. Prisoners reported frustration in relation to not being able to access psychology group work, as completion of this programme was a requirement listed in Parole Board recommendations. One prisoner summed up the frustration by stating, “It’s a waste of a year.”

At the Closeout meeting with Senior Management, the Inspectorate was informed that a “group” room had been painted, and that the room would have ample capacity for social distancing.

#### *Life Sentenced Prisoners*

A member of prison staff informed the Inspection Team that COVID-19 had been a challenge for life sentenced prisoners in particular, and said that “a lot of prisoners could have moved on” were it not for COVID-19. The member of prison staff requested that the Inspection Team speak with three prisoners in particular; all of whom expressed frustration with the impact of COVID-19 restrictions on their sentence plans. COVID-19 had caused cancellation of programmes required to fulfil Parole Board recommendations, such as neutral venue visits and group psychology work. Prisoners stated:

*“I’m just devastated really. My family, we had plans.”*

*“They make all these plans, but they have no backup.”*

*“You start something, but you’ll never finish in this place.”*

Prisoners and a member of prison staff reported challenges for life sentenced prisoners in accessing the Probation Service and Psychology Service.

#### 5.4.1 Recommendations

**Recommendation 24:** In line with ICCPR Article 10 (3) and the need to ensure prisoners have continued access to rehabilitative services, the Inspectorate recommends the Irish Prison Service continue to assess and revise / replace the Building Better Lives programme to ensure effective and timely engagement. This may include augmenting resources for the psychology service across Midlands Prison (and Arbour Hill Prison) to ensure an adequate number of staff are available to provide a service to all people convicted of a sexual offence.

*OIP Comment: The Inspectorate recommended in the COVID-19 Thematic Inspection report with respect to Arbour Hill Prison that measures be taken to ensure effective engagement with the Building Better Lives programme. The Irish Prison Service accepted this recommendation, noting that a business case had been submitted for the provision of additional resources for the treatment of sexual violence via the 2022 Estimates Process.*

**Recommendation 25:** The Inspectorate recommends that the Irish Prison Service put appropriate arrangements in place to ensure that prisoners are able to engage with services required in order to fulfil Parole Board requirements.

*OIP Comment: The Inspectorate recommended in the COVID-19 Thematic Inspection report with respect to Shelton Abbey that the Irish Prison Service ensure prisoners are able to engage with services*

*required in order to fulfil Parole Board requirements. The Irish Prison Service indicated “This recommendation is under review pending the commencement of the statutory Parole Board.”*



## 6 RESETTLEMENT

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### 6.1 Release

As part of the COVID-19 Thematic Inspection of Midlands Prison, the Inspection Team examined the impact of COVID-19 restrictive measures on programmes designed to prepare people for release from prison.

#### 6.1.1 Compliance

The Irish Prison Service has committed itself to the management of custodial sentences in a way that “encourages and supports prisoners to live law abiding and purposeful lives as valued members of society.” To enable and operationalise this, the Irish Prison Service (IPS) 2019-2022 Strategic Plan determines to “further develop the integration of prisoner care and support services to deliver more effective rehabilitation to prisoners.”<sup>62</sup> Alongside this, the IPS and the Probation Service have developed a multi-agency strategy to manage and rehabilitate “offenders” from pre- to post-imprisonment. This strategy involves Integrated Sentence Management (ISM); Community Return; Probation Service case management and post-release supervision; and engagement with the Irish Association for the Social Integration of Offenders (IASIO) Resettlement Service.

The stated aim of this multi-pronged strategic approach is to ensure “that all releases from Irish prisons and places of detention are planned releases to ensure the informed and effective transition of the offender from prison to the community, in compliance with statutory, legal and sentencing provisions.”<sup>63</sup>

The Irish Prison Rules include provisions which place responsibility on the Governor to “assist and encourage prisoners in (...) preparing for reintegration into society after release” (Rule 75(1)(ii)(d), and on the Prison Officer “to contribute to the rehabilitation and reintegration into the community (...) of prisoners” (Rule 85(3)(c)(iv). An Inter-Agency Group was established to implement key recommendations made by the Penal Policy Review Group to support the rehabilitation of offenders and crime prevention.<sup>64</sup> However, the Group’s last published report was in 2019. Despite this absence in the national legislation, international human rights law and standards place great emphasis on preparation for release.

The Mandela Rules (Rule 87) state:

Before the completion of the sentence, it is desirable that the necessary steps be taken to ensure for the prisoner a gradual return to life in society. This aim may be achieved, depending on the case, by a pre-release regime organized in the same prison or in another appropriate institution, or by release on trial under some kind of supervision which must not be entrusted to the police but should be combined with effective social aid.

Further to this, the 2020 European Prison Rules 33, 103 and 107 recommend, amongst numerous other related provisions, the following:

- All prisoners shall have the benefit of arrangements designed to assist them in returning to free society after release (Rule 33.3);

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<sup>62</sup> IPS, “Irish Prison Service Strategic Plan 2019-2022” [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/Irish-Prison-Services-Strategy-2019-2022.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Irish-Prison-Services-Strategy-2019-2022.pdf).

<sup>63</sup> IPS, “Resettlement and Reintegration” <https://www.irishprisons.ie/prisoner-services/reintegration/>.

<sup>64</sup> Annual Report of the Interagency Group for a Fairer and Safer Ireland, [http://www.justice.ie/en/JELR/Annual\\_Report\\_of\\_the\\_Interagency\\_Group\\_for\\_a\\_Fairer\\_and\\_Safer\\_Ireland\\_2018.pdf/Files/Annual\\_Report\\_of\\_the\\_Interagency\\_Group\\_for\\_a\\_Fairer\\_and\\_Safer\\_Ireland\\_2018.pdf](http://www.justice.ie/en/JELR/Annual_Report_of_the_Interagency_Group_for_a_Fairer_and_Safer_Ireland_2018.pdf/Files/Annual_Report_of_the_Interagency_Group_for_a_Fairer_and_Safer_Ireland_2018.pdf)

- As soon as possible after such admission, reports shall be drawn up for sentenced prisoners about their personal situations, the proposed sentence plans for each of them and the strategy for preparation for their release (Rule 103.2);
- Sentenced prisoners shall be encouraged to participate in drawing up their individual sentence plans (Rule 103.3);
- Such plans shall as far as is practicable include: (a) work; (b) education; (c) other activities; and (d) preparation for release (Rule 103.4);
- Sentenced prisoners shall be assisted in good time prior to release by procedures and special programmes enabling them to make the transition from life in prison to a law-abiding life in the community (Rule 107.1);
- Prison authorities shall work closely with services and agencies that supervise and assist released prisoners to enable all sentenced prisoners to re-establish themselves in the community, in particular with regard to family life and employment (Rule 107.4); and
- Representatives of such social services or agencies shall be afforded all necessary access to the prison and to prisoners to allow them to assist with preparations for release and the planning of after-care programmes (Rule 107.5).

### 6.1.2 Environment

The ISM (Integrated Sentence Management) is a system developed to ensure co-ordination of interactions with prisoners based on agreed sentence plans. The system is designed to allow prisoners to take greater responsibility for their development while in prison. If a prisoner has received a sentence of one year or more they are eligible to be assessed by an ISM officer. The intention of the ISM system is that a plan for the prisoner is created and regularly reviewed. The ISM officer should meet with a prisoner approximately one year prior to release to establish a plan for re-integration.

Prior to the Inspection, Senior Management informed the Inspection Team that there were three ISM officers allocated to Midlands Prison, alongside IASIO resettlement, training and employment officers. At the time of the inspection, one ISM officer worked 08:00 to 17:00, while the remaining two ISM officers worked on the roster, which is a rotational schedule of 08:00 - 20:00 work shifts.

The Inspection Team observed posters on contacting Resettlement, Training, and Employment Officers (TEO) on the hall leading to the video booths.

### 6.1.3 Outcomes

There were numerous reports made by prisoners about lack of engagement and planning in relation to sentence management. One prisoner described his engagement with an ISM officer as sporadic, in which he met the ISM officer two years ago to discuss a plan on how to get to an open prison; however, he reported having had no follow-up engagement. Another prisoner stated a lack of understanding by prison authorities on the importance of adequate preparation prior to release, He stated, "I won't know the loudness of cars... There's no one listening." Some prisoners expressed apprehension about leaving prison, with one prisoner stating, "it's [anxiety] all day, every day."

The Inspectorate raised the issue of sentence management at the Closeout Meeting, at which point the Inspectorate was informed that a new approach to ISM engagement was being implemented across the prison estate. All eligible prisoners in Midlands Prison would be interviewed/re-interviewed during the months of July and August 2021, and all information would be centrally accessible on the Prisoner Information Management System.

In the Closeout Meeting with Senior Management, it was stated that release planning meetings were continuous throughout COVID-19 and occurred once a prisoner was six months from his release date. These meetings involved the Probation Service, a Chief Officer, Healthcare and ISM staff. However, prisoners had no input into these meetings. The lack of involvement or input by prisoners led to a perception by prisoners that there was little release planning taking place. Senior Management committed to providing further information on services to prisoners to help bridge the information gap.

A staff member also felt that the absence of in-person multi-disciplinary team meetings throughout COVID-19 impacted on support provided to individual prisoners.

Prior to the on-site inspection (6 June 2021), Senior Management provided the Inspectorate with the number of prisoners in Midlands Prison approved for structured Early Release programmes (Table 10).

**Table 10: Prisoners on Early Release Programmes, Midlands Prison (6 June 2021)**

Programme	Number of Prisoners	% of Population (x/800)
Community Return	5	0.63%
Community Support Scheme	60	7.5%

#### 6.1.4 Recommendation

**Recommendation 26:** In line with the Mandela Rules and the European Prison Rules, the Irish Prison Service should strengthen, operationalise and apply the Integrated Sentence Management process so that all prisoners are actively engaged and contributing to their sentence and re-integration plan and have regular meetings with the ISM officer per year. Prisoners should be provided with a written copy of their sentence plan.

OIP Comment: *The Inspectorate recommended in the COVID-19 Thematic Inspection reports with respect to Mountjoy Men’s Prison, Cloverhill Prison, Wheatfield Prison, Limerick Prison, Shelton Abbey and Arbour Hill Prison that the Integrated Sentence Management process be strengthened and that all prisoners should be provided with a written copy of their sentence plan. The Irish Prison Service has accepted this recommendation on all occasions, noting the development and testing of a centralised recording database for ISM interviews and prisoner multi-disciplinary management plans.*

# 7 RECOMMENDATIONS & IPS ACTION PLAN

No.	Recommendation	IPS Response	Action Required	Action Owner	Timeline
MDCT1	In line with Rule 54 of the Nelson Mandela Rules, Midlands Prison and the Irish Prison Service must ensure that written and oral information is provided to all prisoners, in a form they can understand; this may require the assistance of interpreters, prior to and upon entering quarantine and on an ongoing basis over the course of quarantine. Prisoners should be provided with ongoing opportunities to raise questions and to be informed of all matters necessary to adapt to quarantine and prison life in general.	<p><b>Accepted:</b></p> <p>The Irish Prison Service provides a comprehensive Prisoner Information Book to all new committals to prison. The Book is printed in several languages and gives basic information about regimes and services within prisons.</p> <p>A bespoke booklet titled “Covid-19 – Living in Cell” was developed by the Red Cross Prisoner Volunteers to provide detailed information to prisoners on isolation/quarantine and gives specific information on the Covid-19 testing process.</p> <p>The information, which has been designed by prisoners for prisoners, is provided in a clear, easy to read plain English format.</p> <p>This information booklet has been translated into several languages.</p> <p>In addition, prisoners are provided with verbal information by prison management on the quarantine process including the timelines and testing process.</p>	<p>The Irish Prison Service will continue to provide translations of information provided.</p> <p>The Governor in Midlands Prison provides a verbal briefing to new committals and prisoners going on temporary release.</p>	<p>Care and Rehabilitation</p> <p>Prison Management</p>	In place and will be reviewed and augmented on an ongoing basis
MDCT2	In line with Section 42 of the Public Sector Duty and Rule 37.1 of the European Prison Rules, the Irish Prison Service must ensure that Foreign National Prisoners have equal access to the provision of information in a language they can understand.	<p><b>Accepted:</b></p> <p>The Print shop at Midlands Prison remains closed due to the absence of the post holder. The Governor in Midlands Prison has sought support in putting a contingency plan in place to restore print services and increase supply of information.</p> <p>Midlands Prison Management will explore other options to support non-English language speaking prisoners to overcome language difficulties.</p> <p>Management in Cork Prison have commenced a trial of a hand held translation device which if successful will be rolled out to other locations.</p>	The IPS will carry out a review of the operation of the Midlands Prison Work shop to identify long term options for the resourcing of same.	Prison Management, HR, Corporate Services	End Q1 2022
MDCT3	The Irish Prison Service should provide prisoners with a written copy of the Framework for Unwinding of Prison Restrictions. Prisoners should be consulted, and updated on future plans relating to family visits, regimes, and sentence progression as COVID-19 restrictions unfold.	<p><b>Part Accepted:</b></p> <p>The Irish Prison Service has completed significant unwinding of prison restrictions in line with the roll out of the covid-19 vaccination programme in all prisons.</p> <p>Extensive communication with prisoners is undertaken at all times to raise awareness of changes to restrictive measures.</p>	Continue to update as required	Prison Management Team	In place and Ongoing

		<p>Midlands Prison management continue to brief prisoners on changes via Governor's Parade and class officers are available to communicate with prisoner at all times.</p> <p>The prisoners Red Cross continue to develop information booklets and arrange regular information leaflet cell drops. The Prisoner TV channel is also updated as the Covid-19 situation evolves.</p>			
<b>MDCT4</b>	The Inspectorate recommends that the Irish Prison Service make all Office of the Inspector of Prisons' materials and reports readily available and accessible to all prisoners.	<p><b>Accepted:</b></p> <p>The Irish Prison Service Communications team will work to identify opportunities to make Office of the Inspector of Prisons' materials and reports readily available and accessible to all prisoners.</p>	Communications team to engage with colleagues at OIP	Communications/ Press Office	End Q4 2021
<b>MDCT5</b>	In line with the Nelson Mandela Rules, Rule 22 and European Prison Rules, Rule 22.4, the Inspectorate recommends that the scheduling of meal times be amended to ensure meals are served at reasonable intervals and at usual times: breakfast (morning), lunch (midday) and dinner (evening).	<p><b>Accepted:</b></p> <p>In 2019, the Irish Prison Service introduced a pilot alteration to the schedule of meal times in Castlerea and Mountjoy Prison (Progression Unit).</p> <p>The purpose was to examine the impact of providing the main daily meal in the evening. The results of the pilot were positive and the IPS decided, in 2019, to roll out this meal schedule to all prisons.</p> <p>The Irish Prison Service has been engaging with the staff representative association with regard to implementing this change across the prison system.</p> <p>The Irish Prison Service has identified the review of prisoner mealtimes as a priority action in the Public Service Agreement 2021/2022 and continues to engage with the staff representative association in this regard.</p>	<p>The Irish Prison Service will continue to engage with the staff representative association with regard to the alteration of the existing prisoner meal schedule</p> <p>The Irish Prison Service has reintroduced divisional unlock across all prisons as part of the unwinding of restrictions.</p>	Care and Rehabilitation	Ongoing
<b>MDCT6</b>	Taking into consideration Article 6 of the ECHR and Article 14 (3) of the ICCPR, the Irish Prison Service should continuously monitor and engage with prisoners on the impact of remote court hearings.	<p><b>Part Accepted:</b></p> <p>The <i>Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020</i> allows for certain type of court hearings to be heard by video link. This includes arraignments, returns for trial, sentencing hearings and certain hearings in relation to surrender proceedings for extradition.</p> <p>While video link is not the default, the Act gives this authority to the Courts allowing them to make certain proceeding of their choosing by default. This authority is vested firstly in the Presidents of the Courts and subsequently in the Judges themselves.</p> <p>The Irish Prison Service and the Courts Service are working to increase the capacity of video link.</p>	<p>The Irish Prison Service will continue to engage with Court Services as necessary.</p> <p>The Irish Prison Service will continue to explore the use of video link for the provision of other services such as Probation interviews, prisoner case conferences, education and remote learning.</p>	Operations	Reviewed on an ongoing basis

		<p>Infection control measures introduced during Covid-19 have resulted in the widespread use of video link for Court appearances. Approximately 60% of Court appearances are now taking place via video link.</p> <p>The use of video link will allow the Service to redirect vital resources into the provision of prisoner services.</p>			
<b>MDCT7</b>	<p>In line with Rule 70.9 of the Revised European Prison Rules, and the need to ensure prisoners are able to submit a complaint without fear of reprisal, the Inspectorate encourages the Irish Prison Service to promptly replace the current complaints system that has been identified as unfit for purpose by this office over many years.</p>	<p><b>Accepted:</b></p> <p>The Irish Prison Service continues to engage with the Criminal Policy Division of the Dept of Justice in relation to the development of a new complaints process.</p> <p>All complaints are treated with the utmost seriousness and will be thoroughly investigated. Prison management advised that there are currently seven complaints boxes at various locations around Midlands Prison and all prisoners pass a complaints box at meal times.</p>	Complaints system under review	Operations	Ongoing
<b>MDCT8</b>	<p>In line with Rule 83 (a) of the European Prison Rules, the Irish Prison Service must ensure that the management of prisons is done in such a way as to ensure prisons are adequately staffed at all times to meet a safe and secure environment and to effectively deliver on the provision of services.</p>	<p><b>Accepted:</b></p> <p>Each prison has an agreed task list which identifies the resource requirements to operate the prison, this does not include unpredictable tasks which are derived from prisoner and staff needs and which vary each quarter.</p> <p>Factors which influence the demands are the prisoner and staff demographics and the prison environment. These unpredictable tasks are in the main covered by applying Additional Hours to individual Officers to support the prisons' services</p> <p>Additional tasks which have not been considered in the task list are identified daily and added to the recognised tasks in order to establish the number of staff required.</p> <p>Where a gap between the staff numbers required and the numbers available (either through unplanned absences, unplanned demands for additional staff, or both), it is the responsibility of each prison to determine how to meet the shortfall through, for example, requiring attendance of some staff on Additional Hours within the budget available (provided for in the PSA: Haddington Road Agreement).</p> <p>Where unplanned task demands exceed resource availability the prison will apply a Regime Management Plan which is a tool to ensure the delivery of IPS policies and structured activities against the backdrop of reduced staffing levels, while ensuring a safe working environment for staff., the RMP outlines the level of activities/services which can be provided on any given day, given staffing</p>		Local Management/ Human Resources Directorate	Ongoing



		<p>levels, bringing a level of predictability and stability to the operation of the prison.</p> <p>The plan is heavily focussed on ensuring the continued delivery of structured activities to prisoners and on encouraging prisoners to engage in structured activities by prioritising the assignment of staff to these services.</p>			
<b>MDCT9</b>	<p>The Inspectorate recommends that the Irish Prison Service engages with the Department of Justice to maximise all opportunities available for reducing the prison population. The reduction in prison numbers reduces the number of people cell-sharing, minimises the risk of COVID-19 transmission, and enables prisoners to practice social distancing.</p>	<p><b>Accepted:</b></p> <p>Midlands Prison has a bed capacity of 875. The daily average number in custody in 2020 was 814 or an average occupancy level of 93%. The average number in custody in Midlands in 2021 (to 14/9/2021) is 803 or 92%.</p> <p>In March 2020 the Irish Prison Service took decisive action to reduce the prison population to ensure effective infection control measures.</p> <p>The IPS has engaged with the Department of Justice to examine potential solutions to continue to manage the prison population in a way that ensures effective infection control measures.</p> <p>In addition, the Criminal Justice Efficiencies Group has tasked data analysts from across the sector with examining the potential impacts on prison numbers over the next 12 months.</p>	<p>The IPS will continue to review the Prison Population Management Plan and will introduce new measures to address prison overcrowding as necessary.</p> <p>Data analysis on the impact of increased committals to be completed.</p>	<p>Operations Directorate</p> <p>Criminal Justice Efficiencies committee</p>	Ongoing
<b>MDCT10</b>	<p>The Inspectorate recommends that Midlands Prison and the Irish Prison Service take measures to reduce healthcare waiting lists and to ensure effective scheduling and timely access to a doctor for all prisoners.</p>	<p><b>Accepted:</b></p> <p>Midlands Prison management are actively seeking to reduce Healthcare waiting lists. A second full time GP has been appointed, which has contributed to a more sustainable and robust GP service.</p>	<p>Care and Rehabilitation &amp; Prison Management are implementing solutions.</p>	<p>Care and Rehabilitation</p> <p>Prison Management</p>	Ongoing
<b>MDCT11</b>	<p>The Irish Prison Service should develop a clear policy on the photocopying of post. This policy should apply key principles (e.g., proportionality, necessity, review and the recording of reasons for its justification) and balance the rights of prisoners against security concerns.</p>	<p><b>Accepted:</b></p> <p>The practice of photocopying post was a response by Midlands Prison to an influx of covert contraband in Prisoners' post. An ion scanner and accompanying SOP have been received from OSG and are in place.</p> <p>The Operations Directorate are developing a national policy around scanning and photocopying of post.</p>		<p>Operations Directorate</p>	Q1 2022
<b>MDCT12</b>	<p>In line with the June 2021 SPT Follow-Up Advice relating to COVID-19, the Inspectorate urges the Irish Prison Service to implement all possible measures for improving social and family contact for people in order to compensate for COVID-19-related isolation.</p>	<p><b>Part accepted:</b></p> <p>Every effort continues to be made by the Irish Prison Service to allow prisoners in Quarantine/Isolation to have contact with family and prison services.</p> <p>This includes the use of in-cell telephones. A contract has been signed for roll out of in-cell telephony in Midlands Prison, with rollout to commence in October.</p>	<p>Continue the provision of in cell technology to allow prisoners to maintain contact with family and services.</p>		Ongoing.



		Physical visits to prisons have also recommenced in line with the roll out of the prison vaccination programme. Physical visits in Midlands Prison resumed on 5 <sup>th</sup> August 2021.			
<b>MDCT13</b>	In line with the Revised European Prison Rules Rule 19.4 and the CPT Decency Threshold for Prisons, prisoners in quarantine/isolation must be permitted to shower, if not daily, at a minimum, two times in a seven-day period.	<p><b>Accepted:</b></p> <p>The Infection Control Guidance on the provision of showers for prisoners in Quarantine/Isolation was updated in July by the NICT to allow for two showers in a seven day period – where operationally feasible.</p> <p>All prisoners confined to their cell for the purpose of quarantine have access to hot water and soap to maintain adequate hygiene.</p> <p>This is in line with the <i>European Committee for the Prevention of Torture (CPT), Statement of Principles relating to the treatment of persons deprived of their liberty in the context of the Coronavirus disease.</i></p> <p>Any prisoner required to quarantine or isolate in Midlands Prison is also provided with a pack that includes hygiene and cell cleaning products.</p>	The Infection control Guidance on the provision of showers for prisoners in Quarantine/Isolation was updated in July to allow for two showers in a seven day period – where operationally feasible.	Care and Rehabilitation; Human Resources	Completed
<b>MDCT14</b>	Prisoners in quarantine/isolation must have at least one hour in the open air each day.	<p><b>Not accepted:</b></p> <p>Prisoners in quarantine have restricted out of cell time, in accordance with Rule 32A of SI 250/2020 Prison Rules 2020. Prisoners are fully informed of the quarantine rules on committal by the Governor on parade.</p> <p>In 2021, an average of 17 prisoners per day are subject to Rule 103 Quarantine or Rule 103 Isolation. This means that around 2% of the Midlands prison population are affected by Covid 19 restrictive measures on a daily basis.</p> <p>Restrictions are reviewed on an ongoing basis.</p>			
<b>MDCT15</b>	Measures must be taken to mitigate the detrimental effects of isolation or quarantine, including psychological support during and after quarantine/isolation in order to assist prisoners in coping with the impact of COVID-19 and subsequently imposed restrictive measures.	<p><b>Accepted:</b></p> <p>A Covid outbreak-specific mental health protocol has been put in place by the IPS Psychology Service. The approach incorporates a three-tiered layered care model which includes preventative, enhanced and acute mental health care interventions. This includes the use of tablets to proactively engage people on significantly restrictive measures, where required.</p>			Completed

<p><b>MDCT16</b></p>	<p>The Inspectorate urges Midlands Prison to consider all available ways to increase out-of-cell time and maximise access to services for prisoners accommodated under Rule 63 of the Irish Prison Rules.</p>	<p><b>Part accepted:</b></p> <p>Every effort is made by prison management to provide maximum out of cell time for prisoners on restricted regime for protection reasons.</p> <p>The Irish Prison Service has introduced new technologies to support those who are more confined to their cells and these technologies will allow greater levels of access to regimes and services post covid-19. These include in-cell telephones and the Prisoner TV/Information Channel.</p> <p>Midlands Prison have submitted a business case to split exercise yards in order to facilitate further out of cell time for Rule 63 prisoners.</p> <p>Providing enhanced regimes for restricted prisoners is being considered as part of the development of an in-cell learning plan.</p> <p>The operation of Rule 63 is also being reviewed by the Irish Prison Service as part of the Review of the Prison Rules, 2007. The aim of the Irish Prison Service is to reduce the number of prisoners confined to their cells under Rule 63.</p>	<p>Review of Rule 63 to be completed as part of Review of Prison Rules</p>	<p>Operations Directorate</p>	<p>Q2 2022</p>
<p><b>MDCT17</b></p>	<p>To meet the education needs of prisoners (European Prison Rule 28.1), which include facilitating more substantive engagement with education (and other services), the Irish Prison Service should make digital tablets available for prisoner use. These digital tablets could be pre-loaded with education materials.</p>	<p><b>Recommendation is under review:</b></p> <p>The Irish Prison Service is developing an in-cell learning strategy to enhance learning from prison cells.</p> <p>A new prisoner TV Channel has been developed and is being rolled out across the estate. This allows for the broadcasting of local and national information and for the provision of educational material.</p> <p>CDETb have developed a substantial quantity of audio-visual course materials to be viewed on the TV channel and will provide accompanying supporting hard copy documentation to facilitate blended learning.</p>	<p>A large volume of in-cell audio-visual and printed material has now been produced by the ETBs.</p> <p>Director of Care and Rehabilitation continues to engage with the staff representative association on the introduction of blended learning and progress is anticipated in the immediate future.</p>	<p>Care and Rehabilitation</p>	<p>Q4 2021</p> <p>Q4 2021</p>
<p><b>MDCT18</b></p>	<p>In line with Rule 110 of the Irish Prison Rules and on par with public health guidelines in the community, Midlands Prison should pro-actively consider the re-opening of library services in the prison.</p>	<p><b>Accepted:</b></p> <p>The library at Midlands Prison has re-opened. Closures may occur where resources are reassigned in line with Midlands' Regime Management Plan.</p>	<p>Care and Rehabilitation are undertaking a review of Library Services across the Prison Estate.</p>	<p>Care and Rehabilitation</p>	<p>December 2021</p>
<p><b>MDCT19</b></p>	<p>In line with the requirement to ensure "meaningful human contact", the Inspectorate recommends that Midlands Prison develop and implement measures designed to mitigate the impact of restrictions imposed on prisoner exercise and</p>	<p><b>Part accepted:</b></p> <p>Rule 32A is implemented, when necessary, as a measure to ensure the health and safety of all prisoners and staff working in prisons.</p>			

	interactions by Rule 32A of the Irish Prison Rules; this should be done in consultation with prisoners and staff working in the prison.	Prisoners are fully informed of the quarantine rules on committal by the Governor on parade. Restrictions are reviewed on an ongoing basis.			
<b>MDCT20</b>	Midlands Prison should consider maximising the capacity of activities and services in the prison, in accordance with social distancing guidelines. In particular, access to activities that allow for safe social distancing, such as horticulture, should be increased.	<b>Part accepted:</b> Covid 19 related restrictions are reviewed on an ongoing basis. Current numbers attending horticulture have been agreed to ensure staff safety. The number of participants will be kept under review, in line with the unwinding of infection control measures.			Subject to ongoing review
<b>MDCT21</b>	In line with the Revised European Prison Rules (2020), Rule 26.7, Midlands Prison should ensure wherever possible that prisoners are provided with opportunities to achieve formal accreditation, particularly in areas that may assist in gaining employment upon release from prison.	<b>Accepted:</b> The Irish Prison Service places a strong emphasis on the provision of vocational training activities for prisoners to prepare them for employment post-release. Work and Training section oversees the provision of accredited training to prisoners, provision of essential services to the prison (such as catering, laundry, industrial cleaning and waste management) to meet compliance standards and supports the provision of other constructive activities such as gyms, work parties and charitable work.  A wide range of training workshops operate within the institutions, e.g. printing, computers, Braille, woodwork, metalwork, construction, craft and horticulture. In addition, essential services for the prisons i.e. catering, laundry services and industrial cleaning are provided through accredited work training. Courses are externally accredited by City & Guilds, the Scottish Qualifications Authority (SQA), Food Safety Authority of Ireland (FSAI), ECDL and other certifying bodies.  A review of the Irish Prison Service work and training programme is currently being undertaken by the Irish Prison Service.	Programme under review	Care and Rehabilitation	Q1 2022
<b>MDCT22</b>	The Inspectorate urges the Irish Prison Service and Midlands Prison to put in place resources to ensure the print shop is operational, especially because provision of timely information is integral to the unwinding of COVID-19 restrictions in the prison.	<b>Accepted:</b> The Midlands Prison Print shop is currently closed due to a long term absence of the post holder. Prison management are looking at interim solutions to support the printing of material pending the return of the post holder.  The long term operation and staffing of the Print Workshop is being considered as part of the review of work and Training.			Ongoing

<b>MDCT23</b>	The Inspectorate recommends that efforts be made to include green spaces in and around the yards.	<p><b>Part accepted:</b></p> <p>Consideration will be given to enhancing the aesthetics of the prison yards.</p> <p>Security considerations will be taken into account when considering any enhancement to the prison yards.</p>		Prison Management; Finance & Estates Directorate	End 2021
<b>MDCT24</b>	In line with ICCPR Article 10 (3) and the need to ensure prisoners have continued access to rehabilitative services, the Inspectorate recommends the Irish Prison Service continue to assess and revise / replace the Building Better Lives programme to ensure effective and timely engagement. This may include augmenting resources for the psychology service across Midlands Prison (and Arbour Hill Prison) to ensure an adequate number of staff are available to provide a service to all people convicted of a sexual offence.	<p><b>Accepted:</b></p> <p>Midlands Prison rehabilitative services were provided virtually and maintained virtually insofar as was possible throughout the pandemic. In line with the unwinding of restrictive measures across the Estate, Midlands is now providing increased levels of access to services in line with the unwinding of restrictive measures.</p> <p>Release requirements were met, including requirements for release of people convicted of a sexual offence.</p> <p>The BBL programme has resumed face to face meetings within the past month. Psychology Services at Midlands Prison have also been provided with an additional group room to facilitate further engagement.</p> <p>The Irish Prison Service is reviewing its approach to the management of prisoners convicted of sexual violence and the operation of the Building Better Lives Programmes.</p> <p>In this regard, the Irish Prison Service has submitted a business case for the provision of additional resources for the treatment of sexual violence via the 2022 Estimates Process.</p>	Business case submitted as part of Estimates Process		Q1 2022
<b>MDCT25</b>	The Inspectorate recommends that the Irish Prison Service put appropriate arrangements in place to ensure that prisoners are able to engage with services required in order to fulfil Parole Board requirements.	<p><b>Accepted:</b></p> <p>Appropriate arrangements are in place to facilitate engagement with services as required by the Parole Board. These services must be provided in line with current public health guidelines.</p>		Operations	Ongoing
<b>MDCT26</b>	In line with the Mandela Rules and the European Prison Rules, the Irish Prison Service should strengthen, operationalise and apply the Integrated Sentence Management process so that all prisoners are actively engaged and contributing to their sentence and re-integration plan and have regular meetings with the ISM officer per year. Prisoners should be provided with a written copy of their sentence plan.	<p><b>Accepted:</b></p> <p>The WTO-ISM Coordinator is required to conduct an interview with an ISM-Eligible prisoner within 7 days of committal or transfer to establish the need for referrals to services.</p> <p>The WTO-ISM creates the referrals to the services and invites the services to make recommendations for a sentence plan. The sentence plan is required to be reviewed annually or at intervals determined by the needs of the prisoner. Within 12 months of the remission date the WTO- ISM Coordinator is required to conduct a Community Integration Interview with the prisoner. The Community</p>		Care and Rehabilitation	Complete

		<p>Integration Interview is then discussed with the prison-based multi-disciplinary team and a plan for preparing for release should be prepared and discussed with the prisoner. A new ICT system has been built and introduced in Summer 2021 to help guide and record activity across this ISM process.</p> <p>This new ICT system provides the ability to print and provide the prisoner with a copy of their multi-disciplinary sentence plan which is called the 'Personal Implementation Plan' (PIP).</p> <p>As part of the introductory phase of this new ICT system the WTO-ISM Coordinators have concentrated on completing the initial ISM interviews. Over 700 interviews have been conducted with prisoners in Midlands Prison since 5<sup>th</sup> July 2021.</p> <p>The WTO-ISM, Governor and prison-based multi-disciplinary team are now moving to the second phase of Personal Implementation Plan (PIP) development for prisoners in Midlands Prison.</p> <p>The phased introduction of the new ISM ICT system is underway across the prison estate and a total of 3140 ISM interviews have been completed with ISM-eligible prisoners and a total of 537 plans commenced or completed between 5 July 2021 and 1 October 2021. These figures do not include prisoners who have been released in the same time period.</p>			
<b>MDREQ 1</b>	The Inspector of Prisons requests to be provided with information on the direction given to Midlands Prison by the Irish Prison Service to implement S.I. 250 - Prison (Amendment) Rules 2020 - Rule 36A of the Irish Prison Rules.	Restrictions on visit entitlements were introduced by the Irish Prison Service emergency Response Planning Team for infection control reasons and communicated to prison management via the Prison Liaisons Group. An amendment was made to the Prison Rules in April to give legal effect to these restrictions. All prisons have acted in accordance with the revised rules.			
<b>MDREQ 2</b>	The Inspector of Prisons requests to be provided with the COVID-19 outbreak-specific mental health protocol put in place by the IPS Psychology Service.	Provided via email to Office of the Inspector of Prisons.			Completed
<b>MDREQ 3</b>	The Inspector of Prisons requests to be provided with information on the direction given to Midlands Prison by the Irish Prison Service to implement S.I. 250 - Prison (Amendment) Rules 2020 - Rule 32A of the Irish Prison Rules.	Restrictions on out of cell time and recreation entitlements were introduced by the Irish Prison Service Emergency Response Planning Team for infection control reasons and communicated to prison management via the Prison Liaisons Group.			

