



An Roinn Dlí agus Cirt
Department of Justice

Report on a review of Prison Visiting Committees

March 2023

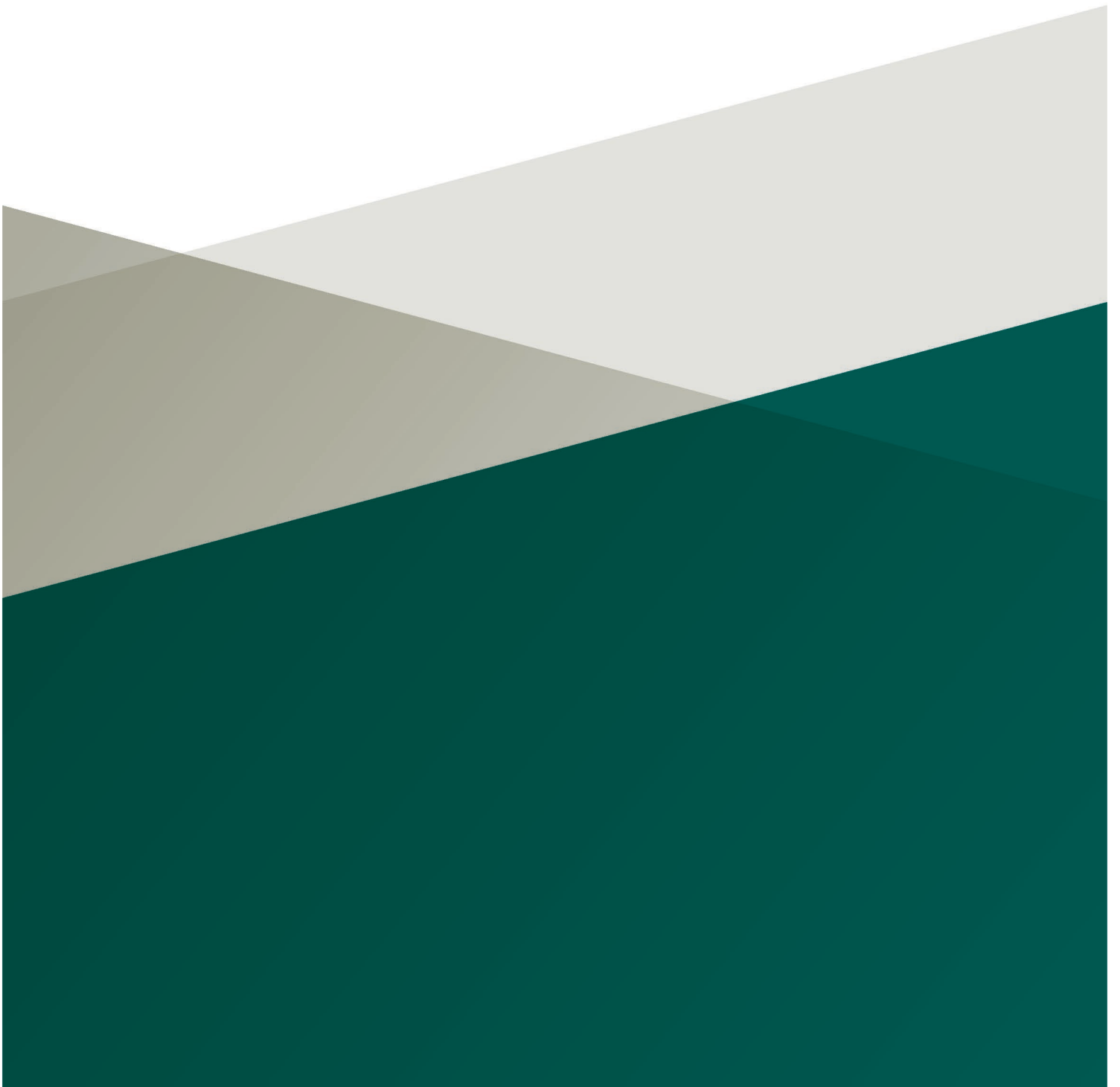


Table of Contents

Executive Summary	2
1. Background	8
2. Terms of Reference	8
3. Current Oversight of the Prison System	8
3.1 Inspector of Prisons	9
3.1.2 The Inspection of Places of Detention Bill	9
3.2 Prisoner Complaints System	10
3.2.1 Review of Prisoner Complaints System	10
3.3 Prison Visiting Committees	11
4. Prison Visiting Committees: Detailed Overview	11
4.1 History of PVCs	11
4.2 Current Powers of PVCs	12
4.3 Previous Powers of PVCs	12
4.4 Appointment of PVC Members	13
4.5 Composition of PVCs	13
5. Previous Reports	14
5.1 Report of the Committee of Inquiry into the Penal System	14
5.2 Progress in the Penal System (PIPS)	16
6. Inspection of Places of Detention Bill	17
7. Initial Review of PVCs	17
8. Public Consultation	18
9. Review of Prison Visiting Committees	19
9.1 Purpose of a modern PVC	19
9.2 Guiding Principles of the Review	20
9.3 Independence of PVCs	21
9.4 Statutory and Non-Statutory Recommendations	21
9.5 Functions	22
9.6 Powers	25
9.7 Appointments Process	29
9.8 Annual Reports	31
10. Conclusions	33
Appendices	34

Executive Summary

As part of its mission to build stronger and safer communities, the 2020 Programme for Government, *Our Shared Future*, commits to reviewing the existing functions, powers, appointment procedures, and reporting processes for Prison Visiting Committees (PVCs). An initial desk-based review of PVCs in 2021 led to the recommendation to retain and reform the Committees and to bring them more in line with contemporary standards for such bodies. A public consultation took place in 2022, involving an online questionnaire, engaging with the National Prison Visiting Committees Chairpersons Group, and direct prisoner engagement.

Informed by this consultation, a number of specific recommendations have been developed for this report. It is intended that the statutory recommendations be divided between primary legislation and a statutory instrument as appropriate, the former replacing the draft Head 13 of the *Inspection of Places of Detention Bill 2022*. The non-statutory recommendations will be achieved through means appropriate to the nature of the specifics of respective recommendations.

The review of PVCs was led by a number of guiding principles, identified during the consultation process:

- Clarifying the exact powers of PVCs, and specifically their routes to advocating for prisoners and addressing issues of concern, to the benefit of prisoners and PVC members.
- There is a need to bring more uniformity and consistency to the functioning of PVCs across all prisons.
- A balance needs to be struck between the benefits of unannounced visits and the benefit to prisoners of regularity.
- For prisoners to have faith in PVCs, they must at all times be able to speak with PVC members in private and must learn of the outcome of issues of concern raised.
- PVCs must retain their independence. They are to be complementary to other oversight mechanisms, namely that of the Office of the Inspector of Prisons, but they remain representatives of civil society and independent appointees of the Minister for Justice.
- While PVC members are individual appointees, they are appointed to be a member of a committee and they must work closely and respectfully as a team with fellow members at all times in service to ensure the smooth running of the PVC.
- There is a need to increase the diversity of PVC membership to more accurately reflect the society in which prisons operate and the prison population.
- To increase trust and faith of prisoners in PVCs and consequently to enable the latter to be more effective, the appointments process must be robust and transparent at all times.

The recommendations in full are as follows:

Statutory recommendations

Functions

- It is recommended to retain the current structure of membership of each PVC at no more than 12 and no less than 6.

- It is recommended that the statutory basis for visits 'at frequent intervals' be retained.
- It is recommended that the ability to visit individually be removed.
- It is recommended that the NPVCCG continue as is, and not be placed on a statutory footing.
- It is recommended that term limits are introduced for membership, with each term lasting 4 years, and members unable to serve more than two consecutive terms on a single committee.

Powers

- It is recommended that the entitlement to inspect the records of a prison be retained.
- It is recommended that clarity be provided on a statutory basis that PVCs do not offer a formal complaints process for prisoners. PVCs engage with prisoners to learn of issues of concern and pursue these as appropriate.
- In light of the recommendation above regarding removing individual visits, it is recommended to retain the right of prisoners to request a private meeting with PVC members to register a concern. For risk management purposes, this private meeting may involve a prison officer being in sight of the prisoner, but they should not be able to hear the conversation.
- It is recommended the power to report to the Minister be updated and retained, and the PVCs be encouraged to develop a process by which all such abuses and necessary repairs are reported to the Minister and the Governor regularly and in a timely manner as required.
- It is recommended that the power to investigate reports of injury as a result of discipline or treatment by prison staff to the mind or body of prisoners be repealed. This refers to the investigation process only. PVCs remain obliged to report an offence as appropriate.
- It is recommended that the powers of PVCs be broadened to consider the general health and welfare of prisoners.
- It is recommended that the power to assist the Governor in effecting classification of prisoners be repealed.
- It is recommended the obligation to work with the Board to promote the efficiency of the IPS be repealed.
- It is recommended that the obligation for PVCs to conduct enquiries on matters as directed by the Minister and report on same be aligned with the outcome of the current examination of a similar obligation in relation to the Inspector of Prisons.
- It is recommended that the power to assist prisons in the selection of library books be updated and retained. However, this should also be expanded as PVCs should be empowered to pursue matters relating to the adequate supply of appropriate media beyond library books, as it pertains to prisoner welfare.
- It is recommended that PVCs be empowered to enquire after the provision of both employment and education provisions in the prison.
- It is recommended the provision to devote special attention to prisoners about to be discharged be repealed, and replaced with an obligation to recognise the different stages of a sentence each prisoner is in and to treat their needs appropriately.
- It is recommended the power to organise lectures or addresses in the prison be retained, though it should be revised to remove reference to the 'moral improvement' of prisoners, to be replaced with emphasis on rehabilitation and preparation for return to communities.

- It is recommended the role of PVCs in authorising the use of mechanical restraint be repealed in its entirety.

Appointments Process

- It is recommended, subject to agreement, that the Public Appointments Service be charged with running regular public competitions to establish a panel of qualified individuals for the Minister's consideration for appointment.
- It is recommended that a statutory provision should be made so that, should a complaint be made and evidence be provided by an affected party of misconduct or a failure to carry out appropriate duties, the Minister retains an appropriate formal route to remove appointees, including one or all of a PVC. This may be done in consultation with or independent of other members of the relevant PVC.

Annual Reports

- It is recommended that annual reports for a year are submitted to the Minister on or before the 30 April of the following year. All reasonable efforts should be made on the part of the PVC to ensure this deadline is not missed, and delays of submissions should be clearly reasoned.

Non-statutory recommendations

Functions

- It is recommended that non-statutory guidance be provided for the frequency of the visits, suggesting PVCs consider visiting as frequently as practicable.
- It is recommended that non-statutory guidance be provided to recommend a number of these visits be regular, providing prisoners with certainty as to when they may see the PVC, while also retaining the ability of the PVC to conduct unannounced visits.
- It is recommended that non-statutory guidance be provided to recommend PVC members coordinate visits in pairs.
- It is recommended that non-statutory guidance be provided to recommend PVCs meet once a month, and that the quorum be 50% or more of the current committee membership.
- It is recommended that non-statutory guidance be provided to indicate that PVCs may invite a Governor to attend part of all of a meeting, and that the Governor is under no obligation and may or may not decide to attend.
- It is recommended that the Irish Prison Service and PVC members work together to examine the potential introduction of an appropriate form of identification to use during visits.
- It is recommended that non-statutory guidance be provided to encourage PVCs to actively promote their presence, remit, and their workings as appropriate across the prison population, including considering annual talks to prisoner groups, and that prisons provide space to promote the work of the PVC as appropriate.
- It is recommended that the Irish Prison Service, and PVC members work together to ensure information in an appropriate language is provided in writing to prisoners on their committal, informing them of the role of the PVC.
- It is recommended that documentation relating to the functions, powers, responsibilities, and appointments process be hosted on a single webpage on gov.ie. This documentation will be a reproduction of material from that prepared for the appointments process.

- It is recommended that the IPS continue to facilitate training sessions for PVCs and the NPVCCG, at the request of the respective Chairs.
- It is recommended that the Department of Justice provide for the establishment of a fund for training for PVC members. This fund will be administered by the Chair of the NPVCCG. The fund will provide for the training of PVCs in areas of strategic and practical importance, as identified by the NPVCCG.
- It is recommended that newly appointed Committee members be provided a copy of the documentation relating to the functions, powers, and responsibilities of PVCs, and that this documentation be taken from that prepared for the appointments process.
- It is recommended that non-statutory guidance be provided to Committees to develop additional material, in line with the independence of the Committees, to be provided to new members informing them of agreed standard operating procedures of the Committee.

Powers

- It is recommended that non-statutory direction be provided to clarify that PVC members may, as currently provided for, advise or support prisoners submitting complaints through the existing formal system, or submit a complaint on behalf of a prisoner.
- It is recommended that PVCs register and record individual engagements with prisoners where issues of concern are raised and, as far as is practicable, be advised to provide detailed information regarding the steps taken and the outcome of any issues raised. The keeping of formal records will require addressing record keeping practices, including GDPR compliance. PVCs will also have to be mindful of their responsibilities under the Freedom of Information Act 2014.
- It is recommended that the Department of Justice work with PVCs to establish any specific needs for administrative support, and examine if/how such needs may be addressed in a manner which accounts for the need for PVC members to have sufficient administrative skills for appointment, and in a way which respects the independence of PVCs from the Department and the IPS.
- It is recommended PVCs be encouraged to engage with, assess, and evaluate the work of societies operating within the prison.

Appointments Process

- It is recommended that the criteria and competencies for the public competition be developed through an EDI lens, with measures being taken, including targeted advertising campaigns, to ensure that the competition is open, fair, and transparent so that it appeals to the public at large and attracts a broad and diverse range of applicants and the panels of successful candidates, and subsequently the committees themselves, are adequately reflective of the prison population as appropriate.
- It is recommended that the public competition make particular efforts to attract individuals who have spent time in the prison environment, as appropriate and subject to Garda vetting.
- It is recommended that the public competition should identify experience in community work or in a voluntary capacity as one of the desirable criteria, and make particular efforts to attract individuals from relevant civil society organisations, as appropriate and subject to Garda vetting.
- It is recommended that, informed by this report, the Public Appointments Service develop a clear set of criteria and desired experience for appointments to the proposed

panel, with a view to ensuring PVCs are composed of a range of individuals with a mix of skills so that the Committees as a whole may operate effectively.

- It is recommended that availability to attend visits and meetings regularly should be a critical factor in the appointment process, and that this requirement is made clear in the competition booklet.

Annual Reports

- It is recommended that annual reports be prepared according to a template, developed and agreed amongst the committees themselves to meet the obligations and expectations of their work, and that this template may be subject to regular revision as appropriate.
- It is recommended that these reports be completed with no engagement from the Irish Prison Service, to ensure absolute independence.
- It is recommended that each PVC elect a Secretary, and that this official be provided a modest secretarial allowance, the amount of which to be determined, in order to cover relevant expenses to complete the preparation and submission of annual reports.
- It is recommended that annual reports continue to be published collectively, to aid the highlighting of any trends or patterns across the entire prison estate.
- It is recommended, upon publication, that copies of annual reports are made available to respective prison populations as appropriate.

1. Background

As part of its mission to build stronger and safer communities, the 2020 Programme for Government *Our Shared Future* commits to reviewing the existing functions, powers, appointment procedures, and reporting processes for Prison Visiting Committees (PVCs).

The Department of Justice undertook to complete this action under the Justice Strategy 2021-2023.

The review of PVCs seeks to identify gaps and opportunities to bring PVCs in line with the norms and expectations of such a body operating today, and to ensure PVC members are adequately equipped, supported, and empowered to do their important work.

Further, having signed the Optional Protocol to the UN Convention against Torture (OPCAT) in 2007, the State continues to work towards full ratification. As part of this, a targeted and thorough review of the processes and operations of PVCs is also important for the State to achieve OPCAT compliance.

2. Terms of Reference

The terms of reference for the review are:

1. To review the existing functions, powers, appointment procedures and reporting processes for prison visiting committees.
2. To consult with relevant stakeholders as required.
3. To complete and report on the review to recommend a preferred policy option for consideration by Government.

This review should look to ensure greater efficiency and transparency in the appointment, administration, and reporting of PVCs, enhance the members' understanding of their roles and powers within the PVC, and broaden knowledge and awareness of their function and availability amongst the prison population and community.

3. Current Oversight of the Prison System

Should issues of concern arise across the prison system, relating to either individual concerns or more systemic matters, critical modes of oversight and methods to seek redress are currently provided for through the Inspector of Prisons, the Prisoner Complaints System, and Prison Visiting Committees. Understanding the distinct responsibilities and the points of

connection provides clarity for the current status of Prison Visiting Committees, and identifies opportunities for improvements in the committees' powers and functions.

3.1 Inspector of Prisons

The present law underpinning the role of Inspector of Prisons is set out in Part 5, Sections 30 to 32 of the Prisons Act 2007. Section 30 provides for the appointment of the Inspector, Section 31 sets out the functions of the Inspector and Section 32 specifies the requirement to submit an Annual Report to the Minister for Justice, by 31 March in any year.

Under Section 31 of the Act the Inspector of Prisons is obliged to carry out regular inspections of prisons. The Inspector may, and must if she receives a request from the Minister, investigate any matter arising out of the management or operation of a prison and shall submit to the Minister a report on any such investigation.

Since 2012, the Inspector has been tasked by the Minister with the investigation into the circumstances of all deaths in custody and those within one month of temporary release from custody.

In addition to the legislative authority derived from the Act, the Inspector has specified functions under Prison Rules 2007-2013 in relation to the Irish Prison Service Prisoner Complaints Procedure (Rule 57B) and letters from prisoners (Rule 44(1)(h)).

The Office of the Inspector of Prisons does not deal with complaints from, or on behalf of individual prisoners. However, they may examine the circumstances surrounding a complaint in the course of carrying out an inspection and/or investigation.

Regarding the current Prisoner Complaints System, the Inspector of Prisons has oversight of all Category A investigations and must be given access to any relevant material and they may investigate any aspect that they consider relevant.

3.1.2 The Inspection of Places of Detention Bill 2022

In June 2022 the Minister for Justice published the General Scheme of the Inspection of Places of Detention Bill 2022. The bill provides for the designation of National Preventive Mechanisms (NPMs) that will act as national inspection bodies of places of detention in the State.

The approach proposed in the General Scheme is to expand the existing statutory role of the Inspector of Prisons to become a Chief Inspector of Places of Detention. The Chief Inspector

will be designated as the NPM not just for prisons but for relevant places of detention within the whole justice sector, including detention in Garda stations, court holding cells and in vehicles transporting persons between places of detention.

The bill also strengthens and updates the statutory basis in place for the Inspector of Prisons.

3.2 Prisoner Complaints System

A prisoner complaints system was introduced by the Irish Prison Service in November 2012, based on a model recommended by the Inspector of Prisons, the late Judge Michael Reilly. This complaints system currently provides for the categorisation of complaint, from A-F, with A referring to the most serious complaints.

For details of the categorisation and investigation of complaints under the current Prisoner Complaints System, see **Appendix IV**.

3.2.1 Review of Prisoner Complaints System

The Inspector carried out a further review of this system in June 2016 and made a number of recommendations. In his 2016 report the Inspector is very critical of the Irish Prison Service (IPS) and states that *“as presently operating the Irish Prison Service does not seem capable of exercising operational control of a complaints system which should be robust, fair and have the confidence of staff, prisoners and the general public”*. Nevertheless he is adamant that responsibility for the complaints procedure must rest with the IPS albeit with a mechanism for a complaint to be brought to an independent body.

The then Tánaiste and Minister for Justice and Equality Frances Fitzgerald T.D. accepted the recommendations of the IOP in full. The Irish Prison Service has been progressing the matter with the aim of establishing a more effective complaints system for prisoners.

The Department of Justice has been liaising with the Office of the Parliamentary Counsel to prepare the necessary Statutory Instrument to update the Prisoner Complaints System, with a view to making it operational as soon as possible. The Irish Prison Service has developed an appropriate ICT system and training for its staff in anticipation of the new complaints system.

3.3 Prison Visiting Committees (PVCs)

The function of Prison Visiting Committees as currently understood is to visit at frequent intervals the prison to which they are appointed and hear any concerns which may be made to them by any prisoner. They report to the Minister for Justice any abuses observed or found by them in the prison and any repairs which they think may be urgently needed. The Visiting Committee members currently have free access either collectively or individually to every part of their prison.

PVCs complete their work with diligence and dedication, and have long represented an important branch of oversight in the prison system. While independent, PVC members are not volunteers. In line with their appointment by the Minister for Justice, A per diem payment of €142.50 per visit/meeting, which is fully subject to tax is paid to members of Visiting Committees. Members also receive vouched travel expenses of up to €30 per visit/meeting.

In practice, Prison Visiting Committees do not offer a formal process for prisoner complaints. Great emphasis is placed on the role of the committees as listeners. They may hear the concerns of prisoners, and may raise these concerns with respective Governors, with the hope that the Governor may address these issues. Such a process is informal and is not intended to be confrontational or challenging in nature, but rather it is seeking a quick resolution. Should the concerns be considered to be so serious as to warrant investigation, the PVCs may assist the prisoners in submitting a formal complaint through the existing Prisoner Complaints System, or they may write to the Minister to report the issue as appropriate.

4. Prison Visiting Committees: Detailed Overview

4.1 History of PVCs

The Prisons (Visiting Committees) Act 1925 provided for the statutory establishment of PVCs for each prison. Professor Mary Rogan outlines the history and motivations of this Act:

“The introduction of the 1925 Act can be read as involving a genuine desire in the aftermath of the Civil War and allegations of ill-treatment and worse within the State’s prisons to ensure an outside method of accountability and inspections. While the effectiveness of this in reality can be questioned, and the oversight of the prison system remained in the hands of the ‘officially approved’, the attempt to put a formal structure in place was noteworthy and commendable. This concern for oversight and independent investigation of prison conditions, the lack of which was sharply felt during the Civil War period, was the explicit purpose for the legislation as introduced by the Cumann na nGaedheal government.

However, on closer inspection, while these may have been sincerely held reasons for change, it is apparent that more prosaic considerations also prompted the introduction of the legislation. The files on the matter reveal that the Department of Justice requested

the drawing up of a Bill to establish Visiting Committees to update the existing system in order to reflect the transition to the Free State. The Visiting Committee system had previously been regulated by the General Prisons (Ireland) Act 1877. This made it imperative for Committee members to be Justices of the Peace and, in most cases, the Committees as a whole had to be appointed by Grand Juries, administrative bodies with powers akin to modern day County Councils, whose functions were transferred to county and rural district councils by the Local Government (Ireland) Act 1898.

This archaic regulation required updating and this was the official reason given for the request to the Office of the Attorney General to draft legislation, though the heightened awareness of the need for oversight in prison administration may have been responsible for the timing.”¹

4.2 Current Powers of PVCs

Rules relating to the specific functions and operation of such Committees are set out in the Prisons (Visiting Committees) Order 1925.

Many of the Rules set out in the 1925 Order focus on ensuring prisons met basic, uniform standards in relation to diet, conditions, and fairness. PVCs are also obliged to prepare an annual report, for publication. These vary in length and format, as there is no singular, agreed template across prisons.

The 1925 Order in full can be read in **Appendix I** to this document.

4.3 Previous Powers of PVCs

As originally envisioned, PVCs were empowered to hear complaints by prisoners, and also to hear complaints against prisoners.

“The duties and powers of the Visiting Committees reflected the twin elements of their roles which were often in contradiction to one another. The roles of ‘watch-dog’ and imposer of punishments and privileges was an obvious tension inherent in the task of such committees.”²

¹ Mary Rogan, *Prison Policy in Ireland 1922-1972: Subversion, Stagnation and Social Change* (PhD Thesis, Trinity College Dublin), 2008, p224-225.

² Mary Rogan, *Prison Policy in Ireland 1922-1972: Subversion, Stagnation and Social Change* (PhD Thesis, Trinity College Dublin), 2008, p223.

Addressing this tension, the Prisons Act 2007 repealed s.3(3) of the Prison (Visiting Committees) Act 1925. As a result, PVCs are no longer empowered to:

- a) grant special privileges to any prisoner as a reward for good conduct or on account of ill-health or for other sufficient cause;
- b) award special punishment to any prisoner guilty of a breach of prison discipline;
- c) hold inquiries on oath into charges against prisoners of breach of prison discipline.

The removal of these powers represents a clear indication of the role of PVCs to observe and report in relation to standards, rather than being involved in prison operational decision making or prison discipline.

4.4 Appointment of PVC Members

At present, the members of each of the PVCs of the twelve prisons/places of detention (see **Appendix II**) are appointed by the Minister for Justice under the Prison (Visiting Committees) Act 1925 as applied by section 4 of the Prisons Act 1970.

Members are appointed by the Minister on foot of representations, either from local representatives or from individuals nominating themselves. This is the long standing practice used by successive Ministers in appointing members to Prisons Visiting Committees. Each appointment is for a period of three years. There is no barrier to serving successive terms.

Given the nature of the functions of Prison Visiting Committees, all applicants are subject to Garda clearance.

Concerns relating to the impact this appointment process, particularly in relation to the independence of PVC members, were raised during the debates of the 1925 Bill,³ and have since been reiterated, most explicitly in the 1985 Report of the Committee of Inquiry into the Penal System, see below.

4.5 Composition of PVCs

It is currently intended that each PVC should have no more than 12 members, with no less than 6 at any one time. The gender breakdown of PVCs is also recorded.

³ Mary Rogan, *Prison Policy in Ireland 1922-1972: Subversion, Stagnation and Social Change* (PhD Thesis, Trinity College Dublin), 2008, p223-224.

PVC membership on 22 September 2022:

Prison/Place of Detention	Male Committee Members	Female Committee Members	Total number of Members
Arbour Hill Prison	5	1	6
Castlerea Prison	6	1	7
Cloverhill Prison	2	3	5
Cork Prison	7	3	10
Dóchas Centre	0	5	5
Limerick Prison	7	1	8
Loughan House Open Centre	4	1	5
Midlands Prison	3	2	5
Mountjoy Prison	6	2	8
Portlaoise Prison	3	3	6
Shelton Abbey Open Centre	5	0	5
Wheatfield Prison	4	2	6

5. Previous Reports

There has been no substantive review focused solely on Prison Visiting Committees to date. The matter has featured in certain reports.

5.1 Report of the Committee of Inquiry into the Penal System (1985)

In January 1984 a committee of inquiry into the penal system was established, under the chairmanship of Dr T.K. Whitaker. The Committee was given a broad Terms of Reference, and was tasked with having particular regard to “the increase in the number of persons being

committed to prisons and places of detention and to the escalating costs of providing and maintaining those institutions".⁴

Sections 7.31 – 7.33 address Prison Visiting Committees, including the perception "by most prisoners, and indeed many other groups, as being ineffective or not altogether impartial". This perception, the report identifies, derives from:

- *the method by which they are appointed (there is some suspicion that, being appointed by the Minister, they may be political supporters liable to be unduly influenced by Ministerial policy);*
- *their identification with the prison authorities (their meetings are held in the prisons and meetings and adjudication proceedings are attended by the Governor and/or senior staff and a prison clerk who acts as secretary);*
- *the misapprehension aroused by their statutory function of hearing complaints of serious misconduct ... ;*
- *the usually bland content of the annual reports of Visiting Committees (suggesting reluctance to highlight poor prison conditions and bad practices* ⁵

In light of these issues, which are in part no longer relevant, the report provides five specific recommendations in relation to PVCs:

- i. half the membership of Visiting Committees should be nominated by the Minister and the other half by specified local bodies e.g. Corporations / County Councils / Urban District Councils, business organisations, health and welfare bodies, youth organisations, residents' associations;*
- ii. Visiting Committees should normally hold their meetings outside prison precincts, they should appoint one of their own to act as secretary, and their meetings should not be attended by members of the prison administration except at the special request of the Committees;*
- iii. members of Visiting Committees should make surprise visits to their prisons periodically and be available to talk to prisoners at all reasonable times, in private if necessary;*
- iv. the adjudication / disciplinary functions of the Visiting Committees should be abolished;*
- v. Visiting Committees should be encouraged to make full and frank annual reports, and interim reports as necessary, to the Minister, and these should be published.*⁶

⁴ Report of the Committee of Inquiry into the Penal System, July 1985, p4.

⁵ Report of the Committee of Inquiry into the Penal System, July 1985, p70.

⁶ Report of the Committee of Inquiry into the Penal System, July 1985, p71.

In line with the complaints above, a number of these recommendations are now in part or in whole moot. However, some remain relevant, and are subject to examination as part of this review.

5.2 Progress in the Penal System (PIPS) 2017-2021

The Irish Penal Reform Trust (IPRT) published its first annual Progress in the Penal System (PIPS) report in 2017. This report establishes IPRT-set standards for the State's penal system, and measures progress made in respect of a wide range of matters in this area.

Under Pillar D, 'Complaints, accountability, inspections and oversight mechanisms', PIPS sets 'Standard 24: Structures are in place for the regular inspection and monitoring of prisons. Inspection reports are made publicly available within a clear timeframe'.

In 2017, under this Standard 24, PIPS concluded:

"Reform of Ireland's prison visiting committees is needed to ensure the system is effective. A recommendation made by the Whitaker Report (1985) stills stands today regarding the reform of Prison Visiting Committees in Ireland: "Steps should be taken to bring about greater confidence in Visiting Committees by altering their method of appointment, their procedures and their duties"⁷.⁸

This report also recommends the appointment of members of PVCs through the Public Appointments Service (PAS).

The 2018 PIPS report repeats the expressed need for reform of PVCs, and a role for PAS in this regard.

Addressing the matter in the 2019 PIPS report, the IPRT details some suggestions in relation to specific reforms:

"Reform of the Prison Visiting Committees is required, including principles, composition, and recruitment, selection and training processes. Prison Visiting Committees could replicate a 'citizens' convention model', and be comprised of randomly selected citizens. The quality and standardisation of reports should also be enhanced; for example, in England and Wales, 'independent monitoring boards' (IMB) have developed their own

⁷ Report of the Committee of Inquiry into the Penal System, July 1985, p16.

⁸ Irish Penal Reform Trust, Progress in the Irish Penal System, 2017, p. 62.

monitoring framework, and reports are more timely. The IMB annual report examines key thematic issues affecting the entire prison estate.”⁹

In the 2020 PIPS report, the IPRT acknowledges the Department’s efforts to initiate a review of PVCs. Standard 24 was not addressed in the 2021 PIPS report.

6. Inspection of Places of Detention Bill

Ireland signed the Optional Protocol to the UN Convention against Torture (OPCAT) in 2007. The aim of OPCAT is to prevent torture or ill-treatment through independent inspections at both international and national level.

Ireland has not yet ratified OPCAT.

In June 2022 Minister for Justice Helen McEntee T.D. received Government approval to publish the General Scheme of the Inspection of Places of Detention Bill. The bill will provide for the designation of National Preventive Mechanisms (NPMs) that will act as national inspection bodies of places of detention in the State.

The establishment or designation of one or more NPM is necessary to allow Ireland to ratify OPCAT. The approach proposed in the General Scheme is to expand the existing statutory role of the Inspector of Prisons to become the Chief Inspector of Places of Detention. The Chief Inspector will be designated as the NPM not just for prisons but for relevant places of detention within the whole justice sector, including detention in Garda stations, court holding cells and in vehicles transporting persons between places of detention. The bill will also strengthen and update the statutory basis in place for the Inspector of Prisons.

This Bill will also provide a statutory basis for the outcome of the review of PVCs, and the published General Scheme included a placeholder Head 13 in recognition of this. This Head 13 will be subject to change.

7. Initial Review of PVCs

In response to the Programme for Government 2020 commitment to “review the existing functions, powers, appointment procedures and reporting processes for prison visiting committees”, Action 165 of the Justice Action Plan 2021, and Goal 3 of the Justice Strategy

⁹ Irish Penal Reform Trust, Progress in the Irish Penal System, 2019, p. 87.

2021-2023, a Cross Functional Team ('CFT') comprising Criminal Justice Policy, Legislation, and Governance functions was established in the Department of Justice in September 2020.

An initial desktop review was conducted and included analysis of the current functions; key stakeholders' commentary and reform recommendations; international jurisdiction comparison; and international and European legislative requirements.

Having considered the initial review and the above, the CFT recommended exploring the following options through consultation:

- A. Abolish the Prison Visiting Committees entirely
- B. Betterment: Retain and reform the Prison Visiting Committee system
- C. Complete Change: Creation of a new Prisons Ombudsman with oversight of Prison Visiting Committees

Further, the CFT recommended that the Department's initially preferred policy approach should be Option 2: Betterment, that PVC system be maintained but reformed:

The Department of Justice Management Board approved this approach in September 2021, along with the terms of reference for this review.

8. Public Consultation

In July 2022 the Department of Justice published an online consultation for public engagement. This consultation was publicised on the Department's website and social media channels. Notification of the consultation opening was also sent to key stakeholders, including the Chairs of PVCs and relevant academics. The online consultation closed on Monday 22 August 2022, having been open for 6 weeks, receiving 118 submissions in total.

Separately, in order to ensure all stakeholders had appropriate engagement and were adequately involved with the review, the Department of Justice undertook to facilitate supplementary consultation in various forms.

In 8 August, Department officials met with the National Prison Visiting Committees Chairpersons Group (NPVCCG), at the invitation of the Chair, Mary Fennessy. This meeting took place in the Irish Prison Service Training College, in Portlaoise. An agreed note of this meeting was accepted as a formal submission from the group.

In August, Department officials also engaged with the Irish Prison Service to facilitate consultation with prisoners. The Irish Red Cross kindly agreed to organise and facilitate focus groups, attended by a Department official, where prisoners were provided the opportunity to discuss their experiences of prison visiting committees and their thoughts on the functions,

powers, appointments, and annual reports of the committees. These focus groups took place in the Dóchas Centre (22 August), Midlands Prison (24 August), and Arbour Hill (25 August). These locations and dates were agreed following engagement between the Irish Red Cross and a number of Governors to establish scheduling and space availability. Many but not all prisoners who took part in the focus groups were Irish Red Cross volunteers in the respective prisons.

A public email address for the consultation was also made available (pvcconsultation@justice.ie), and narrative submissions were received at this address, including from the Irish Penal Reform Trust (IPRT).

For a full list of respondents, see **Appendix III** below.

On foot of this consultation, a number of recommendations were identified for the review of Prison Visiting Committees, detailed below.

9. Review of Prison Visiting Committees

9.1 Purpose of a modern PVC

Much like Irish society more generally, the prison system in Ireland has changed greatly since the original establishment of Prison Visiting Committees in 1925, as has the oversight of the system. It is appropriate that a review of the functions and powers of the PVCs seeks to update and provide greater clarity of the exact role and remit of PVCs and where they sit in relation to other bodies operating in this space.

The recommendations made in this review are the result of the consultation process and engagement of the Department of Justice's cross-functional team with the goal of recognising the value of PVCs while modernising their functioning and pursuing best practice wherever possible.

The previous removal of certain powers, particularly those relating to the punishment of prisoners, or awarding special privileges, and the powers remaining, broadly underline the role of the PVC as largely one of advocacy for prisoners. It is important to clarify the basis and nature of such advocacy, and how this sits within the general system of oversight now in place.

A modern PVC should generally stand apart from the work of the Inspector of Prisons and the processes of the current and forthcoming Prisoner Complaints System. These committees are not established to conduct any formal complaints process or any in-depth investigation of prisons. They are fundamentally a group who provides prisoners with an avenue to raise issues of concern that may readily be resolved through subsequent engagement with Governors. They also function in the knowledge that on occasion prisoners may just wish to

talk to someone in their position, and that just listening can be a valuable. Where prisoners wish to raise formal complaints, PVCs may support this through the Prisoner Complaints System, or submit a complaint on behalf of the prisoner where desired.

PVCs may also play an important role in supporting the rehabilitation and reintegration of prisoners, and as such their efforts in prisons may extend to ensuring prisoners have access to appropriate materials and supports that may facilitate desistance from crime. This includes organising meetings with external speakers, and providing particular attention to those who may soon be released. On the latter, certain PVCs are already engaging with community-based organisations to coordinate supports of prisoners before and on their release, protecting against a fall off in structure and assistance, making sure the progression achieved in prison is not lost upon release.

Alongside this clear pastoral role, committee members also remain appointees of the Minister for Justice and PVCs are empowered to raise matters of concern with the Minister, either through their annual reports or through direct engagement at any point throughout the year. Recognising the unique vantage point of committee members, who have access to all areas of the prisons, such correspondence should focus on general matters, such as the prison infrastructure and environment, and matters of concern which impact the prison population more generally.

9.2 Guiding Principles of the Review

- Clarifying the exact powers of PVCs, and specifically their routes to advocating for prisoners and addressing issues that need attention, will benefit prisoners and PVC members.
- There is a need to bring more uniformity and consistency to the functioning of PVCs across all prisons.
- A balance needs to be struck between the benefits of unannounced visits and the benefit to prisoners of regularity.
- For prisoners to have faith in PVCs, they must at all times be able to speak with PVC members in private and must learn of the outcome of issues raised.
- PVCs must retain their independence. They are to be complementary to other oversight mechanisms, namely that of the Office of the Inspector of Prisons, but they remain representatives of civil society and independent appointees of the Minister for Justice.
- While PVC members are individual appointees, they are appointed to be a member of a committee and they must work closely and respectfully as a team with fellow members at all times in service to ensure the smooth running of the PVC.
- There is a need to increase the diversity of PVC membership to more accurately reflect the society in which prisons operate and the prison population.

- To increase trust and faith of prisoners in PVCs and consequently to enable the latter to be more effective, the appointments process must be robust and transparent at all times.

9.3 Independence of PVCs

Prison Visiting Committees have been established in a manner which provides an appropriate level of independence to enable them to carry out their respective functions in relation to the oversight of prisons. However, it must be recognised that a balance needs to be struck between providing this independence and ensuring their functions and powers are appropriate to the context in a manner that may be faithfully executed and not subject to misuse.

This report seeks to strike this balance where possible. In part, this must recognise that the powers of the Committees are bestowed by the Minister, and that best practice must ensure that membership of these Committees does not represent an extension of powers beyond what is appropriate to the prison system and the criminal justice system more generally. The balance must also recognise that Committee members are not full-time employees, come from diverse backgrounds, and would benefit from clarity regarding statutory obligations of the role and general non-statutory recommendations which encourage Committees to develop their own processes as appropriate to the context of their work and the specifics of the prison and prisoners in which they are operating.

While there cannot be absolute independence then, the report offers recommendations which reflect a careful consideration of the needs of the State in relation to the benefits of the oversight provided by PVCs, and the needs of the PVCs to operate as functionally independently as appropriate.

9.4 Statutory and Non-Statutory Recommendations

In respecting the intended independence of PVCs, while ensuring the committees are empowered to provide adequate oversight and advocate for the needs of prisoners to an adequate degree, there is a balance to be struck between setting out the statutory obligations of the committees and providing autonomy to function in the manner they best see fit.

To this end, the recommendations in this report may be divided into two categories; statutory and non-statutory. The former refers to provisions to be placed on a legislative footing. The latter refers to guidance to be provided to committees, based on best practices, and are to be considered complementary to the recommended statutory provisions.

9.5 Functions

While the rationale behind the decision to compose PVCs of 12 members each may long be lost, there has certainly been a significant increase in prisoner populations since 1925, alongside an increase in oversight mechanisms, with the establishment of the Office of the Inspector of Prisons, and a formal complaints process in place.

It is important to ensure that the membership levels for PVCs is retained to avoid any reduction in contact with prisoners, to ensure the frequency of visits, and to increase diversity and inclusion on the committees, both discussed below.

It is recommended to retain the current structure of membership of each PVC at no more than 12 and no less than 6.

At present, PVCs are obliged to visit prisons “at frequent intervals”. Prisoners reported inconsistency across prisons and that the absence of some regularity to visits left them uncertain as to how or when they may raise issues of concern with the PVC.

It is recommended that the statutory basis for visits ‘at frequent intervals’ be retained.

It is recommended that non-statutory guidance be provided for the frequency of the visits, suggesting PVCs consider visiting as frequently as practicable.

It is recommended that non-statutory guidance be provided to recommend a number of these visits be regular, providing prisoners with certainty as to when they may see the PVC, while also retaining the ability of the PVC to conduct unannounced visits.

At present, PVC members are empowered to visit prisons collectively or individually. The ability to visit individually is seen as a risk to transparency of engagements with prisoners and the safety of PVC members and prisoners.

It is recommended that the ability to visit individually be removed.

It is recommended that non-statutory guidance be provided to recommend PVC members coordinate visits in pairs.

PVC members are obliged to meet once a month, or no less than 6 times each calendar year, by agreement. For such meetings, 3 members is considered a quorum. Given the recommendation to remove individual visits, it is increasingly important to ensure frequency of meetings and attendance at same to ensure the well running of PVCs.

It is recommended that non-statutory guidance be provided to recommend PVCs meet once a month, and that the quorum be 50% or more of the current committee membership.

At present, a number of Governors attend the meetings of PVCs, by invitation. This is seen as a positive engagement which ensures a good working relationship between PVCs and Governors, and the NPVCCG recommends its continued facilitation. There is no strong argument against such a process.

It is recommended that non-statutory guidance be provided to indicate that PVCs may invite a Governor to attend part of all of a meeting, and that the Governor is under no obligation and may or may not decide to attend.

PVCs are currently obliged to elect a member to Chair “at their first meeting after appointment”. Given the rolling nature of appointments, this obligation lacks sufficient clarity.

It is recommended that PVCs are required to elect Chairs within four weeks of the position falling vacant for any reason, with the Chair holding office for a set term thereafter. Given the rolling nature of appointments to PVCs, the term length shall be decided at the time of election. Chairs will retain the responsibility of making arrangements for regular visits of all members, and for organising the preparation of annual reports.

Both the IPRT and a number of prisoners raised the difficulty of identifying PVC members during their visits and suggested the use of some form of easily observed identification be introduced. It is considered that this would increase visibility and encourage prisoners to come forward to engage with PVC members as appropriate.

It is recommended that the Irish Prison Service and PVC members work together to examine the potential introduction of an appropriate form of identification to use during visits.

Most prisoners engaged expressed uncertainty as to the exact remit of PVCs, and were largely unaware of their current activities, though it should be noted that more needs to be done generally to make prisoners aware of entitlements. The IPRT also noted publicly available information is difficult to locate, and suggested the establishment of a dedicated website or microsite. At present, this information on the Department’s website is included on a single page under the role of the Irish Prison Service.

It is recommended that non-statutory guidance be provided to encourage PVCs to actively promote their presence, remit, and their workings as appropriate across the prison population, including considering annual talks to prisoner groups, and that prisons provide space to promote the work of the PVC as appropriate.

It is recommended that the Irish Prison Service, and PVC members work together to ensure information in an appropriate language is provided in writing to prisoners on their committal, informing them of the role of the PVC.

It is recommended that documentation relating to the functions, powers, responsibilities, and appointments process be hosted on a single webpage on gov.ie. This documentation will be a reproduction of material from that prepared for the appointments process.

The matter of placing the National Prison Visiting Committee Chairpersons' Group on a statutory footing was considered. The NPVCCG did not express any strong views on this, and while a number of current or former PVC members responding to the online consultation were in favour of making this change, no strong argument in support of the measure was expressed.

It is recommended that the NPVCCG continue as is, and not be placed on a statutory footing.

The matter of introducing term limits for membership of PVCs has been considered. In line with best practice, term limits are considered appropriate for these roles.

It is recommended that term limits are introduced for membership, with each term lasting 4 years, and members unable to serve more than two consecutive terms on a single committee.

The introduction of formalised training and supports for PVC members was raised by the NPVCCG and in individual submissions. At present, the NPVCCG organises some training or information sharing sessions, by agreement held in the IPS Training College in Portlaoise. These sessions do not follow any formal structure. There is also no formal information provided to new members of PVCs.

The subject of training has been examined. It is considered problematic to the independence of PVCs that they be provided training in a formalised way, but there may be scope to increase the effective support for or facilitation of training sessions. Upon request, the Department of Justice and the Irish Prison Service may also provide appropriate knowledge sharing opportunities to PVCs, regarding matters such as processes and standard operating procedures relating to safeguarding, for example, in a manner which would not compromise the independence of PVCs.

The Department of Justice will also be working with representatives from PAS to prepare documentation for the open competition for appointments, discussed below, so it seems reasonable that the Department may prepare some documentation setting out the functions, powers, and responsibilities of the PVC members, subject to approval by the Minister, to be received on appointment. This would ensure all PVC members are receiving a similar clarity of the role.

It is recommended that the IPS continue to facilitate training sessions for PVCs and the NPVCCG, at the request of the respective Chairs.

It is recommended that the Department of Justice provide for the establishment of a fund for training for PVC members. This fund will be administered by the Chair of the NPVCCG, with oversight from the Department of Justice. The fund will provide for the training of PVCs in areas of strategic and practical importance, as identified by the NPVCCG.

It is recommended that newly appointed Committee members be provided a copy of the documentation relating to the functions, powers, and responsibilities of PVCs, and that this documentation be taken from that prepared for the appointments process.

It is recommended that non-statutory guidance be provided to Committees to develop additional material, in line with the independence of the Committees, to be provided to new members informing them of agreed standard operating procedures of the Committee.

9.6 Powers

Note: This section broadly follows the order of the Prisons (Visiting Committees) Order 1925.

PVC members are currently “entitled to inspect the books of the prison”. While PVC members may not have sufficient expertise in these matters, and may need assistance to do so, this entitlement represents a critical area of oversight of prison service recordkeeping.

It is recommended that the entitlement to inspect the records of a prison be retained.

At present, PVC members are empowered to “hear and investigate any complaint which any prisoner may desire to make to them, and if so requested to hear such complaint in private”. PVC members are also provided the power to report these complaints to the Board, and to share their opinions on these complaints.

As clarified above, there is a need to distinguish between the role of the PVCs and the formal prisoner complaints system. To this end, and for absolute clarity, PVCs should not be empowered to hear complaints, as defined and categorised in the prisoner complaints system, but to hear from prisoners about issues of concern. Where issues are raised with PVCs that may constitute formal complaints, PVC members may direct or assist a prisoner to submit a complaint, or submit a complaint on their behalf, as currently provided for and which will also be provided for in the forthcoming revised prisoner complaints system.

Example issues of concern, raised by prisoners during the consultation process for this review, include pricing in the tuck shop, availability of healthy food, and broken lighting in cells. The impression received by prisoners was that the matters would be raised with the Governor, but that the PVCs had no real power to pursue change, and their issues could be easily ignored by the Governor. This impression was often, though not always, compounded by the absence of specific feedback received by prisoners from PVCs as to the outcome of the issues raised.

The purpose of facilitating PVCs to hear issues of concern is not clear if there is no effective route to addressing the issue. Prisoners reported the sense that, if raising an issue led to no positive outcome where appropriate, and possibly no response or feedback at all, then they were being unfairly treated in the process, and would be less inclined, if inclined at all, to raise further issues with the PVCs. The absence of an effective route to redress then harms the reputation of PVCs and will impact on their effectiveness.

Prisoners also reported a failure to enforce the ability to request private meetings with PVCs, without the presence of an IPS official, and indicated the presence of an IPS official dissuaded the raising of issues on multiple occasions. Should such an occurrence be widespread, it too impacts on the effectiveness of the PVCs.

It is recommended that clarity be provided on a statutory basis that PVCs do not offer a formal complaints process for prisoners. PVCs engage with prisoners to learn of issues of concern and pursue these as appropriate.

It is recommended that non-statutory direction be provided to clarify that PVC members may, as currently provided for, advise or support prisoners submitting complaints through the existing formal system, or submit a complaint on behalf of a prisoner.

It is recommended that PVCs register and record individual engagements with prisoners where issues of concern are raised and, as far as is practicable, be advised to provide detailed information regarding the steps taken and the outcome of any issues raised. The keeping of formal records will require addressing record keeping practices, including GDPR compliance. PVCs will also have to be mindful of their responsibilities under the Freedom of Information Act 2014.

It is recommended that the Department of Justice work with PVCs to establish any specific needs for administrative support, and examine if/how such needs may be addressed in a manner which accounts for the need for PVC members to have sufficient administrative skills for appointment, and in a way which respects the independence of PVCs from the Department and the IPS.

In light of the recommendation above regarding removing individual visits, it is recommended to retain the right of prisoners to request a private meeting with PVC members to register a concern. For risk management purposes this private

meeting may involve a prison officer being in sight of the prisoner, but they should not be able to hear the conversation.

Relatedly, PVCs are to report to the Minister and the Board, the latter no longer in existence, any abuses observed or found by them in the prison, and any repairs to the prison which appear to them to be urgently needed.

It is recommended the power to report to the Minister be updated and retained, and, in line with the recommendation above, the PVCs be encouraged to develop a process by which all such abuses and necessary repairs are reported to the Minister and the Governor regularly and in a timely manner as required.

PVCs are currently empowered to investigate reports of injury as a result of discipline or treatment by prison staff to the mind or body of prisoners. There is an important distinction to be made regarding pursuing an issue of concern with the Governor, and actively investigating a matter. This power implies PVCs may have a role in establishing the veracity of claims of actions which may in principle amount to criminal offences, including potentially interrogating IPS officials. This clearly exceeds the remit of what appointed individuals with no expertise in such matters should be empowered to do, and is no longer appropriate.

It is recommended that the power to investigate reports of injury as a result of discipline or treatment by prison staff to the mind or body of prisoners be repealed. This refers to the investigation process only. PVCs remain obliged to report an offence as appropriate.

At present, PVCs are entitled to inspect the diets of prisoners to ensure sufficient quality. While quality may have been a sufficient metric in the past, our modern understanding of the intersections of nutrition and physical and mental health requires the adoption of a more general approach to this matter.

It is recommended that the powers of PVCs be broadened to consider the general health and welfare of prisoners.

PVCs are also empowered to assist the Governor in classification of prisoners. This is not appropriate, and should remain the sole responsibility of trained IPS officers.

It is recommended that the power to assist the Governor in effecting classification of prisoners be repealed.

PVCs are obliged to promote the efficiency of the IPS. The objective or practicalities of this current power are unclear, and the obligation to conduct work in the service of the IPS risks the independence of PVCs.

It is recommended the obligation to work with the Board to promote the efficiency of the IPS be repealed.

PVCs are obliged to “make enquiry into any matter specially referred to them by the Minister” and to make a report of the enquiry. It is understood that this obligation has not been called upon in recent years. This is similar to a current obligation of the Inspector of Prisons to investigate matters when directed by the Minister. This obligation raises questions relating to the independence of the body, and the matter is complicated further by the absence of substantial investigatory powers for PVCs. This obligation is currently being examined in relation to the Inspector of Prisons and it is proposed that the outcome of this examination should inform the obligation in relation to PVCs so there is consistency on the matter.

It is recommended that the obligation for PVCs to conduct enquiries on matters as directed by the Minister and report on same be aligned with the outcome of the current examination of a similar obligation in relation to the Inspector of Prisons.

PVCs are empowered to assist the Board in the selection of library books suitable for prisoners. It is not known to what extent PVCs currently engage in this process. It should also be noted that the category of ‘books’ is no longer sufficient, given the expansion of media consumed by prisoners currently. In the public consultation, only 32% of respondents said this should be retained, with 43% recommending its removal.

It is recommended that the power to assist prisons in the selection of library books be updated and retained. However, this should also be expanded as PVCs should be empowered to pursue matters relating to the adequate supply of appropriate media beyond library books, as it pertains to prisoner welfare.

PVC members are currently empowered to enquire into the conditions of prison labour and its suitability for preparing prisoners for earning a livelihood upon their release. The provision of labour opportunities is an important factor to facilitate the rehabilitation and reintegration of people with convictions. Education is also vitally important, and provides an important route to desistance. Both education and employment are considered priorities in this regard.

It is recommended that PVCs be empowered to enquire after the provision of both employment and education provisions in the prison.

PVCs have the power to “satisfy themselves as to the operation of the Discharged Prisoners’ Aid Societies connected with the prison; and any other agencies having for their object the welfare of prisoners”. It is clear that this needs to be updated. There remains a value to PVCs being capable of a level of scrutiny of organisations operating within the prison, in order to provide valuable assurance. Alongside this, any reference to the role of the PVC should place emphasis on engagement with relevant societies functioning within the prison to ensure a holistic approach is taken to prisoner welfare.

It is recommended PVCs be encouraged to engage with, assess, and evaluate the work of societies operating within the prison.

A current provision directs PVCs to “devote special attention to prisoners about to be discharged”. The purpose of this attention is to ensure all reasonable steps are taken against possible reoffending, with a view to assisting the prisoner on release “earn an honest living”. This provision requires revision. PVCs should recognise a distinction between the needs of prisoners at different stages of their sentences, but given the work of rehabilitation and reintegration begins in the prison from the moment of incarceration, should provide attention to all prisoners equally.

It is recommended the provision to devote special attention to prisoners about to be discharged be repealed, and replaced with an obligation to recognise the different stages of a sentence each prisoner is in and to treat their needs appropriately.

PVCs are currently empowered to organise lectures and addresses “directed towards the moral improvement of prisoners”. It is not known how often such practice occurs currently, if at all. The authority of PVCs to engage in or facilitate the ‘moral improvement’ of prisoners is not clear, given the concept itself is outdated and overly simplistic. Such activities are also not a good fit alongside the primary functions and powers of the PVC. However, providing PVCs with the power to organise community engagement into prisons remains potentially worthwhile.

It is recommended the power to organise lectures or addresses in the prison be retained, though it should be revised to remove reference to the ‘moral improvement’ of prisoners, to be replaced with emphasis on rehabilitation and preparation for return to communities.

There remains a provision for PVCs to authorise the detention of prisoners in mechanical restraints, upon request by the Governor. In line with the previous repeal of enactments relating to the punishment of prisoners provided for in the Prisons Act 2007, the ability to authorise the use of such restraints is no longer appropriate for a PVC.

It is recommended the role of PVCs in authorising the use of mechanical restraint be repealed in its entirety.

9.7 Appointments Process

While retaining the ultimate power of the Minister for Justice to appoint PVC members, it is clear that the process by which candidates for appointment may be presented to the Minister requires modernisation and optimisation to ensure at all times the members have the requisite

skills, experience, and public service values, and that their appointments be adequately transparent. To this end, and in line with the recommendation of the IPRT, a public competition with a clear set of criteria and competencies for membership of a PVC would facilitate the establishment of a panel of qualified individuals from which the Minister may choose to appoint.

It is recommended, subject to agreement, that the Public Appointments Service be charged with running regular public competitions to establish a panel of qualified individuals for the Minister's consideration for appointment.

Almost all stakeholders identified or agreed with the need to widen the representation on committees. Having native or advanced skills in other languages was also highlighted as important in relation to ensuring the PVCs are as welcoming and accessible as possible to prisoners.

It is recommended that the criteria and competencies for the public competition be developed through an EDI lens, with measures being taken, including targeted advertising campaigns, to ensure that the competition is open, fair, and transparent so that it appeals to the public at large and attracts a broad and diverse range of applicants and the panels of successful candidates, and subsequently the committees themselves, are adequately reflective of the prison population as appropriate.

Most prisoners considered it very important PVCs be composed of at least one member with intimate knowledge of the criminal justice system. This was considered vital to ensuring the PVC was best positioned to understand the particularities and the experiences of prisoners who would come forward to raise issues of concern. The preference of prisoners as expressed would be for a person with a previous conviction who had spent time in prison, or a former prison officer where possible.

Civil society organisations currently operating within the prison system and/or supporting prisoners upon release may also have experience, insight, and specialist knowledge relating to the experience of offenders within prisons that may make positive contributions to the efforts of individual committees.

It is recommended that the public competition make particular efforts to attract individuals who have spent time in the prison environment, as appropriate and subject to Garda vetting.

It is recommended that the public competition should identify experience in community work or in a voluntary capacity as one of the desirable criteria, and make particular efforts to attract individuals from relevant civil society organisations, as appropriate and subject to Garda vetting.

The consultation provided a number of other indications of criteria for consideration in the appointments process, including but not limited to communication skills, teamwork, a record of working with voluntary groups, IT skills, experience of good record keeping, and professional experience such as psychology, healthcare, and maintenance.

It is recommended that, informed by this report, the Public Appointments Service develop a clear set of criteria and desired experience for appointments to the proposed panel, with a view to ensuring PVCs are composed of a range of individuals with a mix of skills so that the Committees as a whole may operate effectively.

It is recommended that availability to attend visits and meetings regularly should be a critical factor in the appointment process, and that this requirement is made clear in the competition booklet.

While every effort should be made to ensure the appointment of appropriate individuals to PVCs, it should be noted that these appointments oblige the appointees to act in an appropriate manner at all times and to carry out their duties and meet responsibilities with due diligence. It is best practice to ensure that, should a complaint be received that a member has failed to act appropriately or carry out their duties, that there is a route to their removal. Such a mechanism, informed by relevant equivalents already in place, would be designed to avoid any perception that there was undue interference by the Department of Justice in the activity of the Committees.

It is recommended that a statutory provision should be made so that, should a complaint be made and evidence be provided by an affected party of misconduct or a failure to carry out appropriate duties, the Minister retains an appropriate formal route to remove appointees, including one or all of a PVC. This may be done in consultation with or independent of other members of the relevant PVC.

9.8 Annual Reports

The Prisons (Visiting Committees) Order 1925 obliges PVCs to complete an annual report. It reads:

“Every Visiting Committee shall, in the month of December in each year, make an annual report to the Minister with regard to all or any of the matters referred to in these rules or to any other matter appertaining to the prison that they may deem expedient, and they shall from time to time make such reports to the Minister or to the Board as they may consider necessary, concerning any matter in relation to the prison to which, in their opinion, attention should be called.”

At present, there is no consistency in relation to format of annual reports. There is also no consistency regarding the timing of the submission of reports to the Minister. While the NPVCCG made a strong representation for publishing reports individually when they are submitted, rather than waiting for all 12, the absence of uniformity in reports and the delays of publication effectively interfere with the development of a clear picture of the current state of play within the prisons, as perceived by the PVCs, at points of time. This can make it difficult to identify issues that may need to be addressed at present, as highlighted by the IPRT. The Department of Justice has shared a possible template for annual reports with the Chairs of the PVCs, with the NPVCCG indicating a willingness, though not a commitment, to adopt such a template.

PVC members prepare these reports with support from the clerk of the visiting committee, which is part of the prison's clerical staff cohort. This support includes the typing up the report before it is shared with the Minister. Involving prison officials in the preparation of these reports, even if well intended by all parties, has a resource implication for prisons, and has the potential to explicitly or implicitly alter the tone or the content of a report. If the PVC is to remain entirely independent, there should be no role for prison staff in the preparation of reports, reports should be prepared by respective Chairs and Secretaries, and shared directly with the Minister.

It is recommended that annual reports be prepared according to a template, developed and agreed amongst the committees themselves to meet the obligations and expectations of their work, and that this template may be subject to regular revision as appropriate.

It is recommended that these reports be completed with no engagement from the Irish Prison Service, to ensure absolute independence.

It is recommended that each PVC elect a Secretary, and that this official be provided a modest secretarial allowance, the amount of which to be determined, in order to cover relevant expenses to complete the preparation and submission of annual reports.

It is recommended that annual reports for a year are submitted to the Minister on or before the 30 April of the following year. All reasonable efforts should be made on the part of the PVC to ensure this deadline is not missed, and delays of submissions should be clearly reasoned.

It is recommended that annual reports continue to be published collectively, to aid the highlighting of any trends or patterns across the entire prison estate.

It is recommended, upon publication, that copies of annual reports are made available to respective prison populations as appropriate.

10. Conclusions

In light of the above recommendations, stemming from research, engagement, and consultation with a wide range of stakeholders, and in line with the relevant note accompanying the General Scheme, Head 13 of the General Scheme of the Inspection of Places of Detention Bill 2022 should be revised accordingly. It is envisioned, in line with the 1925 legislation, that Head 13 will provide a general statutory basis for the PVCs in primary legislation, and an accompanying Statutory Instrument will outline more granular statutory details relating to the relevant functions, powers, and responsibilities of the Prison Visiting Committees.

The recommendations above also address a number of non-statutory matters. The Department of Justice is to work with partners to establish documentation for all non-statutory matters as appropriate.

_____ ENDS

Appendix I – Prisons (Visiting Committees) Order, 1925 (full text)

Order made by the Minister for Justice under Section 5 of the Prisons (Visiting Committees) Act, 1925.

In pursuance of Section 5 of the Prisons (Visiting Committees) Act, 1925, I, Caoimhghin Ó h-Uigin, Minister for Justice, do hereby make the following Order:—

1. This Order may be cited as the Prisons (Visiting Committees) Order, 1925.
2. The rules set forth in the Schedule to this Order shall apply to every Visiting Committee constituted under the Prisons (Visiting Committees) Act, 1925.

Given under my hand and seal this third day of June, 1925.

C. Ó hUIGÍN,
Aire Dli agus Cirt.
EINRI O FRIGHIL,
Runaidhe.

SCHEDULE.

RULES.

(1) Every Visiting Committee, at their first meeting after appointment, shall appoint a chairman, and make arrangements for the regular attendance of their members at the prison for the purpose of carrying out the duties assigned to them.

(2) They shall meet as a Committee at the prison once in each month, or, if the Committee pass a resolution that, for reasons specified in the resolution, less frequent meetings are sufficient, not less than six times in each year. At such meetings three members shall constitute a quorum. Minutes of all meetings shall be recorded in a book which shall be kept for that purpose.

(3) They shall be entitled at all times to visit either collectively or individually the prison in respect of which they have been appointed and shall have free access to every part of such prison, and shall be entitled to inspect the books of the prison.

(4) They shall, either collectively or individually at frequent intervals, visit the prison, and shall hear and investigate any complaint which any prisoner may desire to make to them, and if so requested by the prisoner they shall hear such complaint in private. If necessary they shall report the same to the Board with their opinion thereon.

(5) They shall investigate any report which they may receive as to the mind or body of any prisoner being likely to be injured by the discipline or treatment to which he is subjected, and if necessary shall communicate their opinion thereon to the Board.

(6) They shall frequently inspect the diets of the prisoners and if they find that the quality of any article does not fulfil the terms of the contract under which it was supplied they shall report the facts to the Board.

(7) They shall, as far as practicable, co-operate with the Governor in effecting such classification of prisoners as may be authorised by prison rules, and in all other matters where their assistance and advice are likely to be helpful to him.

(8) They shall co-operate with the Board in promoting the efficiency of the Prisons Service, and shall make enquiry into any matter specially referred to them by the Minister or the Board, and report their opinion thereon.

(9) They shall assist the Board in the selection of library books suitable for prisoners.

(10) They shall enquire into the conditions of prison labour, whether the employments provided are sufficient and of the kind most suitable for preparing prisoners for earning their livelihood on release, and they shall assist the Board with advice and suggestions as to the employment and occupation of prisoners.

(11) They shall, as far as practicable, from time to time, satisfy themselves as to the operation of the Discharged Prisoners' Aid Societies connected with the prison; and of any other agencies having for their object the welfare of prisoners.

(12) They shall devote special attention to prisoners about to be discharged and shall co-operate with the Governor and Chaplains with the object of securing that all reasonable steps are taken to provide against a relapse into crime on the part of any prisoner where it might be averted by a judicious expenditure of his gratuity, or by communication with a Discharged Prisoners' Aid Society, or by correspondence with any charitable person or agency likely to assist the prisoner in an endeavour to earn an honest living.

(13) They may, subject to the approval of the Board, organise lectures and addresses in the prison provided that such lectures and addresses do not interfere with the necessities of prison discipline and are directed towards the moral improvement of the prisoners.

(14) They shall report to the Minister and to the Board any abuses observed or found by them in the prison, and any repairs to the prison which appear to them to be urgently needed.

(15)¹⁰ A Visiting Committee, and every member thereof, shall have power to grant the privileges hereinafter specified, provided that before granting any such privilege they shall satisfy themselves that it can be granted without interfering with the security, good order and government of the prison and prisoners therein, and if, after it has been granted, its

¹⁰ Note, the Prisons Act 2007 repealed the statutory basis for these powers. As such, they are no longer in place.

continuance seems likely to cause any such interference or if the prisoner has abused the privilege or has been guilty of any misconduct they shall suspend or withdraw the privilege:—

(a) They may, for special reasons, in the case of a prisoner awaiting trial, or an offender of the first division, or a debtor or contempt of court prisoner, allow the period of a visit to be prolonged, or allow him to be visited by more than two persons at the same time, or allow additional visits or letters to such reasonable extent as they may deem advisable.

(b) They may allow a juvenile offender to receive extra visits if, in their opinion, such visits are desirable and calculated to improve his moral and material welfare.

(c) They may in a case of special importance or urgency allow any prisoner an additional visit or letter or prolong the period of a visit.

(d) They may, by writing, authorise a prisoner under sentence of death to be visited by a relative, friend or legal adviser or by any person who satisfies them that he has important business to transact with the prisoner.

(e) They may permit prisoners awaiting trial and offenders of the first division to have supplied to them at their own expense such books, newspapers or other means of occupation as are not of an objectionable nature.

(f) They may, on the application of any offender of the first division, permit him to wear his own clothing provided that it is sufficient and fit for use, and to have food supplied to him at his own expense, subject to the restrictions in respect thereto laid down by prison rules.

(g) They may, in the case of any offender of the first division or any prisoner awaiting trial, if, having regard to his ordinary habits and condition of life, they think special provision should be made in his case, permit him—

(1) to occupy on payment of a small sum fixed by the Board, a room or cell specially fitted for such prisoners, and furnished with suitable bedding and other articles in addition to or different from those furnished for ordinary cells;

(2) to have at his own expense the use of private furniture or utensils suitable to his ordinary habits, to be approved by the Governor;

(3) to have, on payment of a small sum fixed by the Board, the assistance of some person, to be appointed by the Governor, to relieve him from the performance of unaccustomed tasks or offices.

(h) They may, in the case of a prisoner awaiting trial, permit him to take exercise separately or with selected untried prisoners if the arrangements and construction of the

prison will so allow, and they may authorise the Governor to modify the routine of the prison in regard to any such prisoner so far as to dispense with any practice which in the opinion of the Governor is clearly unnecessary in that particular case.

(i) They may, in the case of any prisoner awaiting trial who is out of health and desires the attendance of his usual medical attendant, if they are satisfied that the application is bona fide, permit him to be visited by that medical attendant at his own expense, and to be supplied with medicine by him.

(16)¹¹ A Visiting Committee or any one or more members thereof may, on the request of the Governor or of the Board, hold an enquiry and examine on oath into the truth of any charge of breach of prison discipline, and may in any case where they are satisfied that a prisoner has been guilty of any serious or repeated offence award any one or more of the following punishments:—

(a) Close confinement for a period not exceeding 14 days.

(b) No. 1 diet for ill-conducted and idle prisoners for a period not exceeding 15 days with intervals as laid down in the rules for prison dietaries.

(c) No. 2 diet for ill-conducted or idle prisoners for a period not exceeding 42 days, with intervals as laid down in the rules for dietaries.

(d) Forfeiture of the privilege of remission of sentence or of the privileges of any stage for a period not exceeding 28 days.

Provided that no punishment shall be awarded to a prisoner until he has had an opportunity of hearing the charges and evidence against him and of making his defence.

(17) If the Governor represents to the Visiting Committee or to a member thereof that he has, as a matter of urgent necessity, put a prisoner in irons or under other mechanical restraint and that it is necessary that the prisoner be so kept for more than twenty-four hours, they or one of them may authorise the detention by order in writing, which shall specify the cause thereof and the time during which the prisoner is to be so kept.

(18) Every Visiting Committee shall, in the month of December in each year, make an annual report to the Minister with regard to all or any of the matters referred to in these rules or to any other matter appertaining to the prison that they may deem expedient, and they shall from time to time make such reports to the Minister or to the Board as they may consider necessary,

¹¹ Note, the Prisons Act 2007 repealed the statutory basis for these powers. As such, they are no longer in place.

concerning any matter in relation to the prison to which, in their opinion, attention should be called.

(19) In these rules—

the expression "the Minister" means the Minister for Justice;

the expression "the Board" means the General Prisons Board.

Appendix II – Prisons / Places of Detention

Prison	Address	Operational Capacity	Governor
Arbour Hill Prison	Arbour Hill, Dublin 7	138	Mr Liam Spacey
Castlerea Prison	Harristown, Castlerea, Co Roscommon	340	Mr Anthony Shally
Cork Prison	Rathmore Road, Cork City	296	Mr Peter O'Brien
Limerick Prison	Mulgrave Street, Limerick	210 (males) 28 (females)	Mr Mark Kennedy
Loughan House	Blacklion, Co Cavan	140	Mr Mark Lydon
Mountjoy Prison	North Circular Road, Dublin 7	755	Mr Edward Mullins
Dóchas Centre	North Circular Road, Dublin 7	146	Mr Edward Mullins
Portlaoise Prison	Dublin Road, Portlaoise, Co Laois	291	Mr Ultan Moran
Midlands Prison	Dublin Road, Portlaoise, Co Laois	875	Mr David Conroy
Shelton Abbey	Arklow, Co Wicklow	115	Mr Joseph Donohue
Cloverhill Prison	Cloverhill Road, Clondalkin, Dublin 22	431	Mr Tony Harris
Wheatfield Prison	Cloverhill Road, Clondalkin, Dublin 22	610	Mr Martin O'Neill

Appendix III – Details of respondents to July/August 2022 public consultation

Online Consultation (118 total respondents):

- Current / former PVC member: 15
- Current / former PVC Chair: 10
- Governor: 5
- NGO / Civil society organisation: 7
- Public Appointments Service staff: 2
- Academic in a relevant field: 8
- IPS staff member / chaplain: 45
- Current or former prisoner: 3
- Family member / friend of a current or former prisoner: 8
- Other interested party: 15

Narrative submissions to dedicated email:

- National Prison Visiting Committee Chairpersons Group
- Mountjoy Prison Visiting Committee
- Irish Penal Reform Trust

Other submissions to dedicated email:

- Submission, by Dr Ian Marder, of relevant academic research papers

Prisoner engagement:

- Dóchas Centre (1 focus group session, 22 August)
- Midlands Prison (3 focus group sessions, 24 August)
- Arbour Hill Prison (1 focus group session, 25 August)

Appendix IV – Details of the current Prisoner Complaint System

Categories of Complaints

A Category A Complaint is defined in section 57B (1) of the Prison Rules 2007 as- “Assault or use of excessive force against a prisoner or ill treatment, racial abuse, discrimination, intimidation, threats or other conduct against a prisoner of a nature and gravity likely to bring discredit on the Irish Prison Service”.

Category B Complaints are complaints of a serious nature, but not falling within any other category of complaint. Examples of Category B complaints could include verbal abuse of prisoners by staff, inappropriate searches or any other conduct against a prisoner of a nature likely to bring discredit on the Irish Prison Service.

Category C Complaints are basic service level complaints (and may include complaints about visits, phone calls, reception issues, missing clothes, not getting post on time, not getting appropriate exercise).

Category D complaints are complaints against professionals which, for example, may include medical personnel, legal/financial representatives.

Category E Complaints are those made by visitors to the prison. Complaint forms shall be available in all areas where visitors have access to.

Category F complaints relate to complaints against decisions made by IPS Headquarters in relation, for example, to such matters as the granting of temporary release, prison transfers.

Complaints Process

Under Category A complaints, where an allegation that an act has been committed that may constitute a criminal offence, the Governor must inform An Garda Síochána. The Director General must appoint an investigation team comprising of one or more persons to investigate the complaint, unless the complaint is determined as vexatious, without foundation, or falls outside of the scope of Rule 57B.

Category B complaints are investigated by a Chief Officer with recourse to appeal to the Governor and review by the Director General of the Irish Prison Service.

The Governor may delegate the investigation of Category C complaints to an officer not below the position of Class Officer whether they arise by verbal complaint (or request for information) or the more formal procedure whereby a complaint form is filled out.

Where possible, medical/healthcare complaints shall be resolved through local resolution. Where Category D complaints cannot be resolved locally, the prisoner shall be informed of the relevant professional body that he/she may contact.

Category E Complaints shall be categorised and investigated accordingly.

Replies to complaints against decisions made by IPS Headquarters shall be made in writing to the prisoner within 4 weeks of receipt of such a complaint.