



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

RESPONSE TO THE NORTHERN IRELAND PRISON SERVICE DRAFT GENDER-SPECIFIC STANDARDS FOR WORKING WITH WOMEN PRISONERS

Summary

This response welcomes the draft gender-specific standards for working with women prisoners. From the wide range of issues covered in the draft standards, the response has focused on standards relating to: pre-custody; reception and first night; healthcare; safer custody; education, training and employment; children and families; and aspects of the resettlement pathways.

The response also highlights more general concerns relating to a lack of progress in taking forward recommendations for the building of a new discrete custodial facility for women and also highlights the need for additional alternatives to custody for women.

1. The Northern Ireland Human Rights Commission (the Commission) is a statutory body created by the Northern Ireland Act 1998. It has a range of functions including reviewing the adequacy and effectiveness of Northern Ireland law and practice relating to the protection of human rights,¹ advising on legislative and other measures which ought to be taken to protect human rights,² advising on whether a Bill is compatible with human rights³ and promoting understanding and awareness of the importance of human rights in Northern Ireland.⁴ In all of that work the Commission bases its

¹ Northern Ireland Act 1998, s.69 (1).

² *Ibid*, s.69(3).

³ *Ibid*, s.69(4).

⁴ *Ibid*, s.69(6).

positions on the full range of internationally accepted human rights standards, including the European Convention on Human Rights (ECHR), other treaty obligations in the Council of Europe and United Nations systems, and the non-binding 'soft law' standards developed by the human rights bodies.

2. The Commission has a particular interest in the detention system and has carried out a number of investigations in this area.⁵ A specific focus of the Commission's work has been women's imprisonment, and the consultation by the Northern Ireland Prison Service (NIPS) on the Draft Gender-Specific Standards for Working with Women Prisoners (hereafter, the draft standards) is welcomed.
3. There are only two references to human rights principles (the rights of the child, and freedom of religion) within the draft standards, and a single non-specific reference to human rights within the consultation booklet. As the draft "standards are designed to uphold and promote the rights of all women prisoners"⁶ some additional reference to specific international instruments and 'soft law' standards in relation to the treatment of prisoners in its care would be expected, and would assist in the process of monitoring the human rights compliance of the implementation of the gender-specific standards.
4. The proposed draft standards touch on areas covered by a number of human rights treaties ratified by the United Kingdom, including:
 - European Convention on Human Rights (ECHR); in particular, Article 3 (the right to be free from torture or to inhuman or degrading treatment or punishment), Article 5 (the right to liberty and security), Article 6 (the right to a fair hearing), Article 8 (the right to private and family life), Article 9 (the right to freedom of thought, conscience and religion), and Article 14 (the right to non-discrimination);
 - International Covenant on Civil and Political Rights; in particular, Article 9 (security of the person and the right not to be subjected to arbitrary detention) and Article 17 (right to privacy and family life);
 - Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);

⁵ Scraton P and Moore L (2005 2nd ed.), *The Hurt Inside: The imprisonment of women and girls in Northern Ireland*, NIHR, and (2007) *The Prison Within: The imprisonment of women at Hydebank Wood 2004-06*, NIHR.

⁶ Consultation booklet, p6.

- Convention on the Elimination of All Forms of Racial Discrimination (CERD); in particular, Article 1 (meaning of racial discrimination), Article 2 (measures to eliminate racial discrimination) and Article 5 (the right to freedom from racial discrimination);
 - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; in particular Article 10 (training of personnel);
 - Convention on the Rights of the Child (CRC); in particular Article 3 ('best interests' principle), and Article 16 (the right to privacy and family life);
 - Convention on the Rights of Persons with Disabilities (CRPD); in particular, Article 1 (full and equal enjoyment of all human rights), Article 6 (women with disabilities), Article 16 (freedom from exploitation and abuse), and Article 21 (access to information).
5. The Commission acknowledges the work of the Women's Project Team and welcomes the aims of the standards to meet the gender-specific needs of women offenders and contribute to the development of the wider strategy. Prior to commenting on the specifics of the draft standards, the Commission would like to take this opportunity to reiterate several points that apply across the responsibilities of various criminal justice agencies that work with women in the criminal justice system.
 6. While meeting the gender-specific needs of women in prison is vital, the Commission has for many years highlighted the need for additional alternatives to custody for women. It is clearly the case that the tariffs set by the sentencing court are outside the control of the NIPS; however, the Commission reiterates its view that detaining women in custody should be a measure of last resort and only in serious cases.
 7. A long-standing concern of the Commission has been the large number of women (and men) who are imprisoned for fine default or remanded to custody pending trial. In cases where there are genuine reasons for failure to discharge a criminal penalty, the sum at stake is not recovered by imprisonment, and the cost to society and to the individual of imprisonment is likely to exceed by a vast measure the original fine. It is to be hoped that the recent announcement by the Northern Ireland Office, to trial supervised activity orders in some areas, will contribute to reducing progressively the numbers of those receiving custodial sentences for fine default. This, especially, in light of recent research from the

Prison Reform Trust showing that only five per cent of children of mothers in prison in the UK remain in the family home once their mother is detained in prison.⁷ Further, as stated in the Corston Report (2007), “short prison sentences do not successfully deflect from further offending and for many women make their lives and those of their children worse”.⁸

8. The Commission also reiterates its long-standing concerns about the lack of progress in taking forward recommendations for the building of a new discrete women’s custodial facility which, in our view, is integral to the successful delivery of a gender-specific approach to custody. The Standard Minimum Rules for the Treatment of Prisoners state that “men and women shall as far as possible be detained in separate institutions” (at paragraph 8(a)); further, that “untried prisoners shall be kept separate from convicted prisoners” (8(b)).
9. Further information would be helpful as to whether and how women in custody will be able to access support services provided by the Probation Board for Northern Ireland’s Women’s Centre pilot project which we understand is soon to be operational.

The Strategy

10. While the Commission welcomes efforts to develop the draft standards and acknowledges the breadth of issues addressed, the draft document in places is vague in its language, and lacking in clear timeframes for delivery of required outcomes. It is a matter of concern that this may result in difficulties of monitoring and evaluation of the standards. There is also a lack of linkages to other NIPS policies and strategies which, if in place, would in our view provide a more consistent approach to working with women prisoners. Here, the recently compiled booklet designed to provide guidance for staff working with women prisoners is noted.
11. The draft Strategy for the management of women offenders seeks to develop a “women-centred integrative approach” and accords a central position to the Corston Report⁹ in developing

⁷ Prison Reform Trust, *Bromley Briefings Prison Factfile December 2007*, Prison Reform Trust, London, 2007, p 16.

⁸ Home Office, *The Corston Report: A Report by Baroness Jean Corston of a Review of Women with Particular Vulnerabilities in the Criminal Justice System*, 2007.

⁹ *Ibid.*

a distinct and co-ordinated approach to the management of women offenders in Northern Ireland. In the foreword to the draft standards it is stated that the standards seek to address all areas of the regime from arrival through to discharge and in recognition of the fact that prison impacts on women differently, "making it appropriate to devise a specific standard for women prisoners". However, the Commission has previously raised concerns regarding the difficulties in providing therapeutic or rehabilitative supports within a secure prison environment where discipline and security is a prime function of imprisonment.¹⁰ It is important therefore that the application of other policies and procedures including the Prison Rules does not undermine recent initiatives within NIPS to provide a more holistic response to the needs of women in prison.¹¹

Pre-custody

12. Assurance is sought that appropriate arrangements are in place in relation to the inspection of court cells. Further information is required as to how the Prisoner Escorting and Court Custody Service (PECCS) will carry out this monitoring role. If concerns relating to "dirty or cold court cells" and vulnerability to intimidation from male prisoners are to be addressed, it is suggested that a clear monitoring and oversight procedure by the appropriate authorities is in place.
13. The guidance states that the PECCS "*should*" ensure that an information leaflet about the women's prison is available at courts for women to read. Again, through liaison with the appropriate authorities, the final standards should reflect a requirement that such information *will* be provided in a range of formats.
14. The required outcome that women should be transported separately from men in escort vehicles should always be met. As stated in *The Prison Within* (July 2007), "successive Inspectorates' reports" and the Commission's research has previously criticised the Prison Service for allowing women to travel in the same vehicles as men when being transported from court to prison, and has recommended that women prisoners "should never be transported in vehicles with male prisoners" (rec. 6).

¹⁰ NIHRC response to the Draft Strategy for the management of women offenders, June 2009.

¹¹ See NIHRC response to the Northern Ireland Prison Service consultation on amendments to the Prison Rules, September 2009.

Reception and first night

15. The Commission reiterates its previous recommendation that on reception all women should be provided with additional information “outlining, in accessible and informal language, the expectations and practices of the regimes, the rights of prisoners and the availability of help and support during the first days of imprisonment. Care should be taken regarding literacy and language. The pack should be developed in consultation with women prisoners” (*The Prison Within*, rec. 9).
16. In respect of search procedures generally the Commission has previously recommended that ‘half and half’ body searching should not form part of routine procedures (*The Prison Within*, rec. 7), and that there should be an end to all strip-searching except in situations where risk assessment demonstrates the necessity to protect the woman or others from serious harm (rec. 8). With specific reference to foreign national prisoners, it is important that special care is taken in relation to searching female prisoners who are foreign nationals. The Commission seeks assurances that all relevant staff are aware of the guidance in the *Al-Nisa Muslim Culture and Traditions Information Pack*, and that this guidance is adhered to.

Healthcare

17. As stated in *The Prison Within* (July 2007) people suffering from mental illness “and whose mental state is incompatible with detention in prison” should be in an institution specially designed for the purpose. When people with mental illness are in prison, there should be special regulations to take account of their status and needs.¹² Importantly, healthcare in prison should be linked to the healthcare system in the community.¹³ The right to life (Article 2, ECHR) and the right to be free from torture, inhuman and degrading treatment (Article 3, ECHR) are of particular relevance to the mental healthcare of prisoners.
18. As a general point, the Commission seeks confirmation that the healthcare facilities for women prisoners are now provided separately from male prisoners.
19. It is noted that healthcare standards for prisons are currently

¹² The European Prison Rules, Revised European Version of the Standard Minimum Rules for the Treatment of Prisoners (2006), Rule 12.

¹³ UN Standard Minimum Rules for the Treatment of Prisoners, Rule 22.

being agreed between the South Eastern Health and Social Care Trust and NIPS. However, in the interim the Commission reiterates several points from its response to the draft Strategy for the management of women offenders that relate to the provision of mental health services.

20. The draft Strategy acknowledges that “Mental health/well-being is often a key factor in women’s offending, and can have a profound impact on how they experience custody” (at 2.7).
21. The Government response to the Bamford Review, set out in the report *Delivering the Bamford Vision* (June 2008), states that:

A clear strategy needs to be developed for women in custody and to meet the needs of women in the community under PBNI in order to address the root causes of offending and to reducing offending.
22. *Delivering the Bamford Vision* envisaged that “the involvement of the Health and Social Care Trusts in leading prison healthcare should ensure the development of the service in keeping with that in the community and facilitate seamless transfer of care across the interface between prison and the community” (paragraph 70). The Commission would welcome more information on what actions have been taken since the report’s publication to facilitate transfer of care between prison and the community.
23. Whilst the Commission acknowledges the introduction of the PBNI Women’s Centre pilot project, further information in respect of any links that have been established between the DHSSPS and relevant agencies such as the Prison Service and the Probation Board would be welcomed.. The Commission wishes to know what progress has been made in delivering the ‘Bamford Vision’ with the particular aim to help “those with mental health needs or a learning disability to assert their rights to full citizenship, equality of opportunity and self-determination”.
24. The Commission has previously expressed concern over a perceived lack of detail on how the Personality Disorder Strategy would extend to prisons.¹⁴ The Commission reiterates those concerns and stresses the need to resource

¹⁴ NIHRC Response to the DHSSPS consultation on the *Personality Disorder Strategy for Northern Ireland*, March 2009.

the treatment in the community of women offenders with Personality Disorder. The Commission understands that the DHSSPS was considering a particular 'hub and spokes' model that would involve one of the Health and Social Care Trusts assuming central responsibility for providing "specialist input to Criminal Justice Services" and "in-reach into prison establishments to support work with personality disorder offenders".¹⁵ The Commission would welcome feedback on what model was agreed and what "specialist input" and "in-reach into prisons" has occurred to date, and looks forward to sight of the new healthcare standards currently being agreed between the South Eastern Trust and NIPS.

25. In order to accommodate recent arrangements whereby the Department of Health, Social Services and Public Safety (DHSSPS) is responsible for health in prison, care should be taken to ensure that clear procedures governing complaints about health are in place. As outlined in the Commission's response to the NIPS consultation on the Prison Rules, there needs to be clarity as to when complaints should be directed to the DHSSPS, health service complaints procedures, or the Prisoner Ombudsman.¹⁶

Safer Custody

26. The provision that the women's prison should have a dedicated Suicide Prevention Co-ordinator is welcomed, as is the guidance that "where possible, women should be out of their cells" and "encouraged to participate in purposeful activity" (at page 17). However, a clearer outcome and timeframe for delivery against "purposeful activity" and time out of cells is required.
27. That a multi-disciplinary care plan must be in place for all women identified as being at risk of self-harm is also welcomed (audit baseline 57). Again, a clearer outcome as to the implementation of the care plans is needed.
28. The Commission has previously recommended that a ligature free, safe cell should be available on each landing to enable women on observation to remain on general observation (*The Prison Within*, rec. 28).
29. It further recommended that the use of unfurnished cells and

¹⁵ DHSSPS, *Personality Disorder: A Diagnosis for Inclusion: The Northern Ireland Personality Disorder Strategy*, December 2008, p.35.

¹⁶ Ibid.

anti-suicide clothing and blankets should be limited to exceptional circumstances (rec. 29). In any circumstances where prisoners are correctly authorised to be dressed in anti-ligature clothing, the Commission highlights the need to ensure that such prisoners do not suffer from being held in cold temperatures. This is in line with recommendation 17 of the report by the Prisoner Ombudsman into the circumstances surrounding the death of Colin Bell (published January 2009). In addition, Rule 10 of the Standard Minimum Rules for the Treatment of Prisoners states that “all accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health” including “heating and ventilation”.

30. The guidance states that “prisoners should not be penalised for self-harm behaviour except where they have compromised the safety of others” (at page 41). It is our view that punishment in such circumstances is not an appropriate response.
31. In relation to foreign national women prisoners, the Commission has previously raised concerns about the need for greater attention to be given to anti-bullying practices, particularly since it is common for such incidents to be seriously under-reported. The Commission seeks clarification as to how existing or new policies address this issue and how they relate to the current draft standards.
32. Key audit baseline 61, states that allegations of bullying must be “treated consistently and fairly and investigated promptly”. Further that outcomes must be recorded and “the prisoner who reported the bullying must be supported”. In providing support for the complainant, it is important that consideration is given to the accommodation and regime needs of the complainant and the alleged bully during the investigation of the bullying allegation, so as to ensure separation from each other and so reduce any potential for further acts of bullying.
33. Following on from the guidance that states “staff should supervise and protect prisoners from bullying, verbal and physical abuse and threats of violence. Inappropriate behaviour should be consistently challenged”, it is suggested that a further audit baseline is added to the effect that “where staff witness or have knowledge of bullying, proactive steps should be taken to record or investigate such occurrences”. This would address any circumstances where the bullied prisoner did not allege that bullying had taken place.

34. In relation to the provision of an effective child protection policy, the Commission suggests that an additional audit baseline is required to cover circumstances where a girl under the age of 18 is committed. In such circumstances it is suggested that an appropriately trained female officer should deal with and supervise reception of the girl.
35. As a more general point, the Commission requests further information as to whether the strategy for foreign national prisoners, on which we commented on a draft in July 2008, has been finalised and is operating.

Education, training and employment

36. As highlighted in *The Prison Within*, issues relating to work opportunities and safeguards; exercise and recreation including access to the outdoors; and education are each covered by the Council of Europe's revised European Prison Rules. Specifically, rule 28.1 states that there should be provision for a comprehensive range of education services appropriate to the prisoner's individual needs. There are a wide range of human rights standards that should also be considered in relation to rehabilitation and release.¹⁷
37. The Commission welcomes the required outcome that each woman must have an educational, training and employment needs profile completed within four weeks and that the Education Department must assess literacy and numeracy levels of each woman within four weeks of her committal.
38. The Prison Service has been criticised in the past for its limited vocational training for women.¹⁸ A recent inspection by HMCIP and the Criminal Justice Inspectorate¹⁹ found that:

There were insufficient activity places for women and few opportunities to acquire useful work-related skills. There were waiting lists for most courses, but available places were under-utilised. There was no strategic approach to the provision of education and training for women and the provision did not meet their needs. Education and training were not linked effectively with resettlement planning.

¹⁷ See *The Prison Within*, chapter 11.

¹⁸ Independent Monitoring Board, *Annual Report 2007/08 into Hydebank Wood Prison and Young Offenders' Centre*.

¹⁹ HM Chief Inspector of Prisons and Chief Inspector of Criminal Justice in NI (2007). *Report on an announced inspection of Ash House Hydebank Wood Prison, 29-2 November 2007*.

39. The inspection report recommended that more structured support was needed to address literacy and numeracy needs. It is hoped that the new standards will progressively address these concerns and progress will be reflected in future evaluations.
40. Further information would be welcomed as to the range of educational and recreational activities currently available to women prisoners, especially to those with particular vulnerabilities, and how such activities are linked to results from any surveys of women prisoners' needs in this area.
41. In addition, the Commission would welcome feedback as to what further efforts will be made to enhance employment opportunities for women serving long sentences, with particular emphasis on improving pre-release programmes.

Children and families

42. The Commission is aware that extended unit visits are to be piloted in the very near future at Ash House. This is a welcome development and it is to be hoped that subsequent evaluations lead to a rolling out of this facility.
43. Criticism has previously been made by HMCIP/CJI in their 2007 inspection report of Ash House that the arrangement whereby the women's visit area was shared with young male prisoners was deemed "unsatisfactory", and separate visiting facilities for women and men were recommended. Given this, the Commission would welcome an update on current visiting arrangements for women.
44. The Commission welcomes the guidance that incentive schemes should never be linked to access to family visits so as to ensure that children do not suffer restrictions in visiting their mothers. Assurances are sought that this approach is consistently applied across other NIPS policies and procedures, including application of the Prison Rules.
45. It is noted at key audit baseline 106, that a prisoner in a mother and baby room is required to consent to her baby being searched. Clarification is sought as to whether any punitive or other action ensues if the mother withholds her consent.

The Resettlement Pathways

46. In relation to the establishment of a multi-disciplinary Offender Manager Group (at page 43), further information would be welcomed as to how this group will address key issues such as “referring prisoners for support in relation to issues such as offending behaviour, addictions, learning and skills, employment, family links”, and helping “to prepare women for release on licence or to be seen by the Parole Commissioners”. Clarification would be helpful as to whether this group has the power to ‘recommend’ or to ‘direct’ NIPS to provide the service to the woman in order that the key issues outlined above are addressed.
47. The Commission welcomes key audit baselines 132 to 133 and 143 to 144, which require that women are provided with information on induction and, where appropriate, a needs assessment in relation to housing, accommodation and benefits. However, in previous responses, the Commission has raised particular concerns for women offenders who are non-UK nationals falling within the categories of “no, or limited, recourse to public funds.”²⁰ Unless they fall within an excepted category, they are not allowed access to benefits including housing benefit, Job Seekers Allowance, or Income Support. They are also prevented from accessing homelessness assistance. This means that on prison release the individual may be entirely dependent on charity and it seems only if they fall within specific programmes of care (for example, disability, or mental health), or if they have dependent children, can they access support from the Health and Social Care Trusts.
48. While the requirement to have ‘no recourse to public funds’ is a legislative matter outside of the control of NIPS, there is no reason why the needs of women who may fall within this category should not be recognised within the NIPS standards. This would ensure that there is an early needs assessment for those who may have no or limited recourse to public funds and sufficient time allowed so that all potential options for support are explored prior to release from prison. The Commission reiterates its view that all women should be provided with appropriate support and assistance both prior to and post-release to facilitate independent living.
49. The resettlement pathway that refers to ‘children and families’

²⁰ NIHR response to the Draft Strategy for the management of women offenders, June 2009.

states in the guidance that “video links should be used to enable partners to meet when inter-prison visits cannot be facilitated”. Here, it is important to stress that video links should only be used in circumstances where an inter-prison visit cannot reasonably be facilitated, and if it cannot, the reason must be recorded.

50. Further where the guidance states that “video links should be used to enable partners to meet when inter-prison visits cannot be facilitated” (at page 52), we strongly recommend that the range of family members be extended to cover, in particular, circumstances where the relationship between the prisoners is that of parent and child.
51. In respect of the resettlement pathway that addresses “attitudes, thinking and behaviour”, it is suggested that an additional audit baseline should state that “Women must be able to access offending behaviour courses, including those courses that are recommended by the Parole Commissioners”. Information would also be welcomed as to whether women experience any disadvantage in terms of accessing offending behaviour programmes because of gender.
52. Under the section that refers to the “needs of particular groups”, in respect of life sentence prisoners, it is suggested that NIPS cross-reference this section to the role and responsibilities of the new Offender Management Group, particularly as the group has a specific role in preparing women for consideration of their case by the Parole Commissioners.

Concluding comments

53. Given the breadth of issues covered in the draft standards, it has not been possible to comment on each and every aspect of how the prison regime addresses the needs of women in prison, and we have had to be selective in our comments. As stated previously, the Commission has carried out in-depth investigations in to the special vulnerabilities of women in detention in Northern Ireland and responded to a large number of related policy consultations. In recent times, these include responses on the NIPS consultations on a range of draft policies including: Progressive regimes and earned privileges schemes (September 2006); Management of Mothers and Babies (October 2006); Child Protection (July 2007); Human Resources Diversity strategy (May 2008); Foreign National Prisoners (July 2008); Northern Ireland

Office Draft Strategy for the management of women offenders (June 2009); Amendments to Prison Rules (September 2009) and the Draft Family Strategy (October 2009). It is to be hoped that this body of work has contributed to the development of services and interventions that address the needs of women in prison. The Commission is willing to engage in further discussion in respect of any of the issues raised in the draft gender standards for working with women prisoners.

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**Northern Ireland Human Rights Commission
Temple Court, 39 North Street
Belfast BT1 1NA
Tel: (028) 9024 3987
Textphone: (028) 9024 9066
SMS Text: 07786 202075
Fax: (028) 9024 7844
Email: information@nihrc.org
Website: www.nihrc.org**