19 October 2021

Ciaron McCauley

Press & Program Manager

Irish Prison Service

# Subject: Submission to review of Prison Rules 2007

Dear Ciaron,

The National Disability Authority welcomes the opportunity to share its views on the review of Prison Rules 2007, and we appreciate your leniency in providing us with an extra fortnight to make this submission.

The National Disability Authority (NDA) is the independent statutory body with a duty to provide information and advice to the Government on policy and practice relevant to the lives of persons with disabilities, and to promote Universal Design.

Ireland ratified the UN Convention on the Rights of Persons with Disabilities (UNCRPD) in 2018. The overarching vision of the UNCRPD is to ensure that persons with disabilities can participate in and contribute to society on an equal basis with others and is currently finalising its initial State Report to send to the UN Committee on the Rights of Persons with Disabilities.

Article 14 of the UNCRPD (Liberty and Security of Person) is relevant to the review of the Prison Rules and should be given due consideration. It states that

States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of the present Convention, including by provision of reasonable accommodation.

The NDA advises that the revised Prison Rules set out the provision of accommodations as required by prisoners with disabilities. This includes built environments that follow a Universal Design approach, and communications that can be understood by all persons. Section 13(7) of the current Prison Rules states that

Where a prisoner is unable to read or is unable to understand the contents of a booklet referred to in paragraphs (1) and (2) the Governor shall take all reasonable measures to ensure that the prisoner's entitlements, obligations, and privileges under these Rules are explained to him or her as soon as is practicable.

The NDA suggests that this subsection could outline various methods of communication that a person may wish to use, such as Plain English, Easy-to-Read or Irish Sign Language.[[1]](#footnote-1)

The NDA welcomes the additional €2.4 million provided for by Budget 2022, dedicated to recruiting more psychologists and specialist mental health nurses, to support the substantial number of vulnerable persons in the prison system. This is very much in line with the review of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), published in November 2020, which contained a specific focus on persons with intellectual disabilities and mental health difficulties. While the data that we have is quite out-dated – ‘A Survey of the Level of Learning Disability among the Prison Population in Ireland’ completed for the Department of Justice, Equality and Law Reform in 2000 being the most comprehensive study carried out – we know from various studies and reports that persons with disabilities are over-represented in the prison population.

This extra allocation is also in line with the work being undertaken under Action 8 of the National Disability Inclusion Strategy, to establish a high-level taskforce to consider the mental health and addiction challenges of persons interacting with the criminal justice system.

The National Disability Inclusion Strategy also states that all public bodies must provide disability awareness training for all staff (Action 20). The NDA suggests that this requirement is reflected in the revised Prison Rules, perhaps under Part 8 on Prison Officers.

Section 30 of the current Prison Rules sets out provisions around the employment of prisoners. The NDA suggests that a subsection should be included on providing reasonable accommodations to prisoners with disabilities, in order to facilitate their taking on employment alongside their counterparts. Reasonable accommodations also apply to education. As Section 110(4) of the current Prison Rules notes, “The Governor, prison officers and all persons employed or engaged in the provision of services to prisoners shall actively encourage and facilitate participation in education as provided in the prison.” Reasonable accommodations and additional support to participate would allow prisoners with disabilities to actively engage with education and training programmes.

Given the inclusion of provisions regarding members of the Probation Service in Part 11 of the current Rules, the NDA believes the revised Prison Rules should highlight the need for collaboration and clear objectives when engaging with different stakeholders. Transitions can be difficult for persons with disabilities and the Prison Service and Probation Service should devise an approach to ensure that the needs and requirements of prisoners with disabilities are considered when planning for their transition from prison to the community. The assignment of a Probation and Welfare Office, under Section 118, should allow for the continuity of any support a prisoner with a disability is receiving.

We welcome the opportunity earlier this year to meet with the Equality, Inclusion and Diversity lead in the Irish Prison Service, Seamus Beirne, earlier this year. Mr Beirne organised the meeting in order to discuss revising procedures around conducting searches of persons with disabilities, in particular autism and intellectual disabilities.[[2]](#footnote-2)

As we mentioned to Mr Beirne, the ratification of the UNCRPD signals a commitment to Article 4(3), which states that States Parties must ensure the effective participation of persons with disabilities in the creation and implementation of policies and legislation that impact their lives. Therefore, we advise that the revised Prison Rules should be subject to consultation with persons- including prisoners- with disabilities prior to being finalised.

Finally, the NDA has a particular role to strengthen and promote the collection of data and statistics relevant to people with disabilities, and to ensure public data can be disaggregated using disability as a variable. We have been working closely with colleagues across a number of departments to promote improved data collection processes and we have been pleased to see recent improvements and developments. As has been frequently highlighted by researchers and academics, the collection of data of persons with disabilities in the justice system is fragmented, and often frustrates the development of inclusive policy. The NDA would like to take this opportunity to suggest that the importance of the collection and dissemination of relevant data should be highlighted in the revised Prison Rules. We suggest that this could be inserted into Section 4 of the current Prison Rules, which outlines the prisoner details that should be recorded. This section does not currently include the recording of a prisoner’s disability. The recording and dissemination of this information can then be used to inform and guide future decision-making and service design.

The NDA remains available to further discuss any of the points made in the above submission.

Yours sincerely,

**Dr Aideen Hartney**

Director

1. Please see the NDA’s Customer Communications Toolkit for the Public Service for further guidance: https://nda.ie/Publications/Communications/Customer-Communications-Toolkit-for-the-Public-Service-A-Universal-Design-Approach/ [↑](#footnote-ref-1)
2. The NDA developed guidance for justice professionals on engaging with persons with autism which can be found here: https://nda.ie/Publications/Justice-and-Safeguarding/Assisting-People-with-Autism-Guidance-for-Justice-Professionals/ [↑](#footnote-ref-2)