



Elimination of solitary confinement

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PIN – 51	Operations Directorate	11	The Director of Operations	04/07/17

Related policies/standards	Date
See Section 5	

Legacy reference of policy	Date for review of policy	Date of issue/amendment
-	11/01/2019	11/07/2017

IPS Policy for Elimination of solitary confinement

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1. Aim of this policy

To incorporate Rules 44 and 45 of the UN Standard Minimum Rules for the Treatment of Prisoners (2015 Revision, also known as ‘the Mandela Rules’) into the Irish Prison system in respect of prisoners on Restricted Regimes.

2. Purpose of this policy

To ensure that in line with Rules 44 and 45 of the Mandela Rules, all prisoners wishing to do so, will receive a minimum of two hours out-of-cell time with the facility for meaningful human contact.

3. Scope of this policy

- 3.1 All prisoners within the Irish Prison Service with the exception of those deemed medically unfit to do so.
- 3.2 All prisons and places of detention within the prison Estate.
- 3.3 In particular, all prisoners detained in accord with section 13 of the Prisons Act, 2007 and Rules 62 – 65 of SI 252 of 2007 (the Prison Rules).

4. Procedures for implementation

- 4.1 All prisoners will be detained in accord with the Prisons Act 2007 and SI 252 of 2007 (the Prison Rules).
- 4.2 Responsibility for ensuring the requirements for the implementation of the policy at prison level will rest with Governors in accord with Rule 75 of the Prison Rules.
- 4.3 Oversight of the policy will be the responsibility of the Director of Operations with ultimate authority resting with the Director General in accord with Rules 62-65 of the Prison Rules.
- 4.4 Governors will ensure that the daily out-of-cell activities of prisoners detained under Rules 62-65 are recorded and retained securely and that where a prisoner refuses to leave his/her cell in order to participate in out-of-cell activities, that same is recorded and retained.
- 4.5 Where a prisoner is deemed medically unfit to engage in out-of-cell activities, Governors must retain a record of the medical officer's opinion.
- 4.6 All oversight, monitoring and review functions outlined in section 5 of this Policy, will remain in place particularly, but not restricted to, prisoners detained under Rule 62 and prisoners detained in Special Observation Cells and Close Supervision Cells.
- 4.7 It is accepted that from time to time, emergencies (such as fire, serious disturbance etc.) in prisons will require the temporary suspension of this policy. In the event of such an operational emergency the Governor shall advise the Director of Operations in accord with Rule 83 and Operations Circular 11/2016 – Reporting of Serious and Critical Incidents.
- 4.8 Nothing in this policy shall over-ride section 13 (6) of the Prisons Act 2007 wherein it is stated 'Nothing in this section prevents the Governor taking immediate provisional or protective measures to maintain order and discipline or prison security'.
- 4.9 In the event that a Governor is required to 'lock-down' his/her prison arising from a serious disturbance or other emergency, the Director of Operations must be advised at the earliest opportunity. In that event, the Governor must review the situation each 24 hours after the commencement of that lock-down and advise the Director of Operations of his intentions accordingly.
- 4.10 In circumstances where a Governor decides to restrict a prisoner's time-out-of-cell to 2 hours or less for reasons other than medical (i.e. to maintain good order and/or the security of the prison), the Governor must record the date of the restriction, the reason for the restriction and notify the Director of Operations as soon as is practical thereafter.

4.11 In accordance with the IPS policy development process, this policy has been ratified by the Executive Management Team (EMT). This policy will be operational from the date of issue as stated on the cover page and shall remain in force until the date of next issue (post review) unless revoked by the EMT.

5. Related policies /standards

Safety Observation Cell Policy

Close Supervision Cell Policy

Violently Disruptive Prisoner Policy

Incentivised Regime Policy

Operations Directorate Circulars 11/2016 (Reporting of Serious and Critical Incidents), 20/2013 (Extensions to Rule 62) and 19/2010 (Restricted Regimes).

6. Definitions

Solitary Confinement – The confinement of prisoners for 22 hours or more a day without meaningful human contact.

Prolonged Solitary Confinement – Solitary confinement for a time period in excess of 15 consecutive days.

Meaningful human contact – Interaction between a prisoner and another person of sufficient proximity so as to allow both to communicate by way of conversation.

Out-of-cell time – Time spent outside the confines of a cell to allow a prisoner to participate in activities including:

Phone calls	Family Visits
Professional Visits	Exercise Yard
Gym	Attendance at Education
Cleaning-out of cell	Showering
Engagement in Work/Training	Recreation including TV area and pool

Engagement with professional therapeutic and/or counselling services
Engagement with prisoner-provided schemes such as the Listener Scheme, Red Cross etc.
Internal work parties including grounds maintenance, painting and decorating etc.

Appendices

Appendix I - Operations Circular 19/2010 - Restricted Regimes and form

Appendix II - Operations Circular 20/2013 - Extensions to Rule 62

Appendix III - Operations Circular 11/2016 - Reporting of Serious and Critical Incidents

Appendix I - Circular OPS/19/2010 and form

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To All Governors

Our Ref : OPS/19/2010

Re: Prisoners on Restricted Regime

Prison Rules 62 and 63

You will be aware of recent and ongoing legal challenges by prisoners relating to the conditions of their detention where they have been removed from the general prisoner population and as a result have been placed on a restricted regime.

It is imperative that a paper trail exists in the case of each and every prisoner detained under these Rules. It is also the case that each case should be subject to regular review, which includes the taking of and recording of the prisoner's comments, in relation to his placement. Having considered this matter and following contact with the Attorney General, the Director General has instructed that the following procedures should now apply: -

Rule 63 of the Prison Rules 2007 - Protection of vulnerable prisoners.

It has been brought to my attention that there is a considerable number of prisoners detained under this Rule who are availing of a full regime, including normal unlock hours, and for whom a review of their status has not taken place for an unacceptable period of time.

As and from today's date, prisoners in this category who are availing of normal unlock hours along with communal access to services such as school, recreation, workshops and the gym are not to be defined as protection prisoners if it is clear that these prisoners do not require

protection in the landing / unit of the prison in which they are detained. These prisoners should no longer be classified as being detained under Rule 63 and this fact should be recorded in writing and placed on their prison files.

Prisoners who have been placed on a restricted regime for their own safety may continue to be detained under Rule 63 as long as their cases are subject to a formal review by the Governor **at the end of each month**. A written record for the continued enforcement or otherwise of the Rule should be placed on the prisoner file after each review. It is also essential that the prisoner's views be sought and recorded in writing on the attached form before a final determination is made. Prisoners placed on enforced protection should be given the broad reasons for their placement on protection without compromising the source of confidential information.

Prisoners on voluntary protection should in all cases be asked to set out the reasons they require protection and these must also be recorded on the attached form. The same review procedures as for the enforced protection prisoners should also apply. It is recognised that some of these prisoners may not be forthcoming with such information and in order to allow for proper reviews to take place, these cases should be referred to the Operations Directorate, by e mail, who may then be in a position to shed further light on the reason for the perceived threat. This information will then be passed on to the Governor.

You are hereby instructed to conduct an immediate review of all such prisoners and to ensure that each such prisoner has a written record as to whether his continued placement on Rule 63 is appropriate on their file by at least 30 November, 2010. Every such prisoner is to then have his case reviewed and the findings recorded in writing on his file each and every month from that time.

Rule 62 of the Prison Rules 2007 - Removal of a prisoner from structured activity or association on grounds of order.

A Governor is precluded from giving a direction under this rule unless information has been supplied to the Governor as to cause the Governor to believe, upon reasonable grounds, that to permit the prisoner to so engage, participate or associate would result in there being a significant threat to the maintenance of good order or safe or secure custody.

The prisoner should be given the broad reasons, for example, "the organisation of and distribution of contraband such as mobile phones and drugs" for the decision in writing and allowed an opportunity to express his views which should also be recorded in writing. Operations Directorate should be consulted in relation to the exact wording to be used in each such case. Under no circumstances should the source of any confidential information be

identified or placed under threat. The Prison Rules set out the legal timeframes involved in this process and the stages at which Director General approval is required.

The attached form should be completed for each restricted regime prisoner held under Rule 62 or 63 in your institution having regard to the content of this communication. If there are any prisoners on a restricted regime who you feel are not covered by one of the above Rules (excluding prisoners on punishment or who have been placed in a special observation cell) these should be highlighted with us also.

Your co-operation in the implementation of these new procedures is much appreciated.

William Connolly

Director of Operations

22 October, 2010

Prisoners on Restricted Regime

This form must be completed by any inmate requesting or being placed on a restricted regime

Copy must issue to inmate and to prison file

Prisoner:				
PRIS:				
Location:		Rule detained under:		62
				63
Reasons for detention				
Start Date:		Date of Review:		
Period on restricted regime		7 days	14 days	21 days
		Over 21 days		
Inmates comments				
Decision and Reason				
If signing off restricted regime- must sign disclaimer				
Assessed- reviewed by		Date		
Prisoners signature				

Appendix II - Circular OPS/20/2013

TO ALL GOVERNORS, CIRCULAR: OPS/20/2013

Re: Applications to the Director General for extensions under Rule 62.

Governors

Following a review of the operation of extensions to Rule 62, from November 1st 2013, the following procedures should apply -

1. All applications for such extensions should be communicated to the Director and Deputy Director of Operations for onward transmission to the Director General. The Director/Deputy Director will advise the prison of the Director General's decision as soon as possible after such decision has been made.
2. In instances where the request for an extension is ***the first occasion*** on which an extension is being sought, the application should include -
 - (i) The grounds on which the extension is sought and the necessity for same
 - (ii) The views - if any - of the prisoner concerned
 - (iii) Confirmation that on the first occasion the prisoner was placed on the Rule, the following persons were advised: the Prison Doctor
the Chaplain of the prisoner's denomination.
3. In all subsequent applications for an extension, the application should include -
 - (i) The grounds on which a continued removal from structured activities is necessary
 - (ii) The views - if any - of the prisoner.

The above procedure is in accord with Rule 62 of SI 252 of 2007, the Prison Rules.

Brian Murphy

Director of Operations.

October 2013.

Appendix III - Operations Circular 11/2016

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IRISH PRISON SERVICE

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Re: Operations Circular 11/2016 - Reporting of serious and critical incidents (Rule 83).

Governors

Rule 83 (1) requires that 'the Governor shall inform the Minister in writing of any activity, occurrence or matter relating to the prison or its operation that he or she considers -

(a) to be of particular importance, and

(b) should be brought to the attention of the Minister.

This Circular seeks to bring a level of standardisation and structure to the Reporting of such occurrences and activities and I request that all Governors implement the Circular as soon as is possible after issue.

It is accepted that there are a category of incidents for which whether or not it warrants reporting involves a level of subjectivity and judgment (such as incidents 'likely' to cause press interest or Questions to the Minister), however the below Table seeks to offer Guidance to Governors in relation to the incidents which **must** be Reported to Operations Directorate, for onward transmission to the Minister, where appropriate. In relation to incidents involving high profile prisoners which may attract media attention, of course an element of 'judgment calling' is required.

The primary purpose for the Reporting of these incidents is to advise the Minister and also allow Operations Directorate consider whether or not changes to procedures and/or policies are warranted in the event of repeated and frequent occurrences of some of the incidents outlined below and to track trends in relation to 'hot spots' and 'incident clusters'.

Nature of Incident	To be Reported to
Death in Custody	The Director of Operations at the earliest practicable opportunity
Escape from Custody or attempted escape from custody (whether within a closed prison or while on escort outside a prison or Open Centre)	The Director of Operations and copied to the Deputy Director and Governor 1 (Ops)
Serious disturbance/riot within a prison	The Director of Operations and copied to the Deputy Director and Governor 1 (Ops)
Serious assault or accident/occurrence resulting in the hospitalisation of a member of staff or prisoner	The Director of Operations and copied to the Deputy Director and Governor 1 (Ops)
Incidents involving any prisoner that causes the prison to adjust its operation in order to resolve it, or incidents involving noteworthy volumes of contraband items	The Director of Operations and copied to the Deputy Director and Governor 1 (Ops)
Breach of security either at the perimeter or within the prison	The Director of Operations and copied to the Deputy Director and Governor 1 (Ops)
Incident involving a high-profile prisoner likely to attract media attention or PQs to the Minister	The Director of Operations and copied to the Deputy Director and Governor 1 (Ops)

Abscond from an Open Centre	AP/decision-maker responsible for the Open Centre
Breaches of TR	AP/decision-maker responsible for the prison/Open Centre

In the event of the unavailability of the Director, Governors are requested to ensure that appropriate incidents are reported to the Deputy Director or Governor 1 (Ops).

Finally, arising from a recommendation from the Internal Audit Unit (Department of Justice and Equality) on foot of a Protected Disclosure Investigation, Governors are reminded that in view of the fact that all of the above incidents have the potential to be investigated both internally and externally (including potential criminal investigations), systems must be in place to ensure the adequate storage and retrieval of relevant documentation in order to assist those investigations.

Please bring this Circular to the attention of all relevant staff.

Martin Smyth
Director of Operations.

5 October 2016.

END OF DOCUMENT