

Inspector's Overview

A solid policy and governance framework could be supported by improved practice in prisons

We commenced this review to examine how well the Department and individual facilities are managing a range of interconnected risks arising from the use of confinement and management regimes. Our review highlighted the potential risks that could arise from an unregulated use of confinement and management regimes and the potential to impinge the rights and harm the wellbeing of individuals who are subject to restrictions.

What we found was that, broadly speaking, the Department had established a comprehensive policy framework around the use of confinement and management regimes. This has been strengthened by the recently released revised suite of policies. With a few exceptions, which are detailed in this report, we found that the governance around confinement and management regimes was reasonably good. Our report identified several areas where administrative practice and record keeping could be improved to better reflect policy requirements. But overall, the review recognised many positive improvements the Department has achieved in this area.

The revised policy framework provides prison management with suitable response options to manage situations and prisoner behaviour that warrants intervention. The different options available are generally well understood and used appropriately, but there were some exceptions. Notably, we identified concerns about the use in Acacia Prison of multiple consecutive confinement orders, under section 36(3) of the Prisons Act 1981, for the good government, order and security of the prison. Although, there may have been some pragmatic justification for this situation, the extent of use was clearly outside of the intention set out in the policy framework. Pleasingly, both Serco, the private operator of Acacia Prison, and the Department acknowledged these concerns and agreed to examine the issue to ensure better compliance.

We also found that the use of separate confinement orders under section 43 of the Prisons Act 1981, had declined to negligible numbers in recent years following the introduction of the Disruptive Prisoner Policy. Following a legal challenge and departmental review the Disruptive Prisoner Policy was rescinded in December 2021, but the use of section 43 orders has not increased. We found that despite the low rate of use, there were generally sound governance and accountability mechanisms in place for these orders.

This review also highlighted, once again, concerns we have held for quite some time about how prisoners who have significant mental health issues are managed within prisons. This issue arises in the context of this review by way of us examining the framework for observation and monitoring regimes for such prisoners, many of whom ought to be in an acute hospital setting. It is well documented, however, that the absence of enough bed space in the State's only secure forensic hospital, the Frankland Centre, means many very unwell prisoners must be managed in a prison setting.

Our review identified that the long-term confinement in prison of individuals who are acutely unwell with mental illness is not therapeutic and often inhumane. Prisons simply cannot provide appropriate infrastructure, access to adequate clinical care, and access to appropriate clinical interventions. Day to day care of such prisoners is left to custodial staff working in management units. These custodial staff have limited specialised training, significant other demands on their time, and their attention is regularly drawn to other critical incidents. Despite these challenges, most of them do a very good job in difficult circumstances. Sadly, their focus must be the prevention of self-harm and suicide rather than any sort of therapeutic intervention. Some relief has been found for female prisoners since the opening of the 29-bed Bindi Bindi mental health unit at Bandyup Women's Prison. Help is on the way for men with the planned 32-bed mental health unit as part of the Casuarina Prison expansion. Development of both units by the Department is a commendable initiative, but it does not replace the need for acute beds in a suitable hospital setting.

Acknowledgments

It is important to acknowledge the contribution and assistance we received in undertaking this review from key personnel in the Department and at Acacia Prison.

Finally, I want to also acknowledge and commend the hard work and significant contribution of the team within our office in planning and undertaking this review. I would particularly acknowledge the work of Ryan Quinn in leading this review and as principal drafter of this report.

Eamon Ryan
Inspector

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