



STOCKTAKE

OF AUGUST 2010
MAGHABERRY PRISON
AGREEMENT

Prepared by the Independent
Assessment Team

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22 September 2014

REVIEW OF PROGRESS

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INTRODUCTION

In August 2010, following an intense period of negotiation led by an independent Joint Facilitation Group, an Agreement was reached to end months of protest by republican prisoners in Roe House, Maghaberry Prison. The Agreement created a pathway for a prison regime predicated on the principles of mutual respect and grounded on the understanding that staff could carry out their duties free from harm, intimidation or threat.

The Agreement set out a process that dealt with concerns surrounding full-body searching and controlled movement issues which had given rise to the protest. The process was designed to deliver a safe, secure and humane prison regime.

The Agreement was endorsed by the Northern Ireland Prison Service (NIPS) and the Republican prisoners. In September 2010 the Minister of Justice, David Ford MLA, established an Independent Assessment Team (IAT) to ensure that the Agreement's principles and undertakings were being implemented.

The process of embedding the Agreement has been challenged by:

- The callous murder of Prison Officer David Black. (The most egregious breach of the principles underpinning the Agreement.)
- A widespread perception amongst the prisoners that NIPS is not fully committed to the Agreement, and a breakdown in relationships between the prisoners and NIPS
- The 'dirty protest' by the prisoners.

Following a recommendation by the Prisoner Ombudsman in June 2014 the Minister asked the IAT to undertake a Stocktake of the Agreement (see Annex). The Stocktake has allowed the IAT to assess the state of compliance with the Agreement's principles and undertakings, which were designed to improve relations between prison staff and prisoners and, in turn, to create a less fraught environment, with positive outcomes to everyone's benefit.

The IAT have considered the following core issues:

- The agreed principles and undertakings of the Agreement
- Association and controlled movement
- Full-body searching.

And have examined:

- The fundamental principles and undertakings underpinning the Agreement
- Evidence of movement away from the 'restrictive' procedures that applied in 2010 towards a more progressive and less restrictive free-flow movement system
- Evidence of infrastructural changes linking the exercise yard with the Astro Turf pitch
- Evidence of progress towards delivering a new search facility and of implementing a revised search policy within Roe House

- Relevant prison policies, orders, communication notices, the Steele Review, Prisoner Ombudsman's reports, the minutes of the Prisoners' Forum meetings, and relevant European and international human rights policies.
- CCTV footage of full-body search procedures.

The IAT have undertaken consultations with NIPS and the Republican prisoners in Roe House, and with a range of other interested parties. We have documented **areas of progress** since the Agreement 2010 and outlined **outstanding issues** which still cause tension.

Timeline of events covered include: 2010 protest; role of Joint Facilitation Group, July 2010; Agreement, 12 August 2010; NIPS Clarification Meeting, 1 September 2010; commencement further protest, May 2011; the murder of Prison Officer David Black on 1 November, 2012; the ending of protest on 21 November 2012; Terms of Reference for Stocktake, 22 July 2014 and Republican Prisoner Statement 31 August 2014.

AGREED PRINCIPLES

The principles which underpin the August 2010 Agreement are:

- The arrangements are predicated on mutual respect
- Prisoner and staff safety must not be put at risk
- The arrangements should comply with human rights and equality requirements
- Revised arrangements and procedures should be achievable and sustainable
- Staff should be able to carry out their work professionally, free from harm, intimidation or threat
- The security of the establishment should not be diluted
- The arrangements must strengthen public confidence in NIPS.

AREAS OF PROGRESS

Progress since August 2010 includes:

- Prisoners have freedom of association to use shared space locations (recreation room, exercise yard and new Astro Turf pitch) and have access to education and related activities in the classrooms
- Inter-cell association
- Refurbishment of Roe 3 and 4 (the accommodation occupied by 'separated' republican prisoners), following the ending of the various protests, along with the cleaning and replacement of cell toilets, sinks etc.
- Classrooms are now operational
- Access to library books and computers
- Revised eating arrangements allowing prisoners to prepare and take their meals together
- Prisoners trained as food orderlies and new food servers installed
- Prisoners' Forum established
- Access to separate gym area

- New search facility installed
- The requirement for random full-body searching on the way to domestic and legal visits and the video link has been eased
- The requirement for random full-body searching on the way from the Care and Supervision Unit has been eased
- No 'rub down' searches within Roe 3 and 4
- An Independent Prison Review Report completed and published
- Dedicated Search Team removed from Roe House.

OUTSTANDING ISSUES

Staff

- Ongoing abuse of staff
- Threats to staff (including the sending of two viable parcel bombs to named staff, the necessity for several staff to relocate their homes, and threats on social media against named officers)

Prisoners

- Concerns remain about routine full-body searching exiting and entering the prison (NIPS state that this is non-negotiable)
- The restrictions on controlled movement
- The limited scope of education/craftwork provision and the refusal to allow unrestricted access to a printer in the classroom.

The prisoners have also highlighted a number of concerns that were not part of the Agreement:

- The eligibility criteria for entry to 'separated' accommodation (viz Roe 3 and 4)
- The 'isolation' of certain prisoners in protective custody
- Revised family visiting arrangements, which they believe will be restrictive
- Having to 'double-up' in cells designed for one person.

STATE OF COMPLIANCE

Clearly not all the principles of the August 2010 Agreement have been adhered to, nor have all undertakings been acted upon. The Agreement has been unable to realise its full potential, partly because of 'bedding-in' problems arising from the lack of trust between NIPS and Republican prisoners, and because of understandable concerns about staff safety. However, this Stocktake has created an opportunity to get things back on track.

Based on our analysis, we would make the following comments on the state of compliance:

- All parties to the Agreement should reaffirm their support for the fundamental principles and undertakings that it established.

- NIPS should continue to review the issue of full-body searching, taking into account any advances in technology systems or policy which might obviate or diminish the requirement for such searches such as the use of a Multi-Mode Threat Detector.
- The current policy for searching prisoners exiting and entering the prison should be examined to see if there may be circumstances in which a prisoner leaving the prison for either home leave or because of a serious medical condition will not automatically be subjected to a full-body search. Any prisoner discharged on acquittal or completion of their sentence should not have to undergo a full-body search on the day of their release from prison.
- Consideration should be given to incremental increased access to landings, up to a maximum of six prisoners, to facilitate a more progressive and less restrictive free-flow movement system as outlined in the Agreement, especially now that all prisoners within Roe House have agreed to share all the facilities and physical space.
- Any relaxation of the present restrictions would depend on the prisoners acting in good faith and refraining from actions that might prevent staff carrying out their work professionally and free from harm, intimidation or threat.
- NIPS should continue to ensure that meetings of the Prisoners' Forums are properly planned, scheduled and minuted and that all action points are followed up and reported back. Forum meetings should be held every two months, or more often should a particular need arise, with issues for inclusion on the agenda submitted a week in advance of each meeting. In this way, by addressing issues of mutual concern, the Forums should enhance relationships and develop greater trust between the prisoners and NIPS.
- Forum meetings should be chaired - for a six month trial period, at least - by an independent body such as the International Committee of the Red Cross.
- Family visits must be facilitated in a manner that is more family-friendly, and which allows for more privacy and greater personal contact for partners, mothers and children. In the event of a death in a family, there should be appropriate facilities for helping a prisoner to deal with the trauma of bereavement.
- There should be a review of education provision, including skills training, with the objective of improving the prisoners' overall level of education and wellbeing.
- The NIO policy must clarify eligibility criteria for access to Roe House for separated paramilitary prisoners. There should also be an independent assessment of the rationale for the ongoing isolation of prisoners held within the CSU, and an appropriate appeal process.

CONCLUSION

While many of the Agreement's aims and objectives have been achieved a number of issues are still outstanding and tensions remain.

NIPS' Prison Reform Programme – due to be completed next year - offers a unique opportunity to create a prison system in Northern Ireland that is compliant with the highest human rights standards. This Stocktake should be read in that context. The IAT do not underestimate the difficulties that arise from having 'separated' areas for paramilitary prisoners in Maghaberry Prison. However, we are convinced that the opportunity exists to ensure the outstanding issues can be resolved if all involved parties maintain full compliance with all the principles and undertakings that underpin the August 2010 Agreement.

It is the IAT's view that communication is fundamental to success and that on occasions the absence of a clear and concise communication process has led to misinterpretation of the Agreement. The Prisoners' Forum should be the vehicle for processing issues of concern between NIPS and the prisoners. It is also important to maintain effective channels of communication between staff and NIPS management.

The IAT believe there should be an **agreed timeline of six months** for resolving any outstanding issues and over this period Roe House, by example and deed, should be a conflict-free environment and all threats to staff internally and externally should cease.

Finally, we would suggest that if the outstanding issues are to be resolved, all parties must commit to a new regime that is secure, safe and humane and freed from the prison experience of the past.

Peter Bunting
Reverend Dr Lesley Carroll
Chris Maccabe CB
Conal McFeely

September 2014

ANNEX-TERMS OF REFERENCE

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of

Justice

www.doj.ni.gov.uk

TERMS OF REFERENCE

To: Roe House Assessors

<Z... July 2014

STOCKTAKE OF MAGHABERRY PRISON-ROE HOUSE AGREEMENT REACHED ON 12 AUGUST 2010

Direction

Following a recommendation from the Prisoner Ombudsman, you are requested to undertake a stocktake of the implementation of the Agreement reached on 12 August 2010 by the joint facilitation group, which sought to resolve the Roe House dispute within Maghaberry Prison.

In undertaking this stocktake, you are invited to return to the agreed principles and undertakings of that agreement, and pass comment on the state of compliance.

Resources

In undertaking your stocktake, you will be granted access to the facilities within Maghaberry Prison, the population of Roe House, landing 3 and 4, and all staff at Maghaberry Prison.

Timescale

If possible, your completed report should be submitted to me by 30 September 2014.

DAVID FORD MLA
Minister of Justice

Building a fair, just and safer community

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- Council of Europe Rec(2006)2 European Prison Rules.
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- NIPS - Roe House Clarification Meeting – September 2010.
- Revised Compact Information Booklet – May 2010.
- Governor's Order – Separated Visits – Vehicle Operating Procedures – June 2010.
- Governor's Order – Separated Visitors' Regime – June 2010.
- Governor's Order – Bush & Roe Classrooms – Electric Lock/Turnstile Failure – June 2010.
- Review of the Northern Prison Service - Interim Report, February 2011.
- Governor's Order – Managing Prisoners on Dirty Protest – October 2011.
- Maghaberry's Dirty Protest and Faecal Contamination Policy and Arrangements – October 2011.
- Review of the Northern Prison Service – Final Report, October 2011.
- Progress on the Prison Reform Programme – Statement by the Minister of Justice, March 2012.
- Statement from Republican Prisoners, Roe 4, (21 November 2012) ceasing their protest action in an attempt to find a resolution of the impasse in the full implementation of the 12 August 2010 Agreement.
- Statement from Cogús Prisoners, Roe 3, (29 November 2012) ending their protest action as a gesture of goodwill so that the outstanding issues of alternatives to strip searches and controlled movement can be resolved.
- Statement from CIRA Prisoners, Roe 3, (26 November 2012) suspending their protest to provide the opportunity for the full implementation of the August 2010 Agreement.
- HMP Maghaberry – Roe 4 – Separated Prisoners Forum – July 2013.
- HMP Maghaberry – Roe 3 – Separated Prisoners Forum – July 2013, Oct 2013, Nov 2013, Dec 2013.
- Judicial Reviews (2010 and 2014) challenging NIPS policy on full-body searching on prisoners entering and leaving prison.
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- Roe 4 Prisoners' Note – Lack of Progress since the ending of protest November 2012 – April 2014.
- HMP Maghaberry Notice to Prisoners – Late lock-ups – April 2014.
- HMP Maghaberry – Roe 3 Prisoner Forum Minutes – March 2014 and May 2014.
- HMP Maghaberry Notice to Prisoners – Roe 3 & 4 Sunday 4 May 2014 Visits – May 2014.
- HMP Maghaberry Notice to Prisoners – Food Shortages – May 2014.
- HMP Maghaberry Notice to Prisoners – Handicraft Tools – May 2014.
- HMP Maghaberry Notice to Prisoners – Inter-Cell Association Roe 3 & 4 – May 2014.
- HMP Maghaberry Notice to Prisoners – Discipline Charges – Roe 3 & 4 Landings – May 2014.
- Prisoner Ombudsman's Reports, June 2013 and June 2014.
- Statement from Republican Prisoners, Roe 4, (14 July 2014) detailing their concerns about forced strip searching and the isolation of Gavin Coyle within the CSU.
- Governor's Order – Full Search of Prisoners – October 2010 - Amended June 2014.

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- HMP Maghaberry Notice to Prisoners – Education Printer Roe 3 & 4 – June 2014.
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- HMP Maghaberry Notice to Prisoners – Availability of Toilets – Separated Visits – July 2014.
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- Roe 4 Prisoners’ Note - Politicking, Ignorance and Inactivity create potential for conflict – July 2014.
- Roe 4 Prisoners’ Note – Critique of Notice to Prisoners Issue No 111/14 – July 2014.
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- Roe 4 Prisoners’ Note – August 2010 Agreement – A brief Historical and Political Context – August 2014.
- Roe House Prisoners questionnaire - August 2014.
- Cogús Prisoners, Roe 3, response highlighting policies of forced strip-searching, continuous alarms going off in Roe 1 and 2, late unlocks and concerns about Republican Prisoners held in isolation in the CSU – Aug 2014.
- HMP Maghaberry - Proposed Visiting Area Layout Drawings – August 2014.
- Roe 3 & 4 – Joint Prisoners’ Statement 31 August 2014.
- Roe 4 Conditions Document – September 2014.
- Governor’s Order – Staff/Prisoner Ratio in Separated Conditions.
- Original Roe House Prisoner Forum - Terms of Reference.
- Penal Reform International – Monitoring Tools... for Body Searching.

MEETINGS AND CONSULTATIONS

The IAT undertook various visits/consultations with:

- Prison staff and prisoners in Roe House;
- NIPS, Dundonald House and Prison Governor;
- Republican prisoners’ representatives in Roe House;
- Other interested bodies including the Northern Ireland Office and the Department of Foreign Affairs and Trade (Anglo-Irish Division).

AGREED PRINCIPLES

The principles which underpin the August 2010 Agreement are:

- Arrangements are predicated on mutual respect;
- Prisoner and staff safety must not be put at risk;
- Arrangements should comply with human rights and equality requirements;
- Revised arrangements and procedures should be achievable and sustainable;
- Staff should be able to carry out their work professionally, free from harm, intimidation or threat;
- The security of the establishment should not be diluted;
- The arrangements must strengthen public confidence in NIPS.