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**An Comhchoiste um Dhlí agus Ceart agus Comhionannas**

**Tuarascáil maidir le Soláthar Díreach agus maidir leis an bPróiseas  
Iarratais ar Chosaint Idirnáisiúnta**

**Nollaig 2019**

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**Houses of the Oireachtas**

**Joint Committee on Justice and Equality**

**Report on Direct Provision and the International Protection Application  
Process**

**December 2019**





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## Chairman's Preface

In the year 2000 a system of direct provision was introduced in Ireland following significant increase in the numbers applying for asylum here. In 2015 the Working Group on Improvements to the Protection Process including Direct Provision and Supports to Asylum Seekers reported to Government identifying many problems and issues of concern. The report – known as the McMahon report - contained 173 recommendations for improvements to the system. Despite some reform in the area, the current Oireachtas Joint Committee on Justice and Equality deemed it appropriate to re-address the issue in 2019 making it a priority issue in this year's Work Programme.

The Committee held a series of public hearings in May and June with stakeholder groups and also undertook visits to Direct Provision centres in Mosney and Monaghan. Significant issues identified with the system as a whole included: accommodation that is not fit-for-purpose; inadequate supports and services that do not cater to the needs of vulnerable individuals arriving in Ireland; long delays in the single application process; issues with accessing the labour market; and issues relating to children in the direct provision system.

Overall, the members of the Committee are of the view that the Direct Provision System currently in operation here is flawed in several respects and needs root and branch reform, preferably replacement.

A copy of this report and recommendations has been sent to the Minister for Justice and Equality. The Committee looks forward to working proactively and productively with the Minister to address issues in the direct provision system in the future.

I would like to express my gratitude on behalf of the Committee to all the witnesses who attended our public hearings to give evidence and those who forwarded written submissions. Finally, I also wish to thank the staff of the Committee Secretariat who assisted in the preparation of this report. Go raibh maith agaibh.



A handwritten signature in black ink, which appears to read 'Caoimhghín Ó Caoláin'.

Caoimhghín Ó Caoláin T.D.  
Chairman – December 2019







Members of the Committee with representatives from the Immigrant Council of Ireland, the United Nations High Commissioner for Refugees (UNHCR) and Mr Justice Bryan McMahon



Members of the Committee with representatives from the Movement of Asylum Seekers in Ireland (MASI) and the Irish Refugee Council (IRC)



Members of the Committee with representatives from the Children's Rights Alliance, Nasc, and Dr Liam Thornton, UCD.



## Introduction

In May and June of 2019, the Committee held four engagements with a number of stakeholders in relation to Direct Provision and the international protection application process:

Organisation	Date of appearance
Mr Justice Bryan McMahon	22 May 2019
Immigrant Council of Ireland	
United Nations High Commissioner for Refugees (UNHCR)	
Irish Refugee Council	29 May 2019
Movement of Asylum Seekers in Ireland (MASI)	
Children's Rights Alliance	12 June 2019
Nasc, the Migrant and Refugee Centre	
Dr Liam Thornton	
Officials from the Department of Justice and Equality	19 June 2019

In the late 1990s and early 2000s, Ireland experienced a significant rise in the number of applications for asylum, with a peak of 11,634 applications in 2002. In response to this increase, the Government amended the Refugee Act 1996 with the Immigration Act 1999, which came into effect in 2000 to establish the legal procedures and processes governing applications for asylum in Ireland.<sup>1</sup> At this time, Ireland's system of direct provision was introduced to provide accommodation and supports to asylum seekers while awaiting decisions in relation to their applications for international protection. The Department of Justice and Equality has responsibility for both the direct provision system and the international protection application process, with the Reception and Integration Agency and the International Protection Office managing each respectively.

## Background to the international protection process in Ireland

Upon arrival in Ireland, an application of international protection is lodged either at the port of entry or directly at the International Protection Office (IPO) by the

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<sup>1</sup> <https://www.esri.ie/system/files/media/file-uploads/2018-06/RS72.pdf> p16-18

individual seeking asylum. Under the International Protection Act 2015, a single application procedure was introduced which allowed applicants to have refugee status, subsidiary protection and leave to remain examined in one procedure.

Through the international protection process, an asylum applicant may qualify for either refugee status or subsidiary protection status. Should an applicant fail to meet the requirements of these two categories, they may be granted permission to remain on the basis of other grounds such as humanitarian reasons.<sup>2</sup>

#### Definitions of key terms in International Protection Act 2015<sup>3</sup>

A **refugee** is a person who, "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside his or her country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it".

A person eligible for **subsidiary protection** as someone "who does not qualify as a refugee [and] in respect of whom substantial grounds have been shown for believing that he or she, if returned to his or her country of origin, would face a real risk of suffering serious harm and who is unable or, owing to such risk, unwilling to avail himself or herself of the protection of that country".

A person may be granted **permission to remain** at the behest of the Minister having due regard to "the nature of the applicant's connection with the State, if any; humanitarian considerations; the character and conduct of the applicant both within and (where relevant and ascertainable) outside the State (including any criminal convictions); considerations of national security and public order; and any other considerations of the common good."

After lodging an application, applicants fill out a short form and are given a preliminary interview conducted by an international protection officer or an immigration official to ascertain admissibility for their application. The applicant then presents at the IPO and is given a more in-depth form, the "Application for International Protection Questionnaire", which must be completed and returned by a specified date. It is recommended that applicants receive legal advice before completing the questionnaire as the information therein is given due regard throughout the process and during the applicant's substantive interview. Applicants are notified by post of a date for their substantive interview before the IPO and may have a legal representative and interpreter present at interview. The waiting time for this initial substantive interview stands at 18-20 months. Based on the information gathered at interview and from the questionnaire, a report is

<sup>2</sup>[https://www.citizensinformation.ie/en/moving\\_country/asylum\\_seekers\\_and\\_refugees/the\\_asylum\\_process\\_in\\_ireland/refugees\\_asylum\\_seekers\\_introduction.html](https://www.citizensinformation.ie/en/moving_country/asylum_seekers_and_refugees/the_asylum_process_in_ireland/refugees_asylum_seekers_introduction.html)

<sup>3</sup> <http://www.irishstatutebook.ie/eli/2015/act/66/section/2/enacted/en/html>

compiled by the international protection officer containing a recommendation as to whether status be granted. Positive recommendations require Ministerial sign off which can take several months. Negative decisions can be appealed, within a given timeframe, to the International Protection Appeals Tribunal (IPAT). If a person receives a negative recommendation and is also denied permission to remain, there is no right of appeal.<sup>4</sup>

While an application for international protection is being processed, a person may be accommodated in one of the many direct provision centres around Ireland and provided with full board. While it is not mandatory, no other alternative social welfare support is accessible, leaving the majority of applicants with no real choice but to remain in the centres. Unaccompanied minors who arrive in Ireland are referred to the HSE and are not housed in direct provision but in children's residential homes or in fostering where possible. Unaccompanied minors who have turned 18 – known as "aged out minors" – are transferred to direct provision at the request of Tusla. Particularly vulnerable aged out minors can remain in the care of Tusla at its discretion.

There is a striking contrast in services between the various centres, with some providing self-catering accommodation where residents can cook for themselves but the majority providing a communal, shared type of accommodation with most single asylum seekers sharing rooms with up to three other people while families share a single room together. These centres tend to provide three meals at set times per day and residents may not cook their own food unless communal cooking facilities are provided at the centre.

In addition to providing asylum seekers with bed and board, a weekly allowance, referred to as the daily expenses allowance (DEA), is provided to adults and children for other miscellaneous expenses. The original allowance for this was €19.10 per adult and €9.60 per child per week. This was raised to €21.60 for both adults and children in 2017 and again in 2019 to €38.80 and €29.80 for adults and children respectively.

Upon establishment in 2000, it was anticipated that asylum seekers would spend no more than six months in DP centres awaiting decisions regarding their applications. However, the McMahon Report of 2015 highlighted that this is not the pattern that emerged, and asylum seekers were spending much longer periods of time in Direct Provision centres, in some cases years. Most centres were simply not designed for long-term stays, and many of the concerns highlighted stem from this core issue.

As of 2019, the Department of Justice and Equality put the number of people living in direct provision centres throughout the country at approximately 6,108 in June<sup>5</sup> with the Irish Refugee Council reporting a further 936 being housed in emergency accommodation as of July due to growing capacity issues.<sup>6</sup> There are 39 centres

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<sup>4</sup> <http://www.ipa.gov.ie/en/IPO/InfoBookletNew.pdf/Files/InfoBookletNew.pdf>

<sup>5</sup> [https://data.oireachtas.ie/ie/oireachtas/debateRecord/joint\\_committee\\_on\\_justice\\_and\\_equality/2019-06-19/debate/mul@main.pdf](https://data.oireachtas.ie/ie/oireachtas/debateRecord/joint_committee_on_justice_and_equality/2019-06-19/debate/mul@main.pdf)

<sup>6</sup> <https://www.irishrefugeecouncil.ie/wp-content/uploads/2019/07/RCD-One-Year-On-11-July-2019-Final.pdf>

throughout Ireland with only three of these having been purpose-built specifically for asylum seekers. Of these, 7 accommodate single males only whilst there is only 1 accommodation centre specifically for females only. Most of the provided accommodation had previously been hotels, guesthouses, convents etc. Emergency accommodation is provided in various hotels and B&Bs.

## Current legal framework

Table 1 shows an overview of the legal framework in Ireland in relation to asylum procedures, reception conditions, detention and content of protection as set out in the Asylum Information Database Country Report for Ireland:

<b>Table 1: Main Legislative Acts</b>
International Protection Act 2015
Immigration Act 1999
Immigration Act 2003
Immigration Act 2004
Illegal Immigrants (Trafficking Act) 2000
European Convention on Human Rights Act 2003
<b>Statutory Instruments</b>
S.I. No 409 of 2017 European Union (Subsidiary Protection) Regulations 2017
S.I. No 116 of 2017 International Protection Act 2015 (Procedures and Periods for Appeals) Regulations 2017
S.I. No 230 of 2018 European Communities (Reception Conditions) Regulations 2018
S.I. No 134 of 2016 Immigration Act 1999 (Deportation) (Amendment) Regulations 2016
S.I. No. 62 of 2018 European Union (Dublin System) Regulations 2018
S.I. No 121 of 2018 International Protection Act 2015 (Safe Countries of Origin) Order 2018
S.I. No 668 of 2016 International Protection Act 2015 (Deportation) Regulations 2016
S.I. No 667 of 2016 International Protection Act 2015 (Travel Document) Regulations 2016
S.I. No 666 of 2016 International Protection Act 2015 (Places of Detention) Regulations 2016
S.I. No 665 of 2016 International Protection Act 2015 (Voluntary Return) Regulations 2016
S.I. No 664 of 2016 International Protection Act 2015 (Permission to Remain) Regulations 2016
S.I. No 662 of 2016 International Protection Act 2015 (Temporary Residence Certificate) (Prescribed Information) Regulations 2016
S.I. No 661 of 2016 International Protection Act 2015 (Establishment Day) Order 2016
S.I. No 660 of 2016 International Protection Act 2015 (Application for International Protection Form) Regulations 2016
S.I. No 663 of 2016 International Protection Act 2015 (Commencement) (No.3) Order 2016
S.I. No 133 of 2016 International Protection Act 2015 (Commencement) (No. 2) Order 2016
S.I. No 26 of 2016 International Protection Act 2015 (Commencement) Order 2016
S.I. No 518 of 2006 European Communities (Eligibility for Protection) Regulations 2006

S.I. No. 81 of 2017 Civil Legal Aid (International Protection Appeals Tribunal) Order 2017
S.I. No 55 of 2005 Immigration Act 1999 (Deportation) Regulations 2005
S.I. No 708 of 2003- Aliens (Visas) Order 2003
S.I. No 103 of 2002- Immigration Act 1999 (Deportation) Regulations 2002

The primary legislative instrument governing Ireland's international protection process is the [International Protection Act 2015](#) (IPA) which was passed in 2015 and commenced in January 2017. This Act repealed the Irish Refugee Act 1996 and many of the statutory instruments pertaining to the Irish asylum system, and amended the Immigration Acts 1999, 2003, 2004, with the Minister now having the power to make new regulations under the IPA.<sup>7</sup> Under the Act, a single application procedure was implemented allowing applicants for international protection to have their refugee status and subsidiary protection status determined within the one process.

Under the International Protection Act 2015, an application for international protection is dealt with as follows:

- At first instance, it will be handled by the International Protection Office (IPO), which will make a recommendation in relation to a case
- If the recommendation is negative and the applicant is entitled to appeal, any such appeal will be dealt with by the [International Protection Appeals Tribunal](#)
- Finally, based on the recommendation of the International Protection Office or the International Protection Appeals Tribunal, the [Minister for Justice and Equality](#) will decide whether to give the applicant a refugee declaration; a subsidiary protection declaration; or refuse the application.<sup>8</sup>

As part of a common asylum system in the EU, the Reception Conditions Directive first entered into force in February 2003 and created a framework for basic conditions of reception for those seeking asylum within the EU. The directive was later recast by way of Directive 2013/33/EU.

Ireland did not opt in to the original directive but eventually passed the motion to opt in to its 2013 Recast RCD in January 2018. Prior to this, reception in Ireland was governed primarily by a number of international human rights obligations which offered a framework for standards of treatment of asylum seekers while awaiting a decision on their applications. In July 2018, the 2018 the European Communities (Reception Conditions) Regulations came into operation placing reception conditions on a statutory footing in Ireland for the first time since the direct provision system commenced. Such an instrument provides asylum seekers access to rights detailed in national law which the government must adhere to and

<sup>7</sup> [http://asylumineurope.org/sites/default/files/report-download/aida\\_ie\\_2018update.pdf](http://asylumineurope.org/sites/default/files/report-download/aida_ie_2018update.pdf) P11

<sup>8</sup> [https://www.citizensinformation.ie/en/moving\\_country/asylum\\_seekers\\_and\\_refugees/](https://www.citizensinformation.ie/en/moving_country/asylum_seekers_and_refugees/)



brings the Irish reception procedures in line with European practice and placing the conditions of reception centres on a statutory footing.

### **Alternative models of reception in other jurisdictions**

Ireland's system of direct provision has been condemned by human rights groups, NGOs and residents themselves for years and an alternative system is not only necessary but long overdue. Reception system models vary significantly throughout Europe and while there is no consensus on the best and most cost-effective model available, there are jurisdictions with examples of best practice from which the Irish Government may draw upon to establish a future framework for reception. It must be acknowledged, however, that a new system of reception will not be established overnight and time is needed to ensure the right system is put in place. Both Scotland and Portugal have been referred to as potential models for a workable Irish alternative, as well as Sweden and the Netherlands.

Portugal's reception system was established in early 90s and involves Government authorities working in conjunction with public and private organisations to ensure the provision of services. Regarding the application process, the Portuguese adopt a single procedure for both refugee status and subsidiary protection. Portugal has legislated with regard to waiting times for decisions and, once an application is deemed admissible, the "first instance determining authority is required to take a decision on the asylum application within 6 months". This time limit can be extended to 9 months in complex cases. Once in the process, a renewable provisional residence permit of six months is issued which allows the applicant access to education and employment.<sup>9</sup> Protection applicants are provided with comprehensive supports with the system focusing on integration from day one.<sup>10</sup>

The Portuguese Refugee Council (CPR) provides initial accommodation to asylum seekers in the Reception Centre for Refugees (CAR) and in the Refugee Children's Reception Centre (CACR) for unaccompanied children. This first accommodation is communal, not dissimilar to some reception accommodation in Ireland, however stays in this initial reception accommodation is limited to 30 days, after which, social security services (ISS) provide funding to secure residents with private housing. The CAR and CACR are purpose-built structures found in well-connected locations in Portugal. Despite being shared accommodation, residents are expected to cook for themselves in a communal kitchen and clean their own rooms and common areas. Legal assistance, psychological supports, language supports, and socio-cultural activities are all provided, as well as job search supports. Additionally, the CAR also provides its services to the local community, for example, day-care/kindergarten both for local children and the residents, allowing integration from the beginning of the process.<sup>11</sup>

Although the average stay in the initial reception centres is limited to 30 days according to the Portuguese Asylum Act, delays in the process following on from

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<sup>9</sup> <https://www.asylumineurope.org/reports/country/portugal/short-overview-asylum-procedure>

<sup>10</sup> <https://nascireland.org/sites/default/files/Nasc-CCJHR-Beyond-McMahon-Report-Dec-2018-FINAL.pdf> p3

<sup>11</sup> Ibid p26

an increase in applications and a shortage of private housing has resulted in stays of up to 6 months. This has also resulted in overcrowding of reception centres putting pressure on facilities and leading to conflicts amongst residents.

Portugal also adopted a National Action Plan for Integration with a specific focus on health, security, housing, racism, education, employment and integration. The Plan also emphasises the participation of migrants through representative organisations allowing for shared policy and decision making.<sup>12</sup>

Stakeholders have referred to Scotland as having an exemplary model for integration of asylum seekers. Since 2007, the UK Home Office has adopted a process known as the New Asylum Model (NAM) where each application for international protection falls to the responsibility of a 'case owner' who must decide on the individual's status. There is no legislative time limit to this process though the aim is for decisions to be taken within six months.

In contrast to the accommodation centres in Ireland, the UK operates a system of asylum dispersal whereby asylum seekers are accommodated in local communities cross the UK. While the provision of asylum accommodation is under the jurisdiction of the British Government, legal services, health and housing (excluding asylum accommodation) remain the responsibility of the Scottish government.<sup>13</sup> While dispersal is the preferred model across the UK, it is notable that some communities were not prepared for the arrival of asylum seekers and appropriate community strategies and supports are recommended to ensure effective integration.<sup>14</sup>

Scotland, like Portugal, puts comprehensive supports in place for asylum seekers to allow successful integration from the date of arrival. Both countries adopt integration strategies and work with asylum seekers and local communities to develop successful policies. The New Scots Refugee Integration Strategy prioritises local integration into Scottish society using social cohesion strategies with access to services, housing, healthcare, education and employment. The promotion of access to rights for asylum seekers is at the fore of this model and the voice of asylum seekers is included in decision-making processes even while navigating the system.<sup>15</sup>

While not perfect models, stakeholders such as the Irish Refugee Council have highlighted that Portugal and Scotland demonstrate some of the best possible structures that Ireland could draw from, offering comprehensive supports to asylum seekers while emphasising the importance of co-ordinated, multi-agency involvement in policy making processes and successful integration.

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<sup>12</sup> Ibid p32

<sup>13</sup> Ibid p3

<sup>14</sup> Ibid p23

<sup>15</sup> Ibid p33

## Recent developments

Subsequent to the development of Ireland's international protection system, issues were encountered in relation to the efficiency of the asylum procedure and application processing times. Until 2016, the application process for asylum seekers involved several layers and multiple applications which led to long waiting times for interviews and delays in the application process, resulting in asylum seekers spending a much longer time in Direct Provision centres than originally intended. An applicant would first apply for refugee status, appeal if rejected and follow up by seeking a judicial review of the decision. If the refusal was not reversed, the applicant could then apply for subsidiary protection with the same appeal process. A final process for qualification was to make representations to the Minister for Justice. The time frame involved in this process resulted in many application decisions taking between three and five years to finalise, if not longer.

In 2017, the International Protection Act 2015 came into effect, providing for a streamlined, single application procedure for international protection, bringing Ireland in line with European practice. Under the Act, refugee status and subsidiary protection are considered by the International Protection Office and leave to remain is considered by the Minister for Justice and Equality concurrently in one procedure. All three decisions are then presented to the applicant at the same time and the applicant has a single right of appeal to the International Protection Appeals Tribunal.<sup>16</sup>

In June 2015 the Report of the Working Group on the Protection Process including Direct Provision and Supports to Asylum Seekers – the McMahon report - was published. The report makes 40 sets of proposals, a total of 173 recommendations outlining specific possible improvements to the existing determination process, the living conditions in accommodation centres and the supports available to those in the system. Since its publication, a number of recommendations have and continue to be implemented, but this process remains some way from completion.

Since April 2017, those living in Direct Provision now have access to an independent complaints process through the Office of the Ombudsman and Office of the Ombudsman for Children. The remit of the two offices now covers the examination of complaints regarding the residents' interaction with public service providers including those within direct provision accommodation centres as well as the services and facilities provided. Extending the remit of the two offices had been a key recommendation of the McMahon Report and allows for free, independent and impartial complaint procedures.

In May 2017, in *N.H.V. v Minister for Justice and Equality*, the Supreme Court ruled that the prohibition preventing asylum seekers from seeking employment was unconstitutional. As a result of this ruling, the Minister for Justice and Equality announced the decision to opt into the EU recast Reception Conditions Directive, implementing the court ruling and allowing asylum seekers the right to work while their applications for asylum are being processed. In line with the 2018 EU recast

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<sup>16</sup> <https://www.esri.ie/system/files/media/file-uploads/2018-06/RS72.pdf> p21

Reception Conditions Directive, asylum seekers may now access the labour market after nine months if a first instance decision has not been taken in that time.

In January 2018, Ireland opted in to the EU (recast) Reception Conditions Directive and, in July 2018, the European Communities (Reception Conditions) Regulations came into operation placing reception conditions on a statutory footing in Ireland for the first time since the direct provision system commenced.

In October 2018, the Government announced that the daily expenses allowance for those living in Direct Provision was to increase from €21.60 per week for both adults and children to €29.80 per week for children and €38.80 per week for adults, yet another recommendation of the McMahon report of 2015. This increase commenced in March 2019.

In August 2018, a draft National Standards for accommodation offered to people in the protection process was drawn up. The variety in the quality of accommodation and services provided from one centre to another has been consistently highlighted by relevant stakeholders. The National Standards were developed by a Standards Advisory Group, consisting of representatives from Government bodies, NGOs and asylum seekers, as recommended in the McMahon report. The finalised standards were published on 15 August 2019.

## Publication of National Standards

Following the publication of the McMahon Report in 2015 by the *Working Group to report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers*, the Standards Advisory Group was established in 2017 as per the recommendation to set up a committee to 'reflect Government policy across all areas of service in Direct Provision'. The National Standards aim to improve and ensure consistent conditions, supports and services across all Direct Provision centres taking a more person-centred approach to reception than the current system. The National Standards will apply and be legally binding from 1 January 2021. While the national standards will form any new contracts issued, current service providers will have until this date to bring their accommodation centres in line with the standards.

The National Standards meet the minimum standards set out in:

- a. EASO Guidance on Reception Conditions: Operational Standards and Indicators.<sup>17</sup>
- b. Directive 2013/33/EU (the recast-Reception Conditions Directive).<sup>18</sup>
- c. European Communities (Reception Conditions) Regulations 2018 (S.I. No 230/2018).<sup>19</sup>

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<sup>17</sup> <https://www.easo.europa.eu/sites/default/files/EASO%20Guidance%20on%20reception%20conditions%20-%20operational%20standards%20and%20indicators%5B3%5D.pdf>

<sup>18</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0033&from=EN>.

<sup>19</sup> <http://www.irishstatutebook.ie/eli/2018/si/230/made/en/print>.

There are 10 themes which set out the National Standards<sup>20</sup> and a summary of these can be found in the table below:

Table 2: Summary of the National Standards

**THEME 1: GOVERNANCE, ACCOUNTABILITY AND LEADERSHIP**

<b>Standard 1.1</b>	The service provider performs its functions as outlined in relevant legislation, regulations, national policies and standards to protect residents living in the accommodation centre in a manner that promotes their welfare and respects their dignity.
<b>Standard 1.2</b>	The service provider has effective leadership, governance arrangements and management arrangements in place and staff are clearly accountable for areas within the service.
<b>Standard 1.3</b>	There is a residents' charter which accurately and clearly describes the services available to children and adults living in the centre, including how and where the services are provided.
<b>Standard 1.4</b>	The service provider monitors and reviews the quality of care and experience of children and adults living in the centre and this is improved on an ongoing basis.

**THEME 2: RESPONSIVE WORKFORCE**

<b>Standard 2.1</b>	There are safe and effective recruitment practices in place for staff and management.
<b>Standard 2.2</b>	Staff have the required competencies to manage and deliver person-centred, effective and safe services to children and adults living in the centre.
<b>Standard 2.3</b>	Staff are supported and supervised to carry out their duties to promote and protect the welfare of all children and adults living in the centre.
<b>Standard 2.4</b>	Continuous training is provided to staff to improve the service provided for all children and adults living in the centre.

**THEME 3: CONTINGENCY PLANNING AND EMERGENCY PREPAREDNESS**

<b>Standard 3.1</b>	The service provider will carry out a regular risk analysis of the service and develop a risk register.
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<sup>20</sup> [http://www.justice.ie/en/JELR/Final\\_Standards.docx/Files/Final\\_Standards.docx](http://www.justice.ie/en/JELR/Final_Standards.docx/Files/Final_Standards.docx)

## THEME 4: ACCOMMODATION

<b>Standard 4.1</b>	The service provider, in planning, designing and allocating accommodation within the centre, is informed by the identified needs and best interests of residents, and the best interests of the child.
<b>Standard 4.2</b>	The service provider makes available accommodation which is homely, accessible and sufficiently furnished.
<b>Standard 4.3</b>	The privacy, dignity and safety of each resident is protected and promoted in accommodation centres. The physical environment promotes the safety, health and wellbeing of residents.
<b>Standard 4.4</b>	The privacy and dignity of family units is protected and promoted in accommodation centres. Children and their care-givers are provided with child friendly accommodation which respects and promotes family life and is informed by the best interests of the child.
<b>Standard 4.5</b>	The accommodation centre has adequate and accessible facilities, including dedicated child-friendly, play and recreation facilities.
<b>Standard 4.6</b>	The service provider makes available, in the accommodation centre, adequate and dedicated facilities and materials to support the educational development of each child and young person.
<b>Standard 4.7</b>	The service provider commits to providing an environment which is clean and respects, and promotes the independence of residents in relation to laundry and cleaning.
<b>Standard 4.8</b>	The service provider has in place security measures which are sufficient, proportionate and appropriate. The measures ensure the right to privacy and dignity of residents is protected.
<b>Standard 4.9</b>	The service provider makes available sufficient and appropriate non-food items and products to ensure personal hygiene, comfort, dignity, health and wellbeing.

## THEME 5: FOOD, CATERING AND COOKING FACILITIES

<b>Standard 5.1</b>	Food preparation and dining facilities meet the needs of residents, support
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	family life and are appropriately equipped and maintained.
<b>Standard 5.2</b>	The service provider commits to meeting the catering needs and autonomy of residents which includes access to a varied diet that respects their cultural, religious, dietary, nutritional and medical requirements.

## THEME 6: PERSON CENTRED CARE AND SUPPORT

<b>Standard 6.1</b>	The rights and diversity of each resident are respected, safeguarded and promoted.
<b>Standard 6.2</b>	The service provider respects and safeguards the privacy of each resident.
<b>Standard 6.3</b>	The service provider respects and safeguards the dignity of each resident.
<b>Standard 6.4</b>	The service provider makes information available, and communicates this, in an accessible format which is appropriate to any special requirements of residents' communication needs.

## THEME 7: INDIVIDUAL, FAMILY AND COMMUNITY LIFE

<b>Standard 7.1</b>	The service provider supports and facilitates residents to develop and maintain personal and family relationships.
<b>Standard 7.2</b>	The service provider ensures that public services, healthcare, education, community supports and leisure activities are accessible to residents, including children and young people, and where necessary through the provision of a dedicated and adequate transport.
<b>Standard 7.3</b>	The service provider supports and facilitates residents, including children and young people, to integrate and engage with the wider community, including through engagement with other agencies.
<b>Standard 7.4</b>	Staff and management support and encourage community initiatives and a sense of community within the centre.



## THEME 8: SAFEGUARDING AND PROTECTION

<b>Standard 8.1</b>	The service provider protects residents from abuse and neglect and promotes their safety and welfare.
<b>Standard 8.2</b>	The service provider takes all reasonable steps to protect each child from abuse and neglect and children's safety and welfare is promoted.
<b>Standard 8.3</b>	The service provider manages and reviews adverse events and incidents in a timely manner and outcomes inform practice at all levels.

## THEME 9: HEALTH, WELLBEING AND DEVELOPMENT

<b>Standard 9.1</b>	The service provider promotes the health, wellbeing and development of each resident and they offer appropriate, person centred and needs-based support to meet any identified health or social care needs.
<b>Standard 9.2</b>	The service provider makes available in the accommodation centre services which support residents' physical and psychological, health, wellbeing and development, and promote a self-care approach.
<b>Standard 9.3</b>	Staff and management engage with other agencies to provide information and access to a range of services for residents to promote their health, wellbeing and development. The service provider supports residents to participate in education (both formal and non-formal), training, volunteering and employment opportunities.

## THEME 10: IDENTIFICATION, ASSESSMENT AND RESPONSE TO SPECIAL NEEDS

<b>Standard 10.1</b>	The service provider ensures that any special reception needs notified to them by the Department of Justice and Equality are incorporated into the provision of accommodation and associated services for the resident.
<b>Standard 10.2</b>	All staff are enabled to identify and respond to emerging and identified needs for residents.
<b>Standard 10.3</b>	The service provider has an established policy to identify,



	communicate and address existing and emerging special reception needs.
<b>Standard 10.4</b>	The service provider makes available a dedicated Reception Officer, who is suitably trained to support all residents' especially those people with special reception needs both inside the accommodation centre and with outside agencies.
<b>Standard 10.5</b>	In accommodation centres where a significant percentage of residents are deemed to be exceptionally vulnerable or in cases where a centre has been designated for exceptionally vulnerable international protection applicants, the service provider makes additional measures available.

## Committee visit to Direct Provision Centres

On the 14<sup>th</sup> June 2019, the Joint Committee on Justice and Equality visited Direct Provision Centres in Mosney and Monaghan. Deputies Caoimhghín O Caoláin, Clare Daly, Mick Wallace, Jack Chambers, Jim O'Callaghan, and Senators Frances Black, Martin Conway and Niall Ó Donnghaile were all in attendance for the visit to the Direct Provision Centres.



Members of the Committee with residents in the food hall of Mosney Direct Provision centre.

## Key issues identified

Over the course of Committee hearings and through the extensive submissions received, stakeholders stressed that the current Direct Provision system and international protection application process remains deeply flawed. There was general consensus amongst stakeholders that Ireland is failing to fully adhere to international obligations in relation to human and fundamental rights. Issues that were repeatedly highlighted included sub-standard accommodation, barriers to access to work, inadequate supports, lack of integration strategies and delays in the application process.

### Accommodation issues

It is widely agreed that the current model of Direct Provision accommodation is not the most appropriate solution for those seeking international protection. Several stakeholders raised concerns with the 'institutionalised accommodation' that segregates asylum-seekers from communities and discourages integration. The Committee heard evidence that the system does not meet the needs of asylum-seekers and that living in Direct Provision for longer periods of time can have damaging effects on children, families and individuals due to the institutional nature of the accommodation provided. However, in his presentation to the Committee, Justice Bryan McMahon made the case that the current system, although flawed, is in his view a significant improvement on the one that existed prior to the 2015 report of the Working Group that he chaired:

"There have been many improvements in the system since the working group has made its report. It is not perfect but this is a changing space and this has to be monitored every year to see that the improvements are made. It was submitted that in 2017, the working group report was the first review of the analysis of the direct provision system since it was introduced, and membership of the group included representatives from every Department involved as well as non-governmental organisations, NGOs, working in the area and a number of academics and other experienced individuals... The report provides a valuable infrastructural analysis of the direct provision system and identifies many problems and issues of concern as well as suggesting reforms in many areas. Some of the recommendations were adopted and implemented fairly quickly while others were deferred. Even where there has been delay, however, the report has kept the direct provision question continuously on the political agenda. In any event, it is generally recognised that the programme of action set out in the report is still valid and is one that the Government is trying to implement."

Whilst the Committee acknowledged the significant improvements made to the system of Direct Provision as a result of the 2015 McMahon report, it is clear from the evidence presented at Committee hearings and in the wider submissions that much work needs to be done to ensure the reception system for those seeking international protection in Ireland is up to the standard of international best practice.

The most consistent criticism heard by the Committee regarding Direct Provision is that the quality of the physical accommodation is substandard or not fit-for-purpose, and that there is a significant variation in the standard of accommodation offered in Direct Provision centres in Ireland. Only three of Ireland's Direct Provision accommodation centres are purpose-built by the State, with all other premises procured from private providers - along with catering services - by the RIA. The vast majority of these premises had originally been designed and used for other purposes, such as guesthouses and schools, and thus accommodation can vary significantly. In some centres, residents are provided with private accommodation and cooking facilities where families can prepare their own meals; in others, residents live in hostel-like conditions where they share a room, sometimes with up to four people, and have their three meals provided in a canteen at set times throughout the day.

The Ombudsman, Mr Peter Tyndall, outlined in his commentary "[\*The Ombudsman and Direct Provision: Update for 2018\*](#)" that the ability to cook their own meals remained the single most important issue for residents. The Committee noted that the Department has begun a procurement programme that specifies that cooking facilities for residents must be provided. Addressing the Committee, Department officials stated that 50% of centres now have some kind of cooking facilities for residents, with the aim of providing all residents with access by the middle of next year. However, residents have reported that the standard of those cooking facilities can vary widely from centre to centre.

The outsourcing of services to private providers has been a consistent issue in the debate regarding Direct Provision. In 2018, the State paid €72 million to private firms operating Direct Provision centres, and during its engagement with the Committee the Department stated that the figure is estimated to substantially exceed €100 million in 2019. In consideration of this cost, and the fact that many of the providers operate offshore, Members of the Committee expressed concern regarding the lack of transparency and public oversight of such service providers, both in terms of their finances and of the standard and quality of service being provided. Some Members expressed doubt regarding the suitability of for-profit providers having responsibility for delivering vital services to particularly vulnerable people. The Department emphasised that the procurement process can only be changed per Government policy:

"...the use of commercial companies in the running of centres on State-owned property and contracting with private companies is a policy decision and this situation will continue. It is worth saying that we will require everybody we interact with to comply with the law of the land. For instance, they must have a tax clearance certificate. The obligation on us is to ensure value for money in the delivery of this demand-led service where there is a significant challenge with regard to the budget for the service, particularly this year ... the use of commercial companies is a policy decision."

The Irish Refugee Council, in addressing the Committee, raised the concern that private providers who are working on a for-profit basis do not have the expertise in housing or social care to adequately and effectively manage such centres, and criticised the current tendering process which requires providers to accommodate a minimum of 50 people per centre. As stated by Mr Nick Henderson:

“Private providers are not social workers or public servants. They cannot and are not meeting the complex social needs of the people living in their centres. That is a public obligation on the State. There are many housing bodies in Ireland that are non-profit, work to a particular mission and have strengths and expertise. We believe those bodies could be best placed to provide accommodation. The procurement process has to change for this to happen, with longer lead-in times, longer contracts, funding for capital and conversion costs and a reduction in the number of people a provider must accommodate. Current procurement models require a provider to accommodate 50 or more people. The approved housing bodies, AHBs, tell us that this risks perpetuating the model of congregated living and it is difficult to procure buildings of this size.”

The Committee agreed that the requirements of the current tendering contract has created institutionalised living spaces where an individual’s right to privacy and dignity are not upheld. This is particularly true of those centres that are more isolated from communities in remote, rural locations. This type of accommodation rarely meets the specific needs of individuals, and the remote location of many Direct Provision centres not only segregates residents from communities but creates considerable issues for residents who need to access medical appointments, employment for those who are permitted to work or IPO appointments in Dublin. In some cases, the accommodation centres are in such isolated locations that they are not served by public transport at all. Department officials assured the Committee that, in such centres, transport must be made available by the provider, though further stakeholder evidence suggests this transport is also limited.

The view was widely expressed in submissions and throughout Committee hearings that a ‘bottom-line policy’ of own-door accommodation and the right to cook for oneself and one’s family must become standard. In considering alternative mechanisms that could be implemented to improve the current model, Ms Fiona Finn of Nasc stated:

“We need to move from our current reliance on private accommodation providers and create the conditions upon which approved housing bodies with expertise in the provision of housing and social care can provide suitable self-contained accommodation for protection applicants. This will require changes to the tendering process and to social housing funding streams to allow for a variety of accommodation types in the community. We need to move away from institutional settings. The State should also build fit-for-purpose

self-contained housing units. The accommodation provided must be a blend of independent and supported living to cater for the needs of all applicants. Requisite supports should be provided.”

Although the Committee agrees that alternative forms of housing must be made available to those seeking protection, Members are cognisant that the general shortage of accommodation in Ireland could greatly limit the feasibility of alternative options to the current Direct Provision accommodation type. In addition, economic growth and property price inflation is resulting in properties being more commercially viable again, and it is indicative that, as outlined by Department Officials, Hatch Hall Direct Provision Centre in Dublin will now be redeveloped into a hotel. Members of the Committee expressed the view that centres owned and operated by the State would be at lower risk of redevelopment for commercial use based on property market fluctuations. Members also acknowledge that the broader housing crisis puts increased pressure on the RIA to provide appropriate accommodation for asylum seekers.

In spite of this, concerns have been widely expressed amongst stakeholders, Committee Members and the Department with regard to the worsening situation of new applicants in the system being housed increasingly in emergency accommodation due to a lack of capacity in Direct Provision centres. The State first began procuring hotels or guesthouses in September 2018 to provide accommodation on an emergency basis. While this was a short-term, emergency measure, the Committee expressed concern that such a measure could become entrenched as a long-term solution. The Irish Refugee Council, in its briefing paper [\*"The Reception Conditions Directive: One Year On"\*](#), reported 936 people living in emergency accommodation as of July 2019, a significant increase since September 2018. As well as being highly inappropriate for long-term living, with the Department referring to the current situation as ‘sub-optimal’, resorting to emergency accommodation is not a cost-effective solution for the State. Justice McMahon highlighted that the need to house international protection applicants in emergency accommodation should be used only as a last resort, but was reflective of the wider issue of housing in Ireland:

“Alternative accommodation is not readily available for those who might wish to avail of it and they cannot move out. Those who have received positive decisions are obliged to continue to live in direct provision centres for the same reason. At present, it is estimated there are between 700 and 800 such persons trying to transition out of direct provision but cannot do so. Owing to the shortage of accommodation, the RIA is also obliged to provide emergency accommodation outside of the centres. That is a costly business. It costs in the region of €99 a night per person to accommodate those who cannot be accommodated in direct provision centres. It may be understandable that the RIA should do that to ensure protection applicants have a roof over their heads, but it is important that the lessons of the wider housing sector are learned and that this short-term fix does not become a long-term solution. Also, in light of the



high cost of emergency accommodation, one wonders in these circumstances whether it would be more economical for RIA to consider expanding its own stock by building on State-owned sites."

Members are cognisant that the Department, in an attempt to address the issue of emergency accommodation, had contracted premises for Direct Provision centres in Moville and Rooskey which were subject to arson attacks in 2018 and could no longer be used for this purpose. However, in consideration of the high number of individuals who have been granted status or permission to remain in Ireland still living in Direct Provision centres, Committee Members emphasised a need for a more active response from the Department in engaging with housing associations to find suitable housing for these individuals and assist with the transition out of Direct Provision.

As well as being a highly expensive solution to the current accommodation crisis, Committee Members voiced concerns surrounding the Department's governance control and the provision of services and supports when housed in emergency accommodation. Department Officials stated that:

"The use of emergency accommodation is sub-optimal. It is worse than direct provision. For all naysaying about direct provision, it allows us to provide public services in a more co-ordinated way to a group of people in a group setting. These are people who tend to have high levels of needs because of some of the circumstances from which they have come. The use of emergency accommodation is not where we want to be and we need to move away from that. As the use of emergency accommodation has become a more regular feature of the system, we have moved to improve our governance arrangements around it. I want to highlight that in the circumstances where we are under an obligation to provide a bed or a roof over the head of every person who presents, and we have no control over the demand, we struggle a great deal to keep ahead or abreast of the demand for bed places. That is something at which we have to work hard every day to keep on top of.

In the meantime, as we have moved into a situation where more people are in emergency accommodation, we are working to try to formalise some of the important standards people require to be achieved. The key standards are in the areas of child protection, meeting educational needs and health screening, in addition to putting a roof over their heads and treating them with dignity and respect."

Since the Department cannot impose its required standards on hotels and guesthouses who are providing emergency accommodation, the Children's Rights Alliance highlighted that there is a concerning lack of clarity in relation to the supports being provided to those housed in such accommodation. Although the HSE has contracted the services of Safetynet Primary Care to ensure health screening services are made available to all those in emergency accommodation,

the Children's Rights Alliance stated that issues remain regarding children being housed at these premises:

"There are big questions around child protection and welfare. In the direct provision system, as we know it, there is an obligation on authorities to comply with Children First, which we raised in our submission. However, we do not know what is happening in these emergency centres. Do they have a designated liaison person? Are child protection systems in place? Do they have their statement? That is a real concern for us. Children are living in potentially very dangerous situations."

In August 2018, stemming from the recommendation of the McMahon report to establish a standard-setting committee, a draft National Standards for Direct Provision accommodation was published and a public consultation launched for improvements to be made to the Direct Provision reception system. The final National Standards were published by the Department of Justice and Equality in August 2019, giving reception centres a minimum set of standards to meet by January 2021 if they are to continue providing services. In order to ensure compliance is maintained after this date, the Department stated that an inspection mechanism will be established to monitor premises and services. The Committee emphasised that such a monitoring body must be independent of the RIA and have the authority to perform unannounced inspections, suggesting that the remit of the Health Information and Quality Authority (HIQA) could be extended to include Direct Provision accommodation - as set out in stakeholder submissions to the Committee.

In the course of its review, the Committee heard from many residents that current oversight and complaint mechanisms are often ineffective and inaccessible. For example, visits by the Office of the Ombudsman had been conducted inside centres where CCTV was in operation, leaving residents reluctant to engage with the process for fear of being seen by centre management to be causing trouble. The Committee emphasised that for the National Standards to be effective, oversight mechanisms must ensure that residents can engage with them in confidence and privacy.

Addressing the Committee, the Department stated that a procurement process to ensure the availability of centres that meet these standards by 2021 is already in place and that existing centres that do not have the ability to meet the standards will be closed. Members of the Committee are mindful that the requirement of higher standards will result in a higher cost per person per night in the new model of Direct Provision centres and that the Department will be under pressure to meet such costs within its current budget.

While the national standards are an important step towards improving conditions within Direct Provision centres as an interim measure, Committee Members emphasised the need for a working group to review potential alternative models that could be applied in Ireland, and expressed concern that the new, higher standards may result in the closure of some Direct Provision Centres, which could



in turn result in more people being housed in emergency accommodation. The State must ensure that the new national standards, badly needed as a minimum level of support available to applicants for international protection, do not result in increased levels of reliance on emergency accommodation.

### **Inadequate supports and services within Direct Provision system**

The extensive number of submissions received by the Committee depicted a system wherein many asylum-seekers are experiencing significant mental health issues as a result of living in grouped housing in large centres with little to no privacy, isolation from the wider community, a lack of integration, a lack of ability to work or study and a lack of personal autonomy. Notwithstanding recent indications from residents that access to the labour market and improved processing times have had a positive impact on morale, the Committee agreed that as a whole, the Direct Provision system, being institutional in nature, has a negative influence on the mental health and wellbeing of all persons who are housed for long periods of time in accommodation centres. Adding to this, in consideration of the evidence heard and the broader issues with mental health services in Ireland, the Committee expressed concern that those living in Direct Provision, who may be particularly vulnerable to such issues, do not have adequate access to services and supports within the system.

Highlighting the lack of services available to those in the system, Mr Lucky Khambule of MASI, outlined to the Committee that:

“The signs and indications are there as to the effects on mental health of being in direct provision. Suicide attempts have increased in the past 18 months. Last year alone, there were approximately five deaths in direct provision, some of which related to the mental health of people who were on these sleeping pills. This is not a qualified opinion but we feel that the provision of the tablets as a means of addressing the mental health issue is the wrong one. The psychological traumas that people face in direct provision are the things that need to be addressed in a very serious way. Otherwise we will see more deaths happening in direct provision because we are ignoring the signs that are there on mental health issues.”

Many of those seeking international protection in Ireland will have experienced trauma, exploitation or be escaping war or violence. The Committee expressed concern that in most centres, due to services being provided by private service providers, staff are not adequately trained or qualified to manage the issues which may present. Staff are currently not required to receive training on vulnerability and working with victims of trauma, despite this requirement being set out in Articles 21 and 22 of the recast Directive.

The Committee expressed considerable concern that a “sticking plaster” approach is being utilised in cases of asylum seekers who are suffering from mental health issues in Direct Provision, and evidence was heard that in some cases sleeping

tablets are being provided in the place of appropriate and essential supports and services to address past traumas and serious mental health issues. Addressing the Committee, Ms Donnah Vuma of MASI highlighted that the lack of immediate service at centres for those from traumatic backgrounds was the primary issue:

“The biggest problem is that no services at all are being provided to us in the centres. In order for a person to be able to access the help that they need, one would have to attend his or her GP to receive direction to get the help that one needs. The biggest problem with that, as we already know, is that many people coming in to seek asylum are from traumatic backgrounds and have experienced some kind of trauma. It would be crucial and vital to have such a service at the reception centres. The only thing that is there at the moment is one or two posters in the centre signposting a person to places like the Samaritans or to Spirasi, for which one has to get an appointment through referral from one’s solicitor or from one’s GP. Often, it takes a very long time to receive an appointment to be seen by Spirasi. That is why we find that many people tend to turn to things like sleeping tablets or alcohol. They develop a lot of addictions like gambling because they are trying to find a way to cope with living in that situation.”

Although Members are cognisant of the wider issue with the provision of mental health services in Ireland, Members agreed that in order to provide adequate mental health services and supports in Direct Provision centres, a wrap-around, multiagency approach is essential and must be examined. The Irish Refugee Council highlighted that in addition to a stretched mental health service in Ireland, the remoteness of Direct Provision centres also add further difficulty as, in many cases, residents are travelling farther to attend GP services when local GP services are full. Submissions to the Committee highlighted that the provision of comprehensive vulnerability assessments could help to identify risk of mental health issues and allow for the application of early intervention supports and services.

Under Article 22 of the Reception Conditions (Recast) Directive<sup>21</sup>, and in line with the Reception Regulations 2018<sup>22</sup>, Ireland is obligated to perform vulnerability assessments within 30 days of a person seeking protection presenting in the State. This allows the special reception needs of applicants to be considered when deciding where to accommodate them, as per the legal requirement. In May 2019, eight organisations expressed alarm at the absence of vulnerability assessments for identifying special reception needs in Ireland<sup>23</sup>, and it has been highlighted that since July 2018, the number of people assessed as being vulnerable and requiring special reception needs stands at zero<sup>24</sup>. Stakeholders called for full

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<sup>21</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033>

<sup>22</sup> <http://www.irishstatutebook.ie/eli/2018/si/230/made/en/print>

<sup>23</sup> <https://www.nascireland.org/news/2019/joint-statement-refugee-organisations-highlight-absence-vulnerability-assessment-irish>

<sup>24</sup> <https://www.irishrefugeecouncil.ie/wp-content/uploads/2019/07/RCD-One-Year-On-11-July-2019-Final.pdf>

implementation of vulnerability assessments as per the directive, and the Committee reiterates this call.

The Committee heard evidence that there is a lack of transparency in relation to how the RIA forms the decision as to which centre an asylum-seeker is accommodated in, and that vulnerability assessments are not being appropriately utilised in order to inform the special reception needs of individuals applying for international protection. Dr Liam Thornton stated that:

“...within normal structures of decision-making, if people are to be sent to one centre or another, documents should outline what criteria will be used to make the decision. If such an internal policy exists in the Reception and Integration Agency, I have never seen it and I am inclined to believe that it does not. As Ms Finn and Ms Ward outlined, there are significant pressures on the direct provision system, which might mean the system is in crisis-management mode, where people are moved into direct provision if there is space, or into hotels if not. When there are several applicants, I do not know the rationale for making the decision. I should know, however, as we all should, the basis for making decisions on dispersal.”

Currently in Ireland, vulnerability assessments are met through medical screening that takes place during initial contact with the RIA in Baleskin reception centre. In addition to the medical screening, a series of vulnerabilities should be assessed, for example, gender orientation, and considered in relation to the placement of the individual in a Direct Provision centre. Addressing the Committee, Department Officials stated that they are meeting the legal requirements for vulnerability assessments but are working towards improvements. Members of the Committee expressed concern that, while basic medical screening is being carried out, mental health issues and issues resulting from trauma and/or sexual abuse are not being addressed appropriately and that the RIA rely on such issues being detected and reported by the management of Direct Provision centres. As such, witnesses and Members expressed concern that the medical screenings carried out in Baleskin do not always meet the requirements of a comprehensive vulnerability assessment. Responding to Committee doubts as to whether management would have the required expertise to evaluate the vulnerabilities in question, Officials stated:

“We do a lot of training with the management of direct provision centres to make sure that things such as child protocols are maintained. The non-reactive part of the screening is the medical screening. We offer that to everybody who presents seeking international protection. A substantial proportion of applicants take it up. It is very proactive and it is offered proactively. People have to bring other vulnerabilities to our attention. We cannot evaluate whether someone has a particular vulnerability by looking at him or her. These have to be brought to the attention of the staff before we can appropriately assess them.”

The Committee heard extensive evidence that as a result of the over-capacity of Direct Provision centres, asylum-seekers are not entering the system through Baleskin reception centre as they should but are being sent directly to emergency accommodation on arrival. The Department stated that, initially, this resulted in some asylum-seekers not being assessed for vulnerabilities as the emergency accommodation does not have the medical screening facilities that Baleskin offers. However, the employment of Safetynet's mobile health screening service, as mentioned in the previous section, is intended to resolve this issue and the Department are confident that all those who are in emergency accommodation have received assessment. The Committee agreed that any mobile screening services must not be limited to basic physical health checks, and must ensure that a comprehensive vulnerability assessment is carried out, assessing mental health issues and trauma, as per the Directive. The Department is also expanding the Baleskin centre to ensure all new entrants to the system will be accommodated.

Members agreed with the stakeholder opinion that specific vulnerabilities often do not present at the initial assessment and that the provision of supports and further ongoing assessment is essential in order to detect and address issues such as trauma that may present several months after arrival. Mr Enda O'Neill of the UNHCR highlighted positive developments with regard to vulnerability assessments, and emphasised that assessing the special reception needs of asylum-seekers is a new and evolving process which will require an inter-agency approach in the long-term to ensure that the needs of each individual are dealt with appropriately:

"While that is a new process and we will have to see how it will work out in practice, it has been incorporated into the standards. The intention is that upon arrival, people will be assessed for their reception needs, which will include access to medical services, counselling services and so on. On an ongoing basis, someone from a social care background in each reception centre will be tasked with ensuring that assessment is up to date and that no new needs have been identified. One can imagine that system working well if it was developed in co-operation with other service providers and Departments, along the lines indicated by Mr. Justice McMahon, namely, access to employment and mental health services, including specialist counselling services and others of a similar nature. That is not currently happening in any systematic way but it is provided for in the legislation and included in the standards, and we hope it will become an important part of the system in the future."

Although it is a smaller area within Direct Provision, significant issues arise regarding vulnerability assessments pertaining to migrant victims of trafficking and/or sexual exploitation who are housed in Direct Provision accommodation. The identification process for a victim of trafficking can often take up to two years, during which time the majority of individuals are accommodated in Direct Provision with supports and services being offered inconsistently and in an *ad hoc* manner. As outlined by stakeholders, "the provision of safe and appropriate

housing is an internationally accepted priority need for trafficked victims” and along with integrated supports, is integral to the recovery of those having suffered sexual abuse and exploitation. However, the Immigrant Council of Ireland (ICI), in its presentation to the Committee, highlighted that:

“It is the long-stated position of the Immigrant Council of Ireland that direct provision centres do not represent appropriate housing for victims of human trafficking. At the same time, the national shelters and other services for domestic and sexual violence are not resourced in any way or formally involved in responding to migrant women in situations of human trafficking.

Despite the improved practices on general residential matters in the aftermath of the McMahon report, the situation of victims of trafficking in direct provision centres has not changed in any significant way. For example, the sharing of rooms, limitations on food preparation, sexual harassment in mixed-gender accommodation reported by women and an environment where post-traumatic stress and other mental health issues that arise from trafficking can be addressed are not catered for and responded to appropriately in direct provision centres.”

In highlighting the criticism Ireland has received from international monitoring bodies such as GRETA, the Council of Europe monitoring mechanism, the ICI outlined that gender-sensitive accommodation was essential for the recovery of survivors of abuse and that resources must be increased to ensure that the required specialist supports are made available as a matter of priority:

“Urgent interim proposals include the provision of designated private, non-shared rooms for trafficked women who have been sexually abused and are recovering from significant trauma, possibly with depression, anxiety, insomnia and post-traumatic stress disorder. Sharing a room with up to three other individuals who are passing through in many cases, while trafficking victims can stay there for a number of months, is a completely inappropriate situation for a trafficking victim to be in. Provision of self-catering arrangements where women can cook their food, as an essential pre-condition to regaining control and independence through budgeting and exercise of choice, must be increased.”

Committee Members expressed concern that the staff and management of RIA often do not have the necessary training to manage the specific, heightened needs of such individuals and agreed with the stakeholder view that proper, robust vulnerability assessments are needed to guarantee that the needs of particularly vulnerable individuals are met. Not only would vulnerability assessments inform how and where such a person should be accommodated, they would also ensure

the relevant supports and services, specific to the area of trauma/abuse endured, are offered.

### **Right to work issues**

Access to the labour market has been a long-standing issue since the current system of Direct Provision commenced. However, since 2018 - as a result of the 2017 Supreme Court ruling – asylum seekers in the State for nine months or more who have not received a first instance decision on their status may apply for permission to work. Permitting those seeking international protection to access the labour market can be mutually beneficial by directly reducing the cost on the State while benefiting the local economy, as well as enhancing integration and increasing morale and dignity for asylum-seekers.<sup>25</sup>

Asylum seekers are now permitted broad access to the labour market; the only sectors unavailable require a citizenship or long-term residence requirement, such as the Civil and Public Sector, An Garda Síochána and the Irish Defence Forces.<sup>26</sup> According to the Irish Refugee Council, as of July 2019, 3,993 asylum-seekers have applied for permission to work, with 2,713 having been granted access under the current rules<sup>27</sup>. However, evidence presented by stakeholders, and set out in submissions, indicated that despite being granted permits, many applicants are still unable to access employment. Witnesses raised concerns that there are further barriers to accessing work and that the current provision does not effectively ensure that the labour market is accessible to those who are eligible.

A substantial number of submissions pointed to difficulties in accessing bank accounts for those living in Direct Provision. In many cases, identity documentation is not accepted or the Direct Provision centre address is not accepted or the individual may present as high-risk to the bank. In his presentation to the Committee, Justice McMahon highlighted that a significant barrier to accessing the labour market for those who are eligible is the opening of bank accounts.

"We should ask the question as to whether, just because people have the right to work, it is an effective right to work. There are a few things I have come across in this regard. First is opening a bank account, which one would imagine is a simple thing. However, local bankers seem to turn their faces against anyone from a direct provision centre. They do not seem willing to accept the addresses to open bank accounts. I know there is anecdotal evidence that people have tried to do so and failed. I also have anecdotal evidence to the contrary, that in some cases bank managers are a little more human and humane and that if a sponsor goes in with the resident, he or she may succeed in having a bank account opened. I have

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<sup>25</sup> <https://nascireland.org/sites/default/files/Nasc-CCJHR-Beyond-McMahon-Report-Dec-2018-FINAL.pdf> p12

<sup>26</sup> <http://www.inis.gov.ie/en/INIS/Pages/press-release-ministers-flanagan-and-stanton-observe-first-anniversary-of-labour-market-access-for-asylum-seekers>

<sup>27</sup> <https://www.irishrefugeecouncil.ie/wp-content/uploads/2019/07/RCD-One-Year-On-11-July-2019-Final.pdf> p4



raised this myself with the Minister as something that should be addressed centrally. I do not see why the Minister or someone at his level cannot talk to the banks about this generally. We are talking about 3,000 people. It is not a huge number. If there are some controls to be put in because of bank laundering and fears of that, I am sure they could be agreed with the direct provision people. I agree with the Senator that this is a big issue. A prospective employer who sees any obstacle at all will use it to turn an applicant away. If there are 100 people on his or her payroll and they are all paid by bank draft or bank transaction on a Friday evening and if a resident, male or female, comes in and says he or she is in direct provision and does not have a bank account and asks to be paid in cash, the employer will say "No" just because it is difficult and an additional obstacle. The employer will ask why he or she should get involved."

While some employers may be willing to pay cash to those who do not have a bank account, in the majority of cases a lack of an account and documentation is a deterrent and an added obstacle to hiring an employee. This, coupled with the temporary nature of the permission to work, makes asylum-seekers less desirable to prospective employers than the average job applicant. Once issued, the labour market access permit remains valid for six months, after which the permit may be renewed if an applicant is still awaiting a decision. Ms Fiona Hurley emphasised that employers are also uninformed in relation to the labour market access permit and the right to work for those seeking asylum:

"Working in the legal clinics we get quite a few phone calls from employers because they do not understand the piece of paper that people have, as it is quite different from what other non-European Economic Area nationals would have. They ring us for information. There should be an information campaign run by the Department of Business, Enterprise and Innovation, perhaps, to educate employers about asylum seekers' right to work. The permission is for six months but most employers do not want to invest in an employee for six months; one would not train somebody in a relatively high-skilled job for a six-month period. If the permission lasted 12 months, it would definitely encourage employers."

Members agreed that an information campaign regarding asylum seekers' right to work would educate prospective employers and increase public awareness, with the goal of ensuring that international protection applicants have full access to potential employment.

Stakeholders further emphasised that the rural location of the centres, particularly those that are far from urban areas, creates yet another obstacle to accessing the labour market. Often, urban areas with a higher concentration of jobs are not easily reached, with transport to and from Direct Provision centres being highly limited. Even for those individuals who can access public transport, very often the

high cost of fares cannot feasibly be covered by the weekly allowance provided to adults in Direct Provision. There is a general consensus that the ability to drive is vital for procuring employment when accommodated in more rural areas. However, at present, those in Direct Provision are not permitted to hold driving licences, creating additional accessibility issues for those living in remote centres. Allowing applicants to obtain Irish driving licences would not only assist those who are eligible in accessing work but would also facilitate asylum-seekers in rural areas to travel independently to medical appointments, IPO interviews and other mandatory appointments which are currently not easily reached with public transport.

Although Members acknowledge stakeholder evidence that the driver licence issue is currently the subject of discussions between the Department of Justice and the Department of Transport, Tourism and Sport as to which Department holds responsibility, the Committee is of the view that such a fundamental issue can be easily resolved and implemented by the State. Addressing the Committee Ms Fiona Hurley stated that:

“The Department of Transport, Tourism and Sport could resolve the driving licence issue. It was not a problem years ago and it is something that has happened over approximately the past two years. Many people are living in relatively rural or very small urban settings and there is just no way for them to get to work. They are living in settings that often have low levels of employment and they are very much limited in what they can access. It needs to be resolved so people can enjoy the rights they have.”

In its engagement with MASI, the Committee heard from witnesses that the ability to work is fundamental to the well-being and mental health of an individual living in Direct Provision. For many individuals who have spent all their lives working, arriving in Direct Provision with no sense of purpose can have a very negative effect, especially for those adults who are not entitled to access the education system. This leaves people with no daily purpose other than to sleep and eat. Mr Bulelani Mfaco stated:

“Meaning in life is lost when one is not allowed to work. One sees people coming in to do their work. Irish people who work in direct provision centres go in and report for duty every morning and one is reminded every day that one is not allowed to work. They are living life and one gets to sit and watch people live their lives. It is even worse in centres that are in the centre of cities. For example, those who live in the direct provision in Limerick city centre must watch people go about their daily lives and they are reminded every day that they are not allowed to go and do ordinary things that people do every day.”

While it is widely acknowledged that the current right to work for international protection applicants has improved morale within centres, the lack of ability to work for those who are appealing the decision of their application has been



highlighted by a significant number of stakeholders. Submissions referred to the rate of negative first decisions in the international protection application process in Ireland, with many negative decisions being attributed to a lack of adequate legal advice at the initial stage of the process. MASI highlighted that a large number of applicants appealing their first decision are thus excluded from applying for the right to work, despite spending huge lengths of time in the system:

“When they introduced the labour market access permit, it was only to be issued to people who had been awaiting a first instance decision for about nine months. That immediately excluded many people who already had decisions and were on appeal. We know that there are people who go through an appeal for years and years. We had one lady who went through an appeal for about eight years before she was granted refugee status. In that time, she was unable to work although she had a legitimate claim to asylum.”

Overall, the Committee agrees that while expansion of the right to work is a very positive step in the right direction, the system as currently constructed remains overly restrictive and exclusive.

### **Children in Direct Provision**

There are approximately 2,000 children living in the 39 Direct Provision centres, having arrived with or been born to families in the international protection system. It is widely accepted that Direct Provision is not conducive to family life and that children who remain in Direct Provision centres for more than two years are spending a substantial portion of their childhood in an institutional setting which does not adequately meet their needs. The Special Rapporteur on Child Protection, Dr Geoffrey Shannon, has repeatedly raised concerns about the negative impact of Direct Provision accommodation on children’s development and well-being, and has called for an end to such a system in his 11<sup>th</sup> report<sup>28</sup>, describing the system as amounting to “institutional poverty”.

While some families are placed in independent accommodation with access to cooking facilities, this type of housing is currently rare. The majority of families live in segregated conditions, with parents and children sharing one room and living in confined spaces, with parents not having the facilities to cook meals for their children. This type of accommodation setting has a significant negative impact on children and parents and becomes increasingly more difficult as children approach adolescence and require more space. Ms Tanya Ward of the Children’s

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<sup>28</sup> [https://www.dcy.gov.ie/documents/child\\_welfare\\_protection/2018121811ReportSpecRappChildProtect.pdf](https://www.dcy.gov.ie/documents/child_welfare_protection/2018121811ReportSpecRappChildProtect.pdf)  
“Ireland should abolish the ‘direct provision’ system of accommodation for asylum seekers and ensure adequate provision for children’s standard of living. In the interim, the Reception and Integration Agency must ensure agreements with commercial contractors in relation to compliance with section 42 of the Irish Human Rights and Equality Commission Act 2014 and ensure high standards of accommodation. Direct provision should be placed on a statutory footing, and a time limited period (6-9 months) introduced after which an individual who has not yet received a first instance decision on his/her status should be able to leave the direct provision system and live independently and access relevant social welfare payments.”

Rights Alliance outlined that the type of accommodation offered to those in Direct Provision was not within the realms of normal family life:

"The reality is that if we are going to mind children and give parents the best opportunity to be parents, they have to be cooking for their own families. They have to have their own front doors. The kind of things we were hearing included that a parent was not allowed leave a 14-year-old in the main reception room. Children were not allowed to be left on their own. That is not good from a child development point of view. Children need to grow. They need to play on their own sometimes. They need to be away from their parents, particularly as they get older and they want to become more independent. It goes back to the need for own-door accommodation whereby children can have a normal childhood near communities and not in isolation, so they can mix in with Irish children and any other children and just have a normal childhood."

Members heard evidence that many Direct Provision centres do not provide adequate child-friendly spaces for recreation or spaces for study. While playrooms and communal spaces are available in centres, playrooms are often locked due to the lack of required supervision, and the facilities are far from adequate. In addition, there are few facilities available for teenagers, and communal spaces are not practical or conducive to study as they are too busy. Evidence from the Office of the Ombudsman highlighted that the current tendering competition should result in a significant increase in recreational/play facilities for both children and teenagers; however, the Ombudsman emphasised that residents also have a role to play - in terms of supervision, for instance - to ensure that children's facilities are run effectively.

Those children awaiting a decision on their asylum application may attend primary and secondary school education while in the system. While this offers excellent potential for integration into communities, the high cost of education in Ireland creates a barrier to full participation for the majority of school-going children in Direct Provision. Families in Direct Provision do not have access to child benefit, with the payment having been discontinued since 2004. Parents often have difficulty in meeting the costs associated with school-going children - such as uniforms, 'voluntary' contributions and extracurricular costs such as class trips and sports clubs. Although the increase in the daily expenses allowance has alleviated this to an extent, it remains a significant issue. Highlighting her experience of this, Ms Donnah Vuma of MASI stated:

"It is a great challenge to raise children in direct provision on an allowance, which used to be just €19.10. I cannot begin to explain to the committee the challenge of having to save money from a €19 payment to meet the expenses associated with raising children. My eldest child is in her third year of secondary school but I take the committee back two years to when she started in first year. The initial cost of starting school was approximately €900. I had no idea where

that €900 was going to come from when I was on an allowance of €19.10. To try to meet that €900 expense, let alone the expenses for my two other children, I had to save money from that €19.10 to supplement the €150 back-to-school payment the State gives everyone. My greatest problem with that is the limitations it imposes on the development of children. They cannot participate in extracurricular activities. Since my children have been in the school system here, they have never been able to take part in extracurricular activities. I would not be able to pay for my children to do so in any case out of the €38.80 allowance to which I am restricted because I do not have the right to work.”

Of particular concern to stakeholders and Committee Members are the children of families who are currently being placed in emergency accommodation due to the centres being at full capacity. As stated previously, there are nearly 1,000 people living in such accommodation, with a significant number of those being children, though the Committee acknowledges that the RIA prioritises the moving of families into Direct Provision centres with urgency. The Children’s Rights Alliance emphasised that, as of June 2019, within the Reception and Integration Agency, the role of social worker who has overall responsibility for overseeing the system has been vacant since November, giving rise to a significant gap in oversight with regard to emergency accommodation. The Children’s Rights Alliance highlighted that, due to this gap, there is little clarity as to whether children in these centres have access to schools, whether parents have support in finding schools and whether procedures are being complied with:

“I will comment on the emergency accommodation issue, which is a real worry for us. There are big questions around child protection and welfare. In the direct provision system, as we know it, there is an obligation on authorities to comply with Children First, which we raised in our submission. However, we do not know what is happening in these emergency centres. Do they have a designated liaison person? Are child protection systems in place? Do they have their statement? That is a real concern for us. Children are living in potentially very dangerous situations.

Another issue related to that is the need for a child protection and welfare strategy. Such a strategy could address the child protection requirements of emergency accommodation centres. The vacancy Ms Ward mentioned is related to that. There is currently a vacancy in the child and family services unit of the RIA. That person could have oversight of child protection in these emergency centres. It is key that that position be filled to have oversight over the current gaps in emergency services.”

In relation to children who arrive in Ireland unaccompanied, Dr Liam Thornton emphasised that “Ireland has one of the best systems for unaccompanied minors who are under 18 with wraparound care services that work on building resilience,

independence and capacity". On arrival in Ireland, unaccompanied minors are referred to Tusla, the Child and Family Agency, which will arrange for the child to be placed in either foster care or residential care and services until the child turns 18. However, when such minors reach the age of 18, they become "aged-out minors" and are immediately placed into the Direct Provision system where they have no aftercare supports and no longer have the independence and autonomy they first had on arrival. By contrast, other children in care receive aftercare services up to the age of 21, or 23 if they are in full time education.

While the Committee acknowledge the work of Tusla with regard to unaccompanied minors, Members expressed concern with regard to the lodging of international protection applications for this cohort of asylum-seekers. Upon arriving in Ireland, unaccompanied minors are assigned social workers who manage their cases and also have responsibility for lodging their applications for asylum. However, the Committee heard that, for various reasons, but often due to concerns about the further trauma of the application process, social workers decide not to lodge an application and Members agree with the view that a review of the application process is required if professionals do not feel it is appropriate to the child's best interests.

Notwithstanding the difficulties associated with the process, representatives from Nasc emphasised the importance of lodging an application as early as possible in the protection process as waiting may have significant legal implications on the child's family reunification rights. A critical issue is that if a child turns 18 and then goes through the asylum process and gets permission at or after the age of 18, he or she loses all rights to family reunification under the new Act; whereas, had the application been lodged and status granted prior to this, the unaccompanied minor is entitled to apply for reunification. Ms Fiona Finn highlighted to the Committee:

"When the issue arose in the working group, many of the NGOs in the group wanted to obligate the HSE to seek legal advice, but this got watered down in the International Protection Act. Seeking legal advice forms one part of the many agencies they may consult. It should be an obligation and it would form part of looking at early legal advice and front-loading legal advice. A critical point is that if a child turns 18 and then goes through the asylum process and gets permission at or after the age of 18, he or she loses all rights to family reunification under the new Act. There is no possibility he or she can apply for parents or siblings to come in. This is why it is a critical point. If people were granted protection status at the age of 16, 17 or up to the day before their 18th birthday, they would still be entitled to family reunification. We have a whole group of children who, in reality, are orphaned in the State."

Currently there is little legal information being provided in such cases and Members of the Committee agree that, in addition to the front-loading of legal advice in general, it is imperative for all children and young people, but particularly

those who arrive unaccompanied, have access to child-friendly information regarding their rights and entitlements for making an application and in everyday life, in a language that they understand.

Ms Donnah Vuma of MASI emphasised that children must not be overlooked in terms of mental health supports in Direct Provision. As such issues may not be present in every child that enters into the protection process, stakeholders generally suggest that the best area for support is through in-school provision. A psychologist that is present within the school system who offers sessions and the supports that an asylum-seeker or refugee child needs. Again, the Committee recognises that this type of service is currently provided in a piecemeal way across the country with great differences in quality. The Committee is also cognisant, that this is part of the wider issue in the provision of mental health services throughout Ireland and that greater resources and provision of services are required to improve accessibility.

### **Integration**

Many of the submissions received by the Committee pointed to issues in terms of lack of integration of those living in Direct Provision, and there is strong stakeholder agreement that it is essential for asylum seekers to be immediately integrated into the local communities in which they live to ensure a smooth transition process should they receive a positive decision on their application. Although the Department of Justice and Equality developed and published the [\*Migrant Integration Strategy – A Blueprint for the Future in 2017\*](#), the UNHCR highlighted that asylum-seekers are not included in the scope of this strategy. This means that while awaiting decisions on their status, asylum-seekers are not considered in relation to Government policy on integration. While local authorities are encouraged to develop integration strategies, particularly in local communities where there are Direct Provision centres, it is not a requirement, and very often funding is directed to other areas:

“It is standard practice at European level and everywhere else that local government areas need a strategy through which to identify a framework, indicators, goals and funding for how they will co-ordinate services and engage them with health and other services, the private sector, NGOs, support organisations and community groups. While someone who comes from a direct provision situation may not decide to remain in the local community near the centre and may go to another city or town where there are relatives, local authorities need to consider that this might be part of it and that the person may need ongoing support, including specialised assistance around employment and health supports.

The difficulty with integration strategies is that while local authorities are encouraged to have them, they are not required to have them. It is not mandated but is rather a recommendation of the national integration strategy. It is not a legislative requirement. One therefore

gets a sporadic approach whereby local authorities like Fingal have invested huge resources into good and complex integration strategies over the past two years, while other local authorities are still at the starting point. Some are asking how to even start with an integration strategy. Often, the funding is an issue. Local authorities may say they have to use their funding instead for priority areas like housing, education and all the usual things.”

There is a significant information gap in relation to integration, and a recent ESRI report<sup>29</sup> highlighted the significant lack of data collected in relation to refugee outcomes, noting that the adverse effects of the international protection system on integration once status has been granted remain unknown.

With the vast majority of asylum-seekers spending a minimum of 19 months in the system while awaiting decisions, witnesses expressed the view that in order for individuals to transition effectively into society, integration must start at a much earlier stage. However, addressing the Committee, witnesses from MASI, who currently live in Direct Provision centres around Ireland, questioned the reality of integration when asylum-seekers are segregated from communities and society, particularly in respect of the type of accommodation asylum-seekers are given. They emphasised that people living in an institutionalised style of accommodation, often for years, cannot be expected to integrate organically, as is desirable. Mr Bulelani Mfaco stated:

“It becomes very difficult to even begin to talk about integration for us when we have been warehoused in direct provision centres without access to very basic everyday things and are being treated inhumanely by managers who can waltz into one’s room without any consideration for one’s privacy and without considering that people have suffered traumatic experiences.

We cannot begin to talk about integration while we still have direct provision. One cannot talk about integrating asylum seekers when a person can be removed from the State at any point. There is no integration there. If one wants to integrate people, one integrates them into the social life of the country so that they can socialise and one integrates them into political life. We have seen people run for election. One integrates them into the economic life of the country so that they can work and become productive and contributing members of society, thereby ending the profiteering.”

Representatives from MASI stressed that this segregation extends not only from where asylum-seekers are accommodated but to every basic aspect of their lives. Children who are attending secondary school should have the best opportunity for integration; however, due to the expenses involved, they are often not able to attend extracurricular activities or participate in the same activity groups as other children in their area. As expressed throughout the submissions to the Committee,

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<sup>29</sup> <https://www.esri.ie/system/files/publications/BKMNEXT373.pdf> p14



integration is directly linked to accessing the labour market. If asylum-seekers had broader access at an earlier stage, there could be more meaningful integration with communities and asylum seekers would be more self-sufficient and able to provide for their families.

As outlined by the Irish Refugee Council, upon being granted status to remain, many individuals struggle to transition out of Direct Provision and set themselves up independently. Many stakeholders attributed this to the institutional culture of the Direct Provision system, which does not prepare its residents for life in Ireland. Some services, such as the Irish Refugee Council's housing project, are funded under the EU's Asylum, Migration and Integration fund, and assist in the transition out of Direct Provision. However, these supports are underfunded and, coupled with the broader accommodation shortage in Ireland, the transition out of Direct Provision and resettlement into local communities remains a major issue. The Committee agrees that in order to address the issue extensively, a change of reception approach is required to provide a more effective integration strategy in Ireland.

### **Issues with the application process**

Upon establishment, the international protection application process consisted of a multi-layered procedure involving three hearings and multiple appeals, with each protection status considered on a separate basis. The single application procedure was introduced in 2015, bringing Ireland into line with EU standards by using as a simplified application process that was streamlined and would reduce the delays inherent to the system. However, due to a backlog of applicants who had not received decisions from the old system, the delays carried forward into the new single application process. Justice McMahon outlined to the Committee that:

"The working group felt that anyone in the system for more than five years should be got rid of in that they should be dealt with expeditiously and they should be fast-tracked out of the system. It was felt that was the humane thing to do. Five years was fairly arbitrary and five years is a long time, but we were talking about people who were in there for six, seven, eight or nine years at that time. We felt that five years should be set as the minimum. We also felt that if that was not done quickly, that group of people would continue on into the new system which was introduced in 2015 in the single application process. The single application process was agreed by the Government before we were even sitting. This was to simplify the legal process and to reduce the three hearings to one hearing, but we warned, and the working group was strongly of the view, that unless the backlog was cleaned out, the backlog would continue to contaminate. I do not mean to use the word "contaminate" in a pejorative sense but to upset the expeditious dealing with the reign that would come in. The Government does not accept our proposal on that. However, it did try to address the five year plus people on



an *ad hoc* basis and it got through 2,000 of them fairly quickly in the next two years. However, a bulge was still left in the system which continues to go through the system today and it clogs up the administration.”

The Committee heard that the inheritance of this large number of old applications has resulted in a backlog that has created a current average processing time of 19 months before an applicant’s case is heard and a decision issued. Whilst 19 months is a significant improvement on the situation prior to the single application procedure, Members are of the view that this processing time is still unacceptable.

Members were also informed that upon receiving positive decisions from the IPO, individuals can wait up to eight months or longer for the Ministerial Decisions Unit to issue the final letter, signed by the Minister for Justice, that allows them to go to the Garda National Immigration Bureau for their Irish Residence Permit. Addressing the Committee, the Department for Justice and Equality stated that additional resources and improved processes should allow for the decision letters to be issued within ten days. Members of the Committee agree that the issuing of a quick decision is crucial not only the applicant, but also to the State. Current delays in several aspects of the process result in the State providing services for longer than is necessary, at a very high cost, especially for those who remain in emergency accommodation.

Addressing concerns regarding delays in the process, representatives from the Department outlined to the Committee that:

“In terms of the waiting times, the goal of the Department is to meet a medium time for first decision, from the International Protection Office, IPO, in nine months, by the end of this year. We are, however, a way off that at the moment and we may miss our goal. Part of the challenge has been as follows. We have increased staffing in the IPO of civil servants by 20% and doubled the number of legal advisers who conduct initial interviews and so forth in the last two years, it is challenging for the Civil Service to recruit people into what, as members will know, is an extremely tight labour market. We struggle to recruit the necessary staff in a timely fashion. This problem is not unique to the immigration service or the Department of Justice and Equality. It is an issue in Dublin with regard to recruiting civil servants. However, we have increased staffing there by 20% in two years. We have doubled the number of legal advisers who do the initial interviews. We have reduced the overall hearing times.”

The Committee also expressed concern with the logistical issues that are apparent with regard to the Dublin-based IPO interviews. Applicants attending interviews in Dublin when living in more rural areas face the challenge of accessing public transport that links with Dublin, lengthy journeys to and from the capital and, for some, overnight stays. The cost associated with public transport (and accommodation in cases of overnight stays) is also an issue as the provided daily expenses allowance could easily be spent on one return ticket just for attending

the interview. While the Department of Employment Affairs and Social Protection states that such expenses are provided for, this is done in a refund format, leaving the resident without any allowance until they have gone through the process of applying for the refund. Stakeholder evidence suggests an alternative could be to decentralise IPOs and have IPO officers outside Dublin to facilitate interviews at centres around the country or through video conferencing. In their engagement with the Committee, Department Officials agreed that the location of the IPO interviews is problematic for a large number of Direct Provision residents. However, Ms Oonagh Buckley outlined:

“At the instigation of the Minister, we have instituted a pilot with the IPO which allows interviews to be held closer to the residents of the direct provision system. An initial outing was held in our office in Tipperary town. It worked extremely successively, save that it was in Tipperary town, when it needed to be closer to our population. We now propose to run those interviews in a more co-ordinated way, in Cork in the initial phase. As Cork is within an hour of approximately one third of the population of our direct provision centres, it presents a highly achievable way of delivering the IPO interview process. We are also looking at delivering similar interviews in Sligo, which would be extremely helpful for people in the north west, particularly those living in Donegal. There is a prospect of delivering services closer to the people.”

The general stakeholder view was that greater resources and adequate staffing at the IPO and IPAT is essential for speeding up the protection process. Furthermore, increased funding to provide sufficient and early legal advice to those in the application process is fundamental to reducing the number of appeals and freeing up the system. Findings from the wider submissions, as well as evidence conveyed throughout the Committee hearings, point to a lack of early legal advice and assistance for asylum-seekers, often in relation to the questionnaire and interview preparation. Early legal advice would ensure that applicants disclose all important information about their experiences, allowing for quality decision-making. If legal advice and support was front-loaded and made available at the very start of the protection process, it is probable that more decisions which are overturned on appeal would be granted positively in the first instance, thus freeing up the system.

Some witnesses expressed the view that there is a real need for greater investment in early legal advice for people in the international protection application process, in part by providing increased funding to the Legal Aid Board. The Irish Refugee Council, in its submission to the Committee, outlined that only 11% of the Legal Aid Board’s current budget is spent on advice for international protection applicants. Should the Government provide adequate funding to the Legal Aid Board, the State could ultimately save on costly appeals and judicial review processes which are currently taking place to remedy errors as a result of the absence of adequate legal advice, particularly at the pre-interview stage of the process.

There is also a lack of transparency in the current process with regard to IPO interviews. There is at present no oversight of interviews with the IPO, and no way of monitoring to ensure that accurate decision making and understanding is taking place. The McMahon report recommended that mechanisms should be in place to regularly review the quality of decision making, and the Committee agrees that in terms of appeals, such a mechanism is fundamental for the applicant. In addition, a mechanism such as recording interviews would enhance accuracy with decision-making and meet best practice.

Furthermore, the wider submissions detailed that applicants in the process are often left in “limbo” while they await decisions or an interview date. The IPO does not have an online portal for applicants to track the progress of their application, and very often individuals must wait months or, in some cases, even years with no update. The Committee agrees that greater transparency is necessary and that applicants should have access to timeframes and information regarding their application at all stages of the process.

## Conclusions and Recommendations

Based upon the hearings, submissions and broader consideration of the issues, the Committee has arrived at the following conclusions and recommendations:

### *Accommodation issues*

1. The Committee welcomes the recent publication of the National Standards for accommodation offered to people in the international protection process and urges the Department of Justice and Equality to ensure their full implementation as a matter of urgency and that any new centres contracted meet these conditions. The National Standards will undoubtedly improve conditions in Direct Provision centres.

However, the Committee believes it is necessary to establish an inspectorate or oversight body that is wholly independent of RIA and the Department of Justice and Equality to ensure that these national standards are consistently applied and adhered to in practice and maintained for whatever duration each centre is in use.

Presently, the inspection role is de facto being filled by the Office of the Ombudsman, through its Outreach programme. However, its proper role is in addressing individual complaints. There is a need for regular, unannounced monitoring and inspections of Direct Provision centres, possibly by extending the remit of the Health Information and Quality Authority (HIQA) into this area. In order to be effective, such oversight mechanisms must be designed so that applicants for international protection are able to engage with them privately and in confidence.

### *Direct Provision*

2. The Committee is strongly of the view that the current Direct Provision norm of shared, institutionalised living fails to fully respect the rights to privacy and human dignity of those placed in these centres. We must move away from institutional settings. 'Own-door' accommodation provision and the right to cook for oneself and one's family must become standard for individuals and families within the system, while accepting it will not be suitable or appropriate in every case. The accommodation provided must be a mix of independent and supported living to cater for the needs of all applicants.
3. The Committee believes that we must also move away from the current reliance on commercial companies and for-profit individuals to provide accommodation and who oversee and run Direct Provision centres across the country. Even with the best intentions, private providers working on a for-profit basis lack the requisite expertise in housing or social care to

adequately and effectively manage such centres and meet the complex social needs of residents.

4. Instead, we must create the conditions in which approved housing bodies (AHBs) with expertise in the provision of housing and social care can provide suitable self-contained accommodation for protection applicants. This will require changes to the tendering process and to social housing funding streams to allow for a variety of accommodation types.
5. In particular, the Committee recommends that the current tendering process which requires providers to accommodate a minimum of 50 people per centre must be reduced so as to allow smaller providers and housing associations the opportunity to provide accommodation and services on a smaller and more manageable and flexible scale.
6. Even with greater involvement of AHBs and the not-for-profit sector, the ambition of own-door accommodation for most protection applicants cannot realistically be achieved unless the State itself becomes directly involved in building fit-for-purpose, self-contained housing units and for all in need of housing.
7. Committee Members heard evidence of – and witnessed for themselves – the negative impact on the lives of people in direct provision of the siting of many centres in remote, isolated locations with little or no public transport links and no facilities. Regardless of which model or source of accommodation provision is chosen, it is imperative that far greater consideration be given in future to the location of direct provision accommodation. A central requirement of any tendering process ought to be that accommodation is built or provided in locations that maximise opportunities for integration with local communities and provide good access to transport links, services, amenities and employment opportunities.
8. In identifying suitable locations for accommodation for applicants for international protection, it is essential that protocols be established and adhered to for consultation with local communities, together with public information initiatives to address misconceptions that exist in relation to the international protection system and the applicants.
9. In the more immediate term, Committee Members are greatly concerned by evidence that the use of emergency accommodation such as hotels and guest houses – intended as a stop-gap measure – risks becoming entrenched within the system. Not only is this extremely costly to the State, it is wholly inappropriate and inadequate to meeting the needs of people entering Direct Provision, with many being placed in emergency accommodation without going through the normal screening process.

10. The Committee is very aware of the current wider housing crisis in Ireland. Nevertheless, the use of emergency accommodation must cease as soon as possible. Part of the problem is that increasing numbers of people with positive decisions are remaining in Direct Provision centres as no other accommodation is available to them. This ought to be addressed in the immediate term through a substantial increase in funding to appropriate bodies – such as the Jesuit Refugee Service and the Peter McVerry Trust – providing assistance and support to residents with international protection status to move out of accommodation centres and into longer-term accommodation.

Ultimately, however, the dependence on entirely unsuitable emergency accommodation can only be ended by the Government ensuring that RIA itself is adequately resourced to meet its obligations under the *EU Recast Reception Conditions Directive*.

11. In the meantime, comprehensive protocols and good governance procedures must swiftly be put in place to provide necessary protections and safeguards for individuals housed in emergency accommodation.
12. A number of stakeholders and Members expressed concerns about the lack of transparency in relation to the finances and activities of private commercial companies and individuals engaged in providing accommodation and services within the Direct Provision system. Full transparency and disclosure ought to be a condition of any contract for the provision of such services, including emergency accommodation.

#### *Supports and services within Direct Provision*

13. The Committee recognises the work of various Departments and agencies in providing supports and services to those seeking international protection in Ireland. However, in consideration of the *ad hoc* application of these services, the Committee recommends the establishment of a working group to conduct an inter-Departmental, multi-agency review and make recommendations as to how a more effective and coordinated approach can be achieved.
14. The Committee also recommends the establishment of a refugee advisory board, as recommended by the McMahon working group and as provided for in the Refugee Act 1996 (as amended). The board would provide oversight and monitoring of all matters relevant to the international protection application process and reception system, including the determination process and the services and supports provided to ensure the appropriate standard is maintained and that improvements are upheld in practice. Such a body will continuously evaluate the international protection system while reporting areas for improvement.

15. There is a need for greater transparency in relation to the RIA's rationale for dispersal. There is currently a lack of clarity as to the criteria used to inform the decision of where to accommodate a particular applicant or applicants. Applicants for international protection must not be at risk of being moved arbitrarily or without explanation, and due regard must be given to the need for applicants to be able to embed and integrate into local communities.
16. The RIA currently performs a health screening assessment when individuals present in Ireland seeking international protection. However, a more holistic approach is required to identify the needs of individuals who are often extremely vulnerable. There is currently a lack of clarity as to who is given responsibility under the EU Recast Reception Conditions Directive for undertaking Vulnerability Assessments. Evidence was heard that many international protection applicants suffer from mental health issues as a result of trauma. The Committee therefore recommends the urgent implementation of comprehensive Vulnerability Assessments, to be conducted by appropriately trained and qualified professionals, to assess the needs of individuals entering the protection process.

International protection applicants must have access to adequate mental health supports on an on-going basis, including clear referral pathways to mainstream service providers.

17. Extensive training should be provided to all personnel working within the Direct Provision system, to include specialised training in dealing with the effects of trauma, sexual abuse and domestic violence, so as to allow for the continual assessment and detection of mental health issues amongst individuals living within the system.
18. In recognition of the particularly acute trauma experienced by victims of human trafficking, gender-specific accommodation, with additional appropriate and tailored supports and services, should be provided for those identified as victims of trafficking and sexual abuse. In the interim, priority should be given to designating private, non-shared rooms to trafficked people who have been sexually abused.



## *Right to work issues*

19. The granting of access to the labour market, albeit limited, is a very positive step, strongly welcomed by the Committee. Committee Members heard at first hand from residents that the ability to work is fundamental to a person's dignity and wellbeing. The absence of the sense of purpose conferred by work can have long-term negative effects on mental health.

Currently, however, international protection applicants who are awaiting first instance decisions may only apply for access to the labour market after nine months in the system. The Committee strongly believes this waiting period should be significantly reduced, and that consideration ought to be given to removing it entirely.

20. At present, many individuals are still denied the right to work whilst they await the outcome of appeals of first instance refusals of international protection or subsidiary protection. This process can often take years. The Committee recommends that the right to work be broadened to applicants who are currently awaiting the outcome of appeals.
21. The Committee heard evidence that many employers are still uninformed in relation to recent changes to the law enhancing the right of access of asylum applicants to the labour market and that this is acting as a barrier to employment. This needs to be addressed through a national information campaign informing employers of the rights of asylum applicants to work and of how to comply with the legal requirements when employing individuals who are in the Direct Provision system.
22. The Committee heard repeatedly that, despite the formal granting of access to the labour market, people in direct provision still face a number of practical obstacles to being offered and taking up employment – including difficulties in obtaining bank accounts, PPS numbers and driving licences. These barriers must be addressed as a matter of priority through a co-ordinated response across relevant Government Departments.
23. Evidence presented suggests that the six-month limit of the labour market access permit for international protection applicants is a significant deterrent to employers. The Committee therefore recommends that consideration be given to extending the six-month limit to at least one year for those who are eligible to work.
24. For those in the international protection process who are unable to access the labour market or formal education, the Committee believes that the comprehensive provision of training courses and learning opportunities is absolutely vital for their mental health, wellbeing and development.

### *Children in Direct Provision*

25. Children represent a significant proportion of the individuals in the international protection process, some accompanied by family members and others seeking protection unaccompanied. It is important that child-friendly information materials are provided to them, in a language they understand, from the initial stages of the process. Such materials should include information regarding the application procedure, the rights of the individual and family reunification rights for unaccompanied minors.
26. Vulnerability assessments for children should be undertaken by qualified professionals and conducted in a child-friendly manner.
27. Evidence was heard that many centres do not provide adequate child-friendly spaces for recreation or study. Playrooms are often locked due to lack of adequate supervision. The provision of child-friendly and teenager-friendly communal spaces in all Direct Provision centres, with adequate supervision, should be a priority for the RIA. Such spaces should include play areas, study areas and general recreational areas.
28. Evidence was also heard of the high costs associated with primary and secondary school education, and the strain this places on parents in Direct Provision. It is clear that, even with the increase in the daily expenses allowance, it is still far from adequate to meet the costs associated with school-going children, and an additional allowance ought to be provided to such parents.
29. The Committee is of the view that children who arrive in Ireland unaccompanied are particularly vulnerable and should not be transferred automatically to the Direct Provision system on reaching the age of 18. So-called 'aged-out minors' should remain under the responsibility of Tusla, retaining their supports, until their applications for asylum have reached a conclusion.
30. Witnesses highlighted the importance of lodging applications as early as possible in the protection process. A crucial point is that if a child turns 18 and then goes through the asylum process and gets permission at or after the age of 18, he or she loses all rights to family reunification under current legislation; whereas, had the application been lodged and status granted prior to this, the unaccompanied minor is entitled to application for reunification. The Committee therefore recommends that it be made a legal requirement for social workers assigned to such minors to seek prior legal advice on a protection application as soon as possible after the minor becomes the responsibility of Tusla, and before completing and lodging applications.

## *Integration*

31. The Government's Migration Integration Strategy – A Blueprint for the Future, launched in 2017, fails to include specific action points to promote refugee integration. Meanwhile, whilst some local authorities have been very progressive in terms of investing in complex integration strategies, others are only at the beginning of this process. The Committee therefore believes that there ought to be a legal requirement on local authorities (as well as provision of adequate resources) to develop integration strategies for asylum applicants. This is particularly important in communities where Direct Provision and emergency accommodation centres are located.
32. The transition away from institutional settings and towards own-door accommodation in more appropriate locations and settings, as recommended above (see Recommendations **3-7**), should be informed in part by such integration strategies, and by the desirability of bringing international protection applicants into greater contact with and more closely involved in local communities.
33. There is presently a significant information gap in relation to integration and refugee outcomes. The adverse effects of the international protection system on integration, once status has been granted, remain unknown. In order to successfully measure outcomes and promote positive integration outcomes, an all of government approach is critical. This must include a detailed framework of responsibility and accountability, with associated performance benchmarks and indicators.
34. Given the length of time spent in Direct Provision by most applicants, an individualised integration and transition plan for those who are granted status and leaving Direct Provision must be prepared and implemented. The introduction of supports to persons living in Direct Provision centres who have been granted status to find accommodation and transition into the community is a welcome, if limited, development in this regard. The Committee would like to see a more comprehensive, multiagency approach to preparing individuals for the transition out of Direct Provision into local communities, to support and assist in the finding of appropriate accommodation, for entering the labour market, and for dealing with finances and integrating into their new community.

### *Issues with the application process*

35. The Committee believes the remit of the Ombudsman should be extended to include handling individual complaints in relation to the administrative process through which asylum applications are assessed.
36. The Committee recommends that further consideration be given to the fast-tracking of the inherited backlog of applications in the International Protection Office following the implementation of the single application procedure.
37. The length of time protection applicants have to wait for a final decision on their claim remains the key factor affecting their experiences in the direct provision system. Given the evidence of on-going delays in the application process, the Committee strongly recommends that additional resources be provided to the International Protection Office to allow for the employment of sufficient staff and legal advisers to ensure that applications are responded to in an effective and timely fashion. Additional funding must also be made available to the International Protection Appeals Tribunal to accelerate the appeals process and free up the system.
38. Evidence was also heard of delays in the issuing of the final letter from the Ministerial Decisions Unit that enables individuals to obtain a residency permit. Department of Justice and Equality Officials ought to be provided with additional resources, if necessary, to meet their stated target of issuing decision letters within ten days maximum. This timeframe should be rigidly adhered to.
39. Witnesses highlighted the challenges for many asylum applicants in attending Dublin-based IPO interviews, given the cost and duration of travel from rural locations. The Committee therefore recommends that the Department of Justice and Equality decentralise the work of the IPO and facilitate interviews at various regional centres to enable easier access for those living considerable distances from Dublin. It welcomes the fact that this is already being done on a limited, pilot-scheme basis, but is strongly of the view that it needs to be rolled out on an across the country basis and as the norm.
40. The Committee agrees that greater transparency within the application process is necessary for applicants, particularly in relation to decisions and the appeals process. It therefore recommends that interviews be recorded and monitored.

41. The Committee also recommends that an online portal be developed by the IPO for the application process to allow applicants access to current information on the status of their case. At present, individuals must often wait for months, or even years, without an update on the status of their application. Greater transparency is necessary so that individuals have access to timeframes and information regarding their application at all stages of the process.
42. There is a need for a substantial increase in funding for the Legal Aid Board to allow a greater percentage of its budget to be spent on advice for international protection applicants.

The Committee also recommends that an early legal advice model be implemented, allowing legal advice to be front-loaded to ensure applicants prepare applications accurately, thus allowing for more efficient decision-making overall.

#### *Alternative models*

43. The Committee believes overall that the current model of Direct Provision in Ireland is unsatisfactory in a number of respects and fails to meet the basic needs of individuals living within the system. This is particularly so given that many are forced to remain within the system for several years. However, no clear consensus emerged in the course of the hearings, or from submissions received, as to what alternatives could or ought to replace the current system. The Committee therefore recommends the early establishment of an expert group to conduct a comparative analysis and make recommendations for improvements based upon best practices identified in other jurisdictions that can be adapted for implementation in Ireland and that would report within a specified timeframe.

### Joint Committee on Justice and Equality

#### Deputies



Caoimhghín Ó Caoláin TD  
(SF) [Chair]



Colm Brophy TD  
(FG)



Jack Chambers TD  
(FF)



Catherine Connolly  
TD  
(I4C)



Peter Fitzpatrick TD  
(IND)



Jim O'Callaghan TD  
(FF)



Thomas Pringle TD  
(I4C)

## Senators



Frances Black  
(CEG)



Lorraine Clifford-Lee  
(FF)



Martin Conway  
(FG)



Niall Ó Donnghaile  
(SF)

### Notes:

1. Deputies nominated by the Dáil Committee of Selection and appointed by Order of the Dáil on 16th June 2016.
2. Senators nominated by the Seanad Committee of Selection and appointed by Order of the Seanad on 20<sup>th</sup> July 2016.



### JOINT COMMITTEE ON JUSTICE AND EQUALITY

#### TERMS OF REFERENCE

##### **a. Functions of the Committee – derived from Standing Orders [DSO 84A; SSO 70A]**

- (1) The Select Committee shall consider and report to the Dáil on—
  - (a) such aspects of the expenditure, administration and policy of a Government Department or Departments and associated public bodies as the Committee may select, and
  - (b) European Union matters within the remit of the relevant Department or Departments.
- (2) The Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann for the purposes of the functions set out in this Standing Order, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.
- (3) Without prejudice to the generality of paragraph (1), the Select Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments, such—
  - (a) Bills,
  - (b) proposals contained in any motion, including any motion within the meaning of Standing Order 187,
  - (c) Estimates for Public Services, and
  - (d) other mattersas shall be referred to the Select Committee by the Dáil, and
  - (e) Annual Output Statements including performance, efficiency and effectiveness in the use of public monies, and
  - (f) such Value for Money and Policy Reviews as the Select Committee may select.
- (4) The Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies:
  - (a) matters of policy and governance for which the Minister is officially responsible,
  - (b) public affairs administered by the Department,

- (c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,
  - (d) Government policy and governance in respect of bodies under the aegis of the Department,
  - (e) policy and governance issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,
  - (f) the general scheme or draft heads of any Bill,
  - (g) any post-enactment report laid before either House or both Houses by a member of the Government or Minister of State on any Bill enacted by the Houses of the Oireachtas,
  - (h) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,
  - (i) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,
  - (j) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in subparagraphs (d) and (e) and the overall performance and operational results, statements of strategy and corporate plans of such bodies, and
  - (k) such other matters as may be referred to it by the Dáil from time to time.
- (5) Without prejudice to the generality of paragraph (1), the Joint Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments—
- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 114, including the compliance of such acts with the principle of subsidiarity,
  - (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
  - (c) non-legislative documents published by any EU institution in relation to EU policy matters, and
  - (d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.
- (6) Where a Select Committee appointed pursuant to this Standing Order has been joined with a Select Committee appointed by Seanad Éireann, the Chairman of the Dáil Select Committee shall also be the Chairman of the Joint Committee.
- (7) The following may attend meetings of the Select or Joint Committee appointed pursuant to this Standing Order, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:

- (a) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,
- (b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
- (c) at the invitation of the Committee, other Members of the European Parliament.

**b. Scope and Context of Activities of Committees (as derived from Standing Orders)  
[DSO 84; SSO 70]**

- (1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders; and
- (2) Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil and/or Seanad.
- (3) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Standing Order 186 and/or the Comptroller and Auditor General (Amendment) Act 1993; and
- (4) any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under Standing Orders [DSO 111A and SSO 104A].
- (5) The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—
  - (a) a member of the Government or a Minister of State, or
  - (b) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceannt Comhairle / Cathaoirleach whose decision shall be final.
- (6) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Dáil Standing Order 28. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.

## Appendix 3 – Witnesses and Official Report

Witnesses/Organisation	Date of appearance and link to debate
<b>Mr Justice Bryan McMahon</b> <b>Immigrants Council of Ireland</b> <b>United Nations Commissioner for Refugees, UNHCR</b>	<b>22 May 2019</b> <a href="#"><u>Official Report</u></a>
<b>Irish Refugee Council, IRC</b> <b>Movement of Asylum Seekers in Ireland, MASI</b>	<b>29 May 2019</b> <a href="#"><u>Official Report</u></a>
<b>Children’s Rights Alliance</b> <b>NASC, Migrant and Refugee Centre</b> <b>Dr Liam Thornton</b>	<b>12 June 2019</b> <a href="#"><u>Official Report</u></a>
<b>Representatives from the Department of Justice and Equality</b>	<b>19 July 2019</b> <a href="#"><u>Official Report</u></a>

## Appendix 4 – Opening Statements

### Submission to the Joint Committee on Justice and Equality on issues relating to Direct Provision and the International Protection Application Process.

By Dr Bryan McMahon. 22 May 2019.

The Working Group on Improvements to the Protection Process including Direct Provision and Supports to Asylum Seekers ( "The Working Group")reported to the Government in June 2015. It made 173 recommendations for improvement in the system. The report was a valuable infrastructural analysis of the system and identified many problems and issues of concern as well as recommending reforms in many areas.

The single most important issue identified by the Working Group that had to be resolved was the length of time that many in the protection system had to wait before their applications were finally determined. It is worth noting that at the time of the Working Group negotiations more than 50% of direct provision residents were five or more years in the system. The legal process was complex and protracted, as a result of which many remained in the system and in Direct Provision centres for many years before their applications for protection were determined. Confined in centres, designed initially to accommodate people for no more than six months, and where all meaningful employment was prohibited, the residents found that the living conditions became increasingly oppressive as the waiting periods drifted from weeks, to months, to years.

Although initially the Report of the Working Group was well received and adopted by the Government, all the recommendations were not immediately or enthusiastically implemented and the delay in this regard disappointed some of the NGO's who had shown commendable commitment and who had made significant contributions during the deliberations that led to the final report.

Recent trends in the number of asylum applications and the DP population indicated new fault-lines are emerging in the system. DP centres are full and there is increasing recourse to emergency accommodation. NGOs have expressed concern that some working group improvements are being undermined by overcrowding and insufficient accommodation capacity.

Table 1: Asylum Application Statistics							
Year	2012	2013	2014	2015	2016	2017	2018
Number of Asylum Applications	956	946	1,448	3,726	2,224	2,926	3,673
Numbers Living in Direct Provision	4,841	4,360	4,364	4,696	4,425	5,096	6,106

Four years on, however, it is

worthwhile to review the progress made in implementing the Working Group recommendations. Because of the limited time available and the nature of these hearings, I will concentrate on the "big-ticket" items in this exercise.

## **1. Processing the Applications.**

The Working Group approach was two-pronged. Firstly, it proposed to develop mechanisms to resolve the status of long stayers, that is, persons five or more years in the system. Secondly, it proposed to identify solutions that addressed the structural failings in case processing to avoid the recurrence of lengthy delays in the future, with all their associated human costs. One Working Group submission from a DP resident succinctly summarised frustrations with the length of time in the system. "As we kill time, time kills us".

Much of the delay in processing the protection applications was caused by the fact that the State considered an application for refugee status prior to and independently of an application for "subsidiary protection" status. If an application for refugee status was refused the applicant could then commence a separate procedure for subsidiary protection status. The Government had already determined to address this and its proposal, contained in the International Protection Bill, was to allow both of these questions to be dealt with in the one process, the so called 'Single Procedure'. To simplify and expedite the legal processing of applicants the Working Group recommended the early enactment and implementation of the International Protection Bill as a matter of urgency.

The International Protection Act was in fact passed in 2015 and was commenced in December 2016 by statutory instrument. This brought the State into line with all other EU states.

In addressing the situation of long stayers the Working Group members agreed unanimously "that no person should in principle be in the system for five or more years". A series of recommendations was developed to give effect to that principle at each stage of the process. Furthermore, it was recommended that to avoid a repeat in the future, the same principles and mechanisms should apply for persons five or more years in the system going forward.

In addition, the Working Group identified a large number of cases of less than 5 y-ears and highlighted the need to allocate sufficient case processing resources to enable this cohort be 'processed in advance of the introduction of the single procedure to help facilitate as smooth a transition as possible'. The Working Group, apart from its humanitarian concerns, wished to ensure that this group (numbering 3,500 *circa*) would be dealt with immediately to ensure that the new system would not be clogged up when it came into operation.

It must be acknowledged that in the 18 months that followed publication of the Working Group report, there was considerable progress with these long stay cases, resolving the status of an estimated 2000 persons who were in the system continuously for five or more years. The average length of stay fell from 48 months to 23 months as a consequence. Although it took considerably longer than the six months envisaged in the Working Group recommendation the eventual outcome was life changing for each and every beneficiary.

The *ad hoc* scheme for long stayers ceased with the commencement of the International Protection Act in January 2017. However, 4000 existing cases still in the system (including 500 relocation cases from Greece) were transferred into the new Single Procedure. The failure to deal with this group as the Working Group recommended, in my view, hindered the success of the new Single Application system as the inheritance of this large number of old applications extended the old log-jam into the new system.



Although there has been significant increase in case processing capacity in recent years with additional resources allocated to both the IPO and IPAT, there has also been a corresponding increase in demand with higher numbers of new applicants. The transfer of the 4,000 legacy cases continues to act as a lag on the system with the present processing time for first instance decisions still more than 19 months. This is far too long and every effort, including the allocation of more judges to deal with judicial review cases, should be made to shorten the process to the stated Government goal of no more than twelve months for a final determination of claims.

## **2. The Right to Work.**

The recommendation of the Working Group was that those waiting for a first instance decision for more than nine months should have access to the labour market. This it was suggested could be easily achieved by inserting an appropriate provision in the International Protection Bill. The government, however, refused to accept this recommendation at the time.

The Supreme Court in May 2017, in a case taken by a resident, held that the blanket ban in place against working was unconstitutional and, unusually, asked the Government to put forward its proposals to rectify the situation. After some hesitation the Government went beyond what the court required and opted into the EU (Recast) Reception Conditions Directive (transposed into Irish law on 30/06/2018 by European Communities (Reception Conditions) Regulations 2018) something that was advocated by some reformers for a long time.

The result not only gives applicants the right to work if they have not got a first instance decision within nine months of their application, it also brings Ireland into line with other European countries and places the reception process and conditions on a legislative basis (including providing for an appeal) which is now overseen by the EU. Further, if applicants are assessed and deemed to be "vulnerable applicants" appropriate supports can be put in place from the outset. Finally, when applying the directive to minors, the best interest of the child must be the primary concern. This too, was something the Working Group recommended in 2015.

It could be said, therefore, that the Supreme Court's intervention at the end of the day, prompted a more generous response from the Government than that suggested by the measured proposal from the Working Group in this regard, much to the advantage of the protection applicants.

The question remains however whether the right to work is fully effective as it appears that some difficulties have arisen when residents in direct provision sought to get a driving licence or open a bank account. Moreover, the opportunities to work may be restricted for residents located in remote centres. Such obstacles should be removed if it is shown that they restrict residents from accessing the labour market.

## **3. Allowances.**

The Working Group's recommendation that the meagre weekly allowances paid to protection applicants (€19.10 per adult and €9.60 per child) living in Direct Provision centres, should be increased to €38.74 and €29.80 respectively, was initially resisted.

The modest Working Group recommendation sought to restore the real value of the payments in line with welfare inflation in the 15-year period since they were first introduced at this level. But this did not find favour with the Government at the time. The increases were eventually accepted and implemented in April 2019. Though four years after the Working Group's report, this development is to be welcomed.

#### **4. Role for the Ombudsmen.**

In April 2017, the respective remits of the Ombudsman and the Ombudsman for Children were extended to those living in the in accommodation provided by the State. This too, was an important reform which had been advocated by the Working Group.

#### **5. Cooking and Independent Living.**

A complaint regularly received by the Working Group related to the absence of cooking facilities in Direct Provision centres. This represented a serious impediment to creating conditions where normal family life and effective parenting could take place. It also ignored traditional culinary preferences. The Working Group made recommendations that existing centres should be reconfigured to provide communal kitchens and that facilities should be made available so that residents could cook for themselves where possible.

Although not all centres have achieved this target, some progress has been made, so that as of 1 May 2019, 2,395 residents across 11 centres have access to a food hall and cooking facilities. A further 1,416 residents are offered cooking facilities, but they must provide the food themselves. This means that 57% of residents in Direct Provision centres now have access to cooking facilities. (These figures have been provided by the Department of Justice).

It is significant to note that none of the State-owned centres have as yet provided access to a Food Hall and cooking facilities under the agency's Independent Living Model. It appears that discussions are ongoing between the Department and the office of public works in this regard.

#### **6. Accommodation Standards.**

The Working Group recommended that RIA should immediately develop a set of criteria which would apply to all accommodation provided by RIA taking into account, not only the bed capacity of the centres, but also, the other social and living activities required by families living in the centres for an extended time. National standards have been drafted, and are now with Government for final approval, which incorporate the minimum requirements set out in the Recast Reception and Conditions Directive (EU). These national standards will "promote equality, prevent discrimination, and protect human rights as defined by Public Sector Equality and Human Rights Duty". Future tendering competitions will insist that all providers must demonstrate their ability to conform to these statutory obligations.

## **7. Shortage of Accommodation.**

The shortage of accommodation across the state, noted and considered by the Working Group, has become more acute since 2015. In 2018 there has been a sustained increase in new applications, averaging more than 300 per month. This has put greater pressure on RIA's existing stock in that more protection applicants continue to live in Direct Provision centres while waiting for determinations on their status. Alternative accommodation is not readily available for those who might wish to avail of it were it available. Moreover, even those who have received positive decisions are obliged to continue to live in Direct Provision centres for the same reason. At present it is estimated there are 800 such persons trying to transition out of Direct Provision but cannot do so.

RIA is now approaching full capacity and is obliged to place many in hotel accommodation at an estimated cost of €99 per person per night. RIA has established a dedicated unit working to assist these persons in their efforts to move out from the state accommodation. Moreover, contact has been made with the Peter McVerry Trust and De Paul Ireland to explore, on a pilot basis, the possibility of providing transitional housing support throughout the country, expanding on the successful Jesuit Refugee Service Ireland PATHS project and other NGO-led transition projects.

Recourse to emergency accommodation may be understandable in the face of an accommodation crisis to ensure that protection applicants have a roof over their heads. But, it is important that the lessons of the wider housing sector are learned and that this short term fix does not become a long term solution. Also, in light of the very high cost of emergency accommodation one wonders in these circumstances whether it would be more economical for RIA to consider expanding their own stock by building on state owned sites.

## **8. Conclusion.**

The Working Group Report submitted in 2015 was the first review and analysis of the Direct Provision system since it was introduced in 2000. Membership of the group included representatives of relevant government departments, NGOs working in this area, as well as a number of academics and other experienced individuals. For the most part, the recommendations made by the Working Group were pragmatic and achievable and this is not surprising given the membership of the group. In particular, the public servants from the various departments ensured that the political realities were well articulated when possible solutions were being debated. The Report provides a valuable infrastructural analysis of the Direct Provision system and identifies many problems and issues of concern as well as suggesting reforms in many areas. Some of the recommendations were adopted and implemented fairly quickly, while others were deferred. Even where there has been delay, however, the Report has kept the Direct Provision question continuously on the political agenda. In any event, it is generally recognised that the programme of action set out in the Report is still valid and is still one that the government is trying to implement.

Since the publication of the Working Group's report in June 2015, there have been significant improvements in the Irish asylum process and in the Direct Provision system including: resolution of an estimated 2000 long stayers; the establishment of the new international

protection procedure; the introduction of communal catering in family centres for many; extension of the role of Ombudsman offices to those in Direct Provision centres; introduction of a right to work for eligible protection applicants; increases to Direct Provision allowances, and the development of National Standards for the accommodation provided.

While there has been considerable progress, there still remains significant work to be done to fully implement the Working Group's recommendations and there are concerns that some improvements are certainly being unwound by the accommodation crisis. Without doubt, the housing crisis poses the greatest practical challenge to identifying an alternative to the Direct Provision system where residents might be allowed to live with greater dignity.

It should be acknowledged, however, that four years have passed since the Working Group report was published and there have been significant changes at home and abroad in this area in that time. In particular, one might mention in this regard the following: Brexit; Angela Merkel's unilateral acceptance of 800,000 migrants into Germany and the backlash that followed; the housing crisis in this country; the election of Mr Trump in the USA; and the rise of right-wing politics in Austria, Hungary and other European countries to the east. The last time I looked, it was estimated that there were 68 million people forcibly displaced in the world and there is no indication that a limit has been reached yet in this regard.

The landscape continues to change and the Irish response to asylum seekers who arrive on our shores in search of refuge and protection must also be continuously sensitive to all these geopolitical trends and developments.

END.

## Immigrant Council of Ireland opening statement to the Oireachtas Joint Committee on Justice and Equality on issues of direct provision and the international protection application process.

Wednesday, 22 May 2019

The Immigrant Council of Ireland is an independent law centre and NGO that works to protect, support and advocate for the rights of migrants and their families. The law centre provides legal information, advice and representation through an information service and two full-time solicitors. The Immigrant Council legal team specialises in holistic legal aid to trafficked migrant women recovering from sexual exploitation. The Immigrant Council is also a leading anti-trafficking advocacy organisation in terms of its expertise in policy and advocating for legislative change.

The Immigrant Councils experience of the Direct Provision system derives primarily from its experience in the legal representation of trafficked women who are living in that system; hence this is the focus which I will be taking in my comments to the Committee today. The overall majority of victims of trafficking represented by the Immigrant Council are housed in direct provision centres – and while this can be seen as a niche area within the overall direct provision landscape, there is much overlap concerning the issues involved and the solutions suggested.

**The problem:** The provision of safe and appropriate housing is an internationally accepted priority need for trafficked victims. It is central to their recovery as independent individuals and to fulfilling their potential role as witnesses within criminal investigations. Taking into account the gendered character of trafficking, relevant EU level Directives require that the assistance to victims of trafficking should be gender-sensitive, and include measures which provide appropriate accommodation and after care support for victims of trafficking.

Presently, the Reception and Integration Agency (RIA) is tasked with the provision of accommodation and material assistance to all victims of human trafficking, which is in addition to RIA's main function to house people seeking asylum in general. In this context, our priority concern lies with ***women (in some cases underage girls in age determination processes) trafficked for sexual exploitation who are referred to the national referral mechanism for the support of victims.***

For such women, the introduction of a Gender-specific Shelter and accommodation approach in Ireland is of central importance. Integrated supports, such as medical, material, legal and other integration assistance are key components of such support. It is the long-stated position of the Immigrant Council that Direct Provision centres do not represent appropriate housing for victims of human trafficking. At the same time, the national shelters and other services for domestic and sexual violence are not resourced and formally involved in responding to migrant women victims of trafficking.

Despite the improved practices on general residential matters in the aftermath of the McMahon Report, the situation of victims of trafficking has not changed in any significant way. For example, the sharing of rooms, food preparation restrictions and sexual harassment in mixed gender accommodation reported

by trafficked women persists. Meanwhile, the recommended single female gender hostel was set up in a location removed from any specialised complementary services for trafficked women in order to become a suitable alternative housing for such women.

**International criticism:** Ireland's track record in the accommodation supports of victims of trafficking has been noted not just at a national level, but also through international bodies such as the Council of Europe Committee of Experts (GRETA) and the annual US State Departments Trafficking in Persons (TIP) Report, which in 2018 downgraded Ireland From being Tier 1 to Tier 2, essentially stating that Ireland is not meeting the minimum standards required to appropriately respond to this complex area.

**Recommendations:** In the long term, we advocate for alternative housing entirely removed from Direct Provision centres, however, we are aware that this transition may take time. For this purpose, and in addition to our long-term recommendations which I will touch upon momentarily, we have developed urgent interim recommendations adapting the RIA operated centres for the needs of trafficked sexually abused women.

### **Interim proposals as a matter of urgency within existing RIA accommodation arrangements:**

1. Designating **private (non-shared) rooms to trafficked women who have been sexually abused** and recovering from significant trauma, associated with depression, anxiety, insomnia and post-traumatic stress disorder.
2. Provision of **self-catering arrangements**, where women can cook their food as an essential pre-condition to regaining control and independence through budgeting and exercise of choice.
3. **Increased awareness among managers** of centres about their salient role in the delivery of this most vital service to victims of serious crime recovering in the premises they run.
4. **Training key personnel in understanding human trafficking**, the obligations of the State and the specific needs of victims, with a focus on those that recover from extensive long-term trauma.
5. Explicit **commitment to gender-sensitivity** in view of the serious exploitation the majority of victims suffer, including sexual abuse, rape and sexualisation as a strategy for survival.

### **Long-term solutions**

First and foremost, the Immigrant Council of Ireland call for gender-specific accommodation services to trafficked women recovering from sexual exploitation that recognise the support needs existing among victims of the crime of human trafficking

- **Nominating the women's refuges for women fleeing domestic violence as emergency accommodation for rescued trafficked women and providing additional resources to these refuges for this purpose.**

This model of housing of trafficked women is preferred in a number of EU Member States.

- **Creating a shelter that specialises in trafficked sexually exploited women.**

This shelter-type facility would offer services to women who require longer term recovery services beyond emergency accommodation, which is not available in emergency shelters.

- **Privately rented properties with geographical spread** in areas around the country with available specialist support, e.g. Dublin, Cork, Limerick.

This involves a flexible number of units (apartments or houses) and a corresponding budget, with dispersed locations around Dublin and other bigger Irish cities with outreach support by specialised service providers, which could be made available in relevant cases. This could be done in collaboration with Approved Housing Bodies.



**SPEAKING NOTES FOR THE OIREACHTAS JOINT COMMITTEE ON JUSTICE AND EQUALITY ON DIRECT PROVISION AND THE INTERNATIONAL PROTECTION APPLICATION PROCESS**

22 MAY 2019 - DUBLIN, LEINSTER HOUSE

**Introductory Remarks:** (5 minutes)

Dear members of the Joint Committee,

Ladies and gentlemen,

Let me first thank this Committee for having invited me to address you on these important matters.

UNHCR, the UN Refugee Agency, is mandated by the General Assembly to lead and co-ordinate action worldwide to protect refugees, asylum seekers and stateless people. We have had a continuous presence in Ireland since 1998 and our supervisory role regarding compliance with the 1951 Convention Relating to the Status of Refugees is recognised both in national (the International Protection Act 2015) and EU legislation.

As the scope of the committee's work on this topic is quite broad, in my opening remarks I will focus primarily on the protection process and progress to date on implementing the recommendations of the 2015 McMahon report.

The McMahon report made 173 recommendations across three broad themes: the Determination Process; Living Conditions in Accommodation Centres and Supports for Persons in the System. The recommendations were intended to be implemented as a package, in advance of the introduction of new comprehensive legislation, to address the biggest single issue identified in the report: the length of time protection applicants have to wait for a final decision on their claim.

Chapter 6 of the report details the financial model, developed in consultation with officials of the Department of Public Expenditure and Reform, to project the financial costs of implementing the report in full. According to para 6.45 the model: "demonstrates conclusively that investing in decision-making not only will yield returns in reducing time spent in the system, but also makes financial sense. Each year that a person remains in the system gives rise to accommodation costs of €10,950 on average per applicant. The cost of decision-making is a fraction of this cost."

As members of the committee will be aware, challenges still remain as regards the length of time applicants typically spend in the system. You should have before you some recent statistics compiled by UNHCR which point to a number of trends:

- The number of new applications each month has been rising moderately and consistently for some time now with an average of 319 new applications per month over the last year (360 per month over the last two quarters).
- Annual numbers of new applications are still however far below the 2002 peak of 11,634 new applications and comparatively fewer than many other EU countries.
- There were 5,693 applications on hand at the International Protection Office at the end of 2018; this represents an increase on 5,183 at the end of 2017. By contrast, when the McMahon report was being drafted at the end of 2014 there were 2,402 applications on hand. The McMahon Report at para. 6.29 points to the reason for this increase: "The number of new protection applications in 2015 has outpaced the capacity of available resources to process these applications. A failure to provide decision making bodies with the further additional resources to process these cases will result in a new backlog affecting those in the system for shorter durations." As a result of the failure to take

steps to substantially reduce the number of cases on hand prior to the commencement of the International Protection Act 2015, transitional provisions of that Act resulted in approx. 4,000 cases being transferred to the IPO from the old Tribunal (legacy applicants) on 31 Dec 2016.

- Despite a considerable increase in productivity by the IPO, the number of substantive decisions taken in 2018 remained lower than the number of new applications received: 3,319 v 3,673.

The current median processing time for new applications received under the International Protection Act 2015 stands at 15 months. Additional resources have recently been assigned to the IPO however with a view to meeting their target to reduce average waiting times to 9 months for a first instance decision by the end of 2019. All remaining legacy applications considered live at the end 2018 have been scheduled for interview by the IPO, with final recommendations intended to be issued on these cases by the end of quarter 2. A separate unit within the IPO is currently examining non-cooperation cases, such as where an applicant's whereabouts is unknown and there is an ongoing lack of contact with the office. There are an estimated 1,200 applications in this category which are being worked on to bring them to finality as quickly as possible.

Notwithstanding these positive indications, I would reiterate my concern at the length of time it currently takes to determine an application for international protection and recall the McMahon Report recommendation that the decision making bodies are staffed on a continual basis with sufficient staff to ensure that it can respond appropriately to the number of applications it is receiving at any given time.

Just as it was in 2015, the length of time protection applicants have to wait for a final decision on their claim remains the key factor affecting applicants' experiences in the Direct Provision system. Long periods spent in direct provision can impact the future employability of refugees and on their mental health.

To conclude I would also like to make a broader point in relation to the working group. That process, in my view, benefited enormously from a unique collaboration between civil society and government with members displaying a commendable commitment to attend weekly meetings throughout much of the duration despite their heavy professional responsibilities otherwise. It was always envisaged that a new body, similar in structure, would continue this work after the publication of the report. It is regrettable therefore that the recommendation to this effect was not implemented, specifically that an independent advisory board be established and given all the necessary flexibility to consider all matters related and relevant to the operation of the system (3.360). An annual review of the system was also recommended with a view to making recommendations to guard against any future backlogs, e.g. failure to provide adequate resources to all decision-making bodies (3.166).

Finally, in relation to Living Conditions in Accommodation Centres and Supports for Persons in the System you should already have been given a copy of an article written by one of my colleagues, Caroline Stephens, last year on the 'Developments in the Direct Provision system since the McMahon Report'. You should also have before you a submission on "Measuring outcomes and supporting refugee integration". Time will not allow me to specifically address the contents of those submissions in my opening address however I would welcome any questions you may have in relation to them or indeed any other matter relevant to your deliberations.

Thank you for your attention.

Dublin, 22 May 2019

Enda O'Neill

Head of Office, UNHCR Ireland

## Opening Statement by MASI, 29 May 2019

MA SI is the collective Movement of Asylum Seekers in Ireland, a platform for asylum seekers to join together in unity and purpose. As a group of people directly affected by the system of direct provision and as people who are currently undergoing the international protection application process, we, unlike experts and NGOs, are uniquely placed to offer direction to the Committee on Justice and Equality on these issues.

The content and recommendations in our submission are all directly informed by the experiences of members as asylum seekers; people who live every day of their lives under the dehumanising system of direct provision. The purpose of our submission is to gather together our collective experiences to inform the Justice Committee and to make a series of key proposals that will make the Irish State's asylum system compatible with minimum human rights standards.

- Human rights are not gifts bestowed by governments and institutions; they are rights and entitlements that we all possess by virtue of being human. People cannot be treated as 'less than' others and, indeed less than human, merely because of differences in nationality and citizenship. In May 2017, Supreme Court told the Department of Justice and Equality that as asylum seekers, we can rely on constitutional protections that affect us as human beings. That simply means fundamental human rights are not reserved for Irish, EU and other legally resident non-EU nationals in Ireland. And that an asylum seeker child does not have to be Irish for the best interest of the child to prevail. It cannot be in the best interest of the child to ban parents from working. There are children in Direct Provision forced to grow up in State sponsored poverty as their parents are unable to provide for their material needs. Many of them are too ashamed to tell their friends in school where they live. In a Direct Provision centre in Kildare, children dumped their sandwiches underneath their seats on the bus because they were too ashamed of carrying the same thing for lunch every day. A mother once told an Irish court that she had to sell sexual favours in order to support her child while living in Direct Provision.
- The asylum system must uphold and vindicate the fundamental human rights of all international protection applicants, including family rights, the right to privacy, the right to education, the right to work, the best interest of the child, vulnerable persons, LGBT rights, women's rights, the right to religious freedom. We receive so many texts from distressed asylum seekers. One such text was from a woman who was ostracised for having HIV. She had no privacy to take medication and as soon as roommates found out what the pills were for, people began gossiping about her. Another text we received was from a queer woman who was told by the International Protection Office that she was not credible thus her application for protection rejected. This means that the IPO believes she is lying about her sexual orientation and wants her to prove her sexual orientation. She is not the only LGBT+ applicant to be treated as such. That dehumanising practice of assuming asylum seekers are lying must stop.
- The role of the asylum system is to vindicate peoples' right to seek asylum and to live in safety in Ireland, not to dehumanise people.
- The rights of the child and the protection of children in the international protection system must be a priority of the asylum system. And unaccompanied minors who turn 18 before receiving a final decision on their asylum claim must be supported to live independently, and not be shipped off to Direct Provision centres.
- Deportations are brutal and dehumanising can have no part of an ethical and human rights centred approach to asylum and migration. A lot of the people who are taking

sleeping tablets in Direct Provision struggle to sleep for fear that the next letter in the post could be a deportation order. We also believe that no child born in Ireland, in the asylum system or undocumented, should ever be served with a deportation order. The Minister for Justice and Equality can, should, and must introduce a scheme to regularise undocumented people in Ireland with long term residency for all children born in the State to non-EU parents.

- People seeking protection in Ireland are entitled to live an independent life with their families in accommodation that upholds the rights to privacy, dignity, and integrity of the person. The warehousing of asylum seekers in Direct Provision centres across the country, without certainty of time for stay, amounts to effective incarceration as many asylum seekers are divorced from the social, economic and political life of the country in the same manner as prisoners in Mountjoy Prison.

Our key recommendations are:

- Legal Process: The process of seeking asylum is first and foremost a legal process so it is essential that people receive all necessary legal advice and that the system is orientated towards vindicating peoples' right to seek asylum and to live in safety.
- Work: The right to work must be immediate and unrestricted for all people seeking protection in Ireland.
- Reception: People should be accommodated in reception for no longer than three months before moving into housing in the community.
- Direct Provision: Direct provision should be abolished and people seeking asylum in Ireland should have access to the same housing supports via their local authorities as is the case for others.
- Full and tuition fee free access to education and training at all levels must be available to international protection applicants.

We are human beings like you. All we ask is that we be treated as such. The very fact that people have to ask the government to treat them humanely should shame all of you.



- Thank you for the invitation to present to the Committee this morning.
- The Irish Refugee Council help people seeking asylum. We give information, provide early legal advice, help people to access employment and education, help young people and accommodate more than 70 people who have left Direct Provision through our housing project. We also advocate for improvements in the asylum process. It has been a consistent call of the Refugee Council that Direct Provision should end.
- Moreover, politicians across the spectrum, international bodies, other NGOs and most importantly people living in Direct Provision have called on it to end.
- There are countless articles, reports and testimonies of what is wrong with this system.
- The fact that Geoffrey Shannon, the special rapporteur on child protection, has called on Ireland to abolish Direct Provision and that the Ombudsman has said it is not a suitable long-term solution for those waiting on an asylum claim, should alone be enough to bring about wholesale change. Direct provision is already a chapter in Ireland's long and dark history of institutional living.
- Unfortunately, we believe the system has worsened in recent months, particularly in the context of emergency centres. A grave concern we have is that the short term emergency situation becomes entrenched and the makes the implementation of change harder.
- If Direct Provision ends, something has to go in its place. The bottom line of a new system should be own door accommodation, the opportunity to cook for oneself, to live in a community.
- We think this new model could be agreed upon quite easily. And, from discussions with the new head of RIA, I do believe they are open to real change. However we believe the bigger challenge lies in how that new model is delivered. We are very doubtful that existing providers can deliver that model nor can the current procurement process.
- The system is broken, and it's costing too much for too little – we know that it needs to change. So how do we get to a new system?
- Firstly, we should consider accommodation of people seeking asylum a housing

issue. Not to draw from existing funds for housing but to take a housing policy approach. The Department of Justice is not equipped to design policy like this and it should not lie with them.

- Secondly, we should use the budget that exists but to do so more strategically. The government has built only three accommodation centres in 18 years. The majority of existing centres were originally designed for other purposes. The State should procure fit-for-purpose accommodation to meet particular needs. This will be a cost-saver in the long term. Aidan O'Driscoll, Director General of the Department of Justice and Equality said to this committee weeks ago that the spend on Direct Provision in 2019 will likely reach €95 to €100 million this year. In 18 years over €1.2 billion has been paid to private providers of accommodation. Spending money on providing people with asylum is a good thing, but it should be done strategically to the benefit of people and the public.
- Thirdly, and linked to this is fundamental criticism of the system so far has been that it has been reliant on for profit actors. Private providers are not social workers, or public servants: they can't and aren't meeting the complex social needs of the people living in their centres – that is a public obligation on the State.
- We have many housing in bodies in Ireland, that are non-profit, work to a particular mission and have different strengths and expertise. We believe that AHBs are best placed to provide accommodation.
- For this to happen the procurement process has to change: longer lead in time, longer contracts, funding for capital costs and a reduction in the number of people a body should accommodate. Current procurement models require any provider to accommodate 50 or people. The feedback we have had is that this risks replicating congregated living and it is difficult to procure buildings they may not be able to source buildings of this size.
- Fourthly, direct Provision isn't just about the bricks and mortar. Reduce delays in the system by giving resources to decision makers, increase legal aid at pre-decision stage so applications are better prepared. Make the right to work broader. Allow for integration from day one.
- Fifthly, there needs to be greater engagement on this issue from all Government departments. Moreover, the Department of Justice could work better within itself. Often the Department of Justice does not work in synchronicity. Six bodies: the International Protection Office (IPO), the International Protection Appeals Tribunal (IPAT), the Legal Aid Board (LAB), the Reception and Integration Agency (RIA), the

Ministerial Decisions Unit (MDU) of the Irish Naturalisation and Immigration Service (INIS), are all under the ambit of the DOJ but they could work better. To give an example: the LAB isn't supported enough to ensure everyone has a well prepared applications to the IPO. This can mean more complicated appeals for the IPAT to deal with. If someone is recognised as a refugee then there are delays in the MDU which mean that people spend longer in the Direct Provision system which means the system becomes overcrowded which puts pressure on RIA. Even then there are not enough appointments so the person struggles to get an appointment to get a Residency Card. At each step, there are hurdles, requiring intensive interventions and supports. It doesn't need to be this difficult, but systemic change is key. There needs to be increased transparency and clearer channels of communication.

Our submission will go in to the above in more detail.

Thank you,

**Nick Henderson, Chief Executive Officer, 27.05.2019**



## **Statement by Dr Liam Thornton, Oireachtas Committee on Justice and Equality**

### **Direct Provision**

**Wednesday 12 June 2019**

I thank the committee for the invitation to discuss the system of direct provision in Ireland. I am an associate professor in UCD School of Law, and human rights legal obligations and the system of direct provision has been a topic of my published research for some time.

I have provided the Committee with a full submission, and just wish to highlight some of my key recommendations which I invite the Committee to consider. These include recommendations on: better respecting and protecting the right to work; recognising direct provision as a gross violation on the rights of the child, and indeed all persons subjected to this system; increases to direct provision allowance/daily expenses allowance and the rights of aged out separated children.

The system of direct provision is one that sets human rights at naught, that destabilises and impacts negatively on the rights of the child, the rights of families, and the rights of individuals subject to this system.

Established as a system that was intended to last no more than six months, we now have a system of institutionalised living that will last for many international protection applicants for many years.

The role of law and State administration to date as regards catering for the needs of persons within the international protection system is one that rejects international protection applicants as being holders of human rights. The State's approach to international protection applicants has sought to justify years of institutionalised living, years of the inability to do something as simple as decide what to eat and when to eat. Years of having to live in hostel style accommodation, with little to no say who you can or must interact with. Years of children never seeing their parents or guardian's prepare a meal, under the watchful eye of accommodation manages.

What value is the phrase human rights, where the right to decide the most intimate and basic aspects of one's life is withdrawn for years on end. Convicted of no crime, international protection applicants are segregated from Irish society, and condemned to live a half-live.

That so many other countries in Europe treat persons seeking international protection considerably worse than Ireland is no justification for Ireland refusing to respect, protect, vindicate and fulfil the full array of human rights which international protection applicants have under our freely accepted international human rights legal obligations.

Based on my analysis of the law, policy and administration of the system of direct provision, I have concluded that the direct provision system is not fit for purpose. The system of direct provision should be abolished. Alternatives to the system must respect, protect, vindicate and fulfil all human rights, civil, political, economic, social and cultural, while persons within the international protection system have their claims for international protection assessed. Failures in state administration for timely determination on international protection claims are no defence to rights violations.

As stated so convincingly, and with Ireland's support, the Vienna Declaration on Human Rights confirms that,

“[r]espect for human rights and for fundamental freedoms **without distinction of any kind** is a fundamental rule of international human rights law.”

Replacing direct provision may not happen overnight, there will be cost implications, as protecting human rights is never cost free. However, from nearly twenty years of testimony on lived experience of international protection applicants and human rights-based research, once thing is clear: direct provision was and is a gross breach of the most fundamental human rights we all should have- the right to dignity and respect.

Thank you.

**END**

# CHILDREN'S RIGHTS ALLIANCE

## Opening Statement to the Joint Committee on Justice and Equality on direct provision and the international protection process

12 June 2019



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**1** Children's Rights Alliance (2019) *Submission to the Joint Oireachtas Committee on Justice and Equality on direct provision and the international protection process*

## Opening Statement

The Children's Rights Alliance unites over 100 members working together to make Ireland one of the best places in the world to be a child. We change the lives of all children in Ireland by making sure that their rights are respected and protected in our laws, policies and services. We welcome the opportunity to present to the Joint Oireachtas Committee on Justice and Equality. We will focus this statement on Direct Provision but we have included information on the international protection application process in our longer submission to the Committee.

Every child should be free to enjoy their rights without facing discrimination of any kind irrespective of their race, national or ethnic origin or other status.<sup>i</sup> Children outside their country of origin seeking refugee protection are entitled to appropriate protection.<sup>ii</sup> In 2016, the UN Committee on the Rights of the Child called on the State to bring its 'asylum policy, procedures and practices into line with its international obligations' and ensure asylum seeking and refugee children have the 'same standards and access to support services as Irish children'.<sup>iii</sup>

There are 38 Direct Provision accommodation centres nationwide. Of the 6,000 people in Direct Provision, 1,724 are under 18.<sup>iv</sup> Over the past four years, efforts have been made to improve the system and to implement the recommendations from the McMahon report.

### Direct Provision Payment

In a welcome development, Budget 2019 increased the rate of the Direct Provision allowance for children from €21.60 to €29.80 per week in line with the McMahon Report recommendation.<sup>v</sup> However, at the time of the McMahon report, the recommendation equated to the rate of Qualified Child Increase (QCI) but this has since increased to €34 for under 12s and €37 for over 12s.<sup>vi</sup> Children in Direct Provision cannot access other social welfare supports like Child Benefit. The introduction of the right to work for people in the protection process after nine months means that some parents may have access to supports like the Working Family Payment to supplement a low income from employment but it is not clear how many people, if any, are receiving these types of supports. To ensure equality between children living in Direct Provision and other children living in Ireland, the Children's Rights Alliance recommends that the Government conduct a review to assess the specific social protection needs of children in the Direct Provision system and make recommendations on how to lift these children out of consistent poverty.

### National Standards for Direct Provision Accommodation

Another positive development since the McMahon Report is the forthcoming publication of National standards for Direct Provision accommodation which are essential to ensure refugee and asylum seeking children receive a consistent standard of high quality care in all centres, to improve quality, challenge underperformance and provide oversight.<sup>vii</sup> The draft standards contain a number of encouraging child-specific provisions including providing families with child-

friendly accommodation that ‘respects and promotes family life and is informed by the best interests of the child’.<sup>viii</sup> Importantly the Standards refer to own door accommodation. Ideally an alternative to Direct Provision reception accommodation would involve own door accommodation in a cluster-style development with care staff onsite. The draft standards also included indicators regarding the provision of nappies, wipes and lotions<sup>ix</sup> and appropriate accommodation informed by the needs of residents<sup>x</sup> both of which are essential for new and expectant mothers. The finalised Standards are due to be published in the coming months and we look forward to seeing them in place. They should inform contractual obligations with accommodation providers so that non-observance may, if necessary, lead to sanctions.

### ***Independent Inspectorate***

For the ‘National Standards’ to have a real impact on families and children living in Direct Provision they must be accompanied by a robust, independent monitoring and inspection system. Without this, the standards will lack the necessary oversight to achieve meaningful change. The combination of standards and unannounced inspections will ensure a consistent quality of care across every accommodation centre.

Inconsistencies can then be identified and addressed in a systematic manner. The Children’s Rights Alliance believes the Health Information and Quality Authority (HIQA) is the most appropriate body to undertake the inspectorate role as it already enjoys public confidence and has the skills, knowledge and expertise necessary to effectively monitor and review the implementation of standards. It is also the most cost effective solution given its existing infrastructure and systems.

### ***Child Protection and Welfare***

#### ***Child Protection and Welfare Strategy***

Families from a refugee or asylum seeking background often need support to deal with trauma, adapt to unfamiliar parenting styles, find new supports in place of their traditional community and family supports and, adjust to new family roles and the influences of a new culture.<sup>xi</sup> Parents in Direct Provision accommodation have reported feeling that their ability to nurture their children’s development has been undermined<sup>xii</sup> and that they have felt disempowered by regulations in the centre.<sup>xiii</sup>

In 2015, HIQA raised concerns about the significantly higher child protection and welfare referral rate to Tusla of children in Direct Provision compared with the general child population.<sup>xiv</sup> The McMahon Working Group recommended that Tusla, the Child and Family Agency in conjunction with the Reception and Integration Agency (RIA) develop a child welfare strategy within RIA to advise on policy and practice matters and to liaise on individual cases as required.<sup>xv</sup> RIA has published a Child Protection and Welfare Policy and Practice Document for Direct Provision accommodation centres which sets out the obligations under the Children First Act 2015.<sup>xvi</sup> However, a more detailed strategy is needed to focus on prevention and early intervention measures to support families and children living in Direct

Provision incorporating the Signs of Safety approach outlined in Tusla's own Strategy and link with local and community services including Children and Young People Services Committees and Child and Family Support Networks.

### *Child and Family Services Unit*

The Child and Family Services Unit monitors and implements RIA's child protection policy, provides training for centre staff, monitors child protection referrals and liaises with families, social work staff and centres to ensure support services are in place. The Child and Family Services Unit usually consists of a Child and Family services unit manager seconded from Tusla and two administrative staff. However, the manager role has been vacant since November 2018.<sup>xvii</sup> This means there has been no one in the Department with a social work qualification to provide vital oversight, guidance and advice to centres and staff regarding child protection and welfare. This position should be filled as a matter of urgency and the unit provided with additional resources to develop and implement a child protection and welfare strategy with a preventative focus.

### *Emergency Accommodation*

This vacancy in the Child and Family Services Unit and the lack of a child protection and welfare strategy is of particular note as there are approximately 300 asylum seekers including 80 children, accommodated in commercial hotels outside of the Direct Provision system. The Alliance has significant concerns regarding the safety and welfare of asylum seeking children accommodated in B&Bs and hotels as an emergency measure children given that these settings do not have a mandated person or a designated liaison person (DLP) for the purposes of the Children First Act 2015.<sup>xviii</sup>

### **Conclusion**

It is clear that the current Direct Provision system needs to be radically overhauled and transformed if we are to end the institutionalisation of children and families. This requires the provision of 'own door' accommodation for families where they can cook for themselves and enjoy family life as part of the community in which they live.

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i UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 2(1). ii *ibid* Art 22(1).

iii UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 66

iv Minister of State for Immigration, Integration and Equality, David Stanton TD, Parliamentary Questions, Written Answers, 8 May 2019 [19277/19]. v Department of Employment Affairs and Social Protection, Budget 2019 (Welfare.ie 10 October 2018) <<http://www.welfare.ie/en/Pages/Budget-2019.aspx>> accessed 14 May 2019.

vi *ibid*.

vii Michele Clarke, *Briefing Paper on the Inspection of Direct Provision* (Department of Justice and Equality 2015) 7. viii DJE, *Draft National Standards for Direct Provision Centres: Public Consultation* (DJE 2018) standard 4.4.

ix *ibid* 41.

- x *ibid* 31.
- xi K Lewig, F Arney and M Salveron, *The Working with Refugee Families Project* (University of Australia 2009) 13.
- xii H Uchechukwu Ogbu, B Brady & L Kinlen (2014) 20:3 'Parenting in Direct Provisions: Parents' Perspectives Regarding Stresses and Supports' *Child Care in Practice* 267.
- xiii L Moran, S Garrity, C McGregor & C Devaney (2017) 'Hoping for a better tomorrow: a qualitative study of stressors, informal social support and parental coping in a Direct Provision centre in the West of Ireland' *Journal of Family Studies* 5.
- xiv Health and Information Quality Authority 'Report on inspection of the child protection and welfare services provided to children living in Direct Provision accommodation under the National Standards for the Protection and Welfare of Children and Section 8(1) (c) of the Health Act 2007' (25 May 2015) <<http://bit.ly/2jVdCui>>
- xv Department of Justice and Equality, *Working Group to Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers* (2015) para 4.199.
- xvi Department of Justice and Equality, Child Protection and Welfare Policy and Practice Document for Reception and Integration Agency (RIA), Irish Refugee Protection Programme (IRPP) and Accommodation Centres for persons in the International Protection process under contract to the Department of Justice and Equality (DJE, 2018). The policy aims to guide the Designated Liaison Person (DLP) on dealing with child welfare and protection concerns specifically arising in accommodation for refugee and asylum seekers. The policy requires two DLPs: one in RIA's Child and Family Services Unit to ensure that child protection and welfare procedures are followed and to keep appropriate records; and a DLP in the accommodation centre responsible for reporting child protection or welfare concerns to Tusla and to the DJE.
- xvii Communication received by the Children's Rights Alliance from the DJE, 24 January 2018. xviii Irish Statute Book, 'Children First Act 2015' s 15.



## Opening Statement to the Oireachtas Joint Committee on Justice and Equality hearing on Direct Provision and the Protection Process

**I would like to thank the committee for inviting us here today to address these critical issues. Nasc is an NGO and a charity that works with people seeking protection – refugees, migrants and their families – to realise and fulfil their rights. Nasc runs a free legal information and drop-in service that supports 1,300 people annually and we deliver outreach to the direct provision centres throughout the country of Cork. Nasc was also a member of the Working Group on Direct Provision and the Protection Process and a member of the Advisory Group established to develop National Standards for Direct Provision.**

**I welcome the fact that the committee are examining both our asylum reception system – Direct Provision – and also the protection process, as the two are inextricably linked and cannot be viewed – or repaired – in isolation. Given the breadth of the Committee’s remit on the issues and the limited time available, I will focus on a few key issues and recommendations that have emerged based on our 19 years’ experience working with protection applicants and other NGOs on these issues.**

**The journalist Masha Gessen had a piece on Direct Provision in The New Yorker magazine last week entitled “Ireland’s Strange, Cruel System for Asylum Seekers”. In fact, most Irish people would not find it strange that the Irish state’s chosen model of reception for people seeking protection is one of institutionalisation. Historically we have always institutionalised, excluded and contracted out the care of vulnerable adults and children. It is clear from listening to the powerful testimonies from members of MASI at the last hearing that our for-profit, institutional model of reception fails to respect the human dignity of asylum seekers in Ireland. Our current reception system takes an “out of sight, out of mind” attitude, leading to the systematic and structural othering of people seeking protection.**

**It must also be acknowledged and welcomed that there now exists a real openness within the Department of Justice and in some political quarters to radically change our overall**

protection system. This is building upon a number of important positive changes that have already been made in recent years including: opting into the Reception Conditions Directive, which puts our reception system on a statutory footing for the first time and provides additional remedies and protections for applicants including a vulnerability assessment; the granting of open access to the labour market for protection applicants who have not had a first instance decision on their application within 9 months; the development of National Standards, which when implemented will apply to all accommodation centres; the increase of the weekly allowance to €38.80 for adults €29.80 for children. Notwithstanding these improvements, serious structural and systemic issues still remain and will continue to prevail for as long as we retain the current institutionalised for-profit model of asylum reception.

Many of the underlying issues caused by for profit institutionalisation and lack of oversight or accountability remain. We recognise that dismantling a system that has been imbedded for almost 2 decades is challenging and will not happen overnight. However, there are a number of critical steps that urgently need to be taken to begin to move us towards a protection and reception system that respects the fundamental human rights of protection applicants.

Firstly, delays in the determination process have been a constant feature of our protection process. The current median wait time for processing of applications now stands at 15 months. This is a long way off the promised 6-month wait time originally cited when the International Protection Act 2015 was enacted. In our experience, the wait times with no upper limit is one of the primary issues raised to us by applicants. Additional staff and resources must be allocated to the International Protection Office (IPO) to ensure that they can deal with the applications on hand at any one time in a timely, efficient and well-informed manner.

Secondly, Chapter of 3 of the McMahon Report, which deals with the determination process, provides a number of very clear, unanimously agreed, but yet to be implemented recommendations aimed at improving the process. These include: consideration of introducing a rolling system whereby all persons in the protection system for 5 years or more should be granted a protection status or permission to remain if they have cooperated with the process in line with statutory obligations; an annual

review of the system, with a view to make recommendations to guard against any future backlogs; introducing mechanisms to regularly review the quality of decision making. The Civil Legal Aid Board must also be properly resourced to ensure that applicants have access to effective early legal advice. As was demonstrated in the McMahon Report, a reduction on processing times and improvements to the decision-making process not only benefits protection applicants, but in the long run will result in cost savings to the state. These recommendations were developed in conjunction with the multiple Government Departments and were unanimously agreed as significant steps to improve the protection process – they must now be implemented in line with the McMahon Report.

In addition to implementing the above recommendations, with regard to short to medium term improvements to the material conditions for those living in the current system, we call upon the Government to introduce with immediate effect the vulnerability assessment which is provided for under Article 21 of the Reception Conditions Directive. This obligates Member States to take into account the special reception needs of vulnerable applicants. This is a legal requirement and not an optional extra. We would also recommend that the National Standards are published and implemented and that an appropriate, independent authority such as HIQA be appointed as the inspectorate to implement the standards. In line with the McMahon report all families should have their own private living space and adequate cooking facilities must be installed in all centres.

I would now like to turn to the longer-term changes that need to be made to create a protection system that is reflective of the key tenants of a modern democracy, a system that respects privacy and human dignity. We fully agree with the Irish Refugee Council's recommendation that responsibility for the provision of reception to protection applicants should not be under the aegis of the Department of Justice as their expertise does not lie in the provision of housing and social care. A housing policy approach needs to be employed. A cross-governmental response is needed as the issues that need to be addressed are multifaceted and cut across a number of Government Departments. Similar approaches are commonly employed by other jurisdictions such as Canada and Australia to address key social issues.

We need to move from our current reliance on private accommodation providers and create the conditions upon which Approved Housing Bodies with expertise in the provision of housing and social care can provide suitable self-contained accommodation for protection applicants. This will require changes to the tendering process and to Social Housing Funding streams to allow for a variety of accommodation types and a move away from institutional settings. The State should also build fit for purpose self-contained housing units. The accommodation provided must be a blend of independent and supported living to cater for the needs of all applicants. Requisite supports should be provided to all protection applicants.

Finally, it has now been 4 years since the publication of the McMahon Report and like most reports, compromises were made on both sides to achieve consensus. While by no means perfect, the report contains clear and important recommendations which, if implemented, would greatly improve the efficiency and effectiveness of our refugee status determination procedure, and would provide a good starting point for a more fundamental realignment of our protection and reception system. The lack of implementation of some key recommendations is why, four years later, we are here today. All the while the real human casualties of the Government's inaction are the men, women and children living in limbo waiting in a system that as Gessen cogently notes "boils the process of seeking asylum down to its essence: waiting".

Thank you and we would be happy to answer any questions you may have on our statement and our accompanying written submission.

**Fiona Finn**

**CEO Nasc, the Migrant and Refugee Rights Centre**

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Joint Oireachtas Committee on Justice and Equality – Hearings on Direct Provision and the International Protection Process

Opening Statement

Deputy Secretary General, Oonagh Buckley

19th June 2019

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Chair, Committee members,

Thank you for inviting the Department to participate in these important hearings on the Direct Provision system and the international protection process.

As members will be aware, under EU and international law, Ireland, like other countries, is obliged to examine the claim of any person who comes here and claims international protection under defined grounds. A person will be granted refugee status if it is shown that they have a well-founded fear of suffering persecution in their home country. Where a person does not meet the criteria under the Geneva Convention to qualify as a refugee, they will be granted subsidiary protection status if they would face a real risk of suffering serious harm if returned to their home country. A person who qualifies for neither refugee nor subsidiary protection status will have other humanitarian reasons to be allowed to stay considered by the Minister and may be granted a discretionary permission to remain in the State. The process of examining such applications is set out in the International Protection Act 2015 with first instance decisions considered by the International Protection Office and appeals determined by the International Protection Appeals Tribunal - both independent in the exercise of their functions in accordance with the Act. The processes in both offices have been designed with input from the UNHCR.

While an international protection claim is being examined, we offer accommodation and related services to anyone without means. This includes all meals, medical care and utilities. A weekly personal allowance is paid to each person and the Department of Employment Affairs and Social Protection cover exceptional needs. The Department of Education and Skills provides school places for children resident in the centres and children also have access to the free pre-school scheme, the Early Childhood Care and Education programme. The HSE provides mainstreamed health services to residents. It is a whole-of-Government approach to supports and services for applicants.

There is no obligation on anyone to accept the offer of accommodation and there is no restriction on the freedom of movement of applicants throughout the State. Any notion of incarceration of applicants is wholly misleading and risks stigmatising the residents.

The pressure our accommodation system currently faces is clear. The Reception and Integration Agency of the Department is accommodating 6,108 people in its 39 accommodation centres and a further 760 people are in emergency accommodation in hotels and guesthouses. The use of emergency accommodation is sub-optimal. It does not allow us to provide the full range of services to applicants that the 'traditional' centres provide. However, we must ensure that each person arriving today to claim protection, with no advance warning, tonight has shelter, food and any urgent medical care required.

Coupled with an increase in the number of people applying for protection in recent years is the large number of people with an international protection status or a permission to remain who continue to live in RIA accommodation. We have approximately the same number of people in this scenario as we have applicants housed in emergency accommodation. People with status or permission to remain have the same access to mainstream housing supports and services as nationals. We are working intensively with organisations like the Peter McVerry Trust, Depaul and the Jesuit Refugee Service to assist these people to transition to mainstream housing services but that is challenging in the current housing environment.

The Committee heard from Mr. Justice Bryan McMahon of the improvements that have been made to the system in recent years. Significant improvements have been made to the system to deliver real improvements for residents in living conditions and standards. Chief among these is the introduction of independent living. I understand that members of the Committee visited the Mosney accommodation centre last Friday, where they will have seen how independent living works first hand including the food hall where residents can obtain food and toiletries through a cashless, points-based system. Over half of all residents now have access to cooking facilities and our aim is to have all residents in commercial centres benefitting from independent living by the middle of next year. This will be achieved through our ongoing regional tendering process for the provision of accommodation. Successful bidders will also have to provide dedicated living spaces for families and teenagers, and greater facilities for recreation. Standards developed by an Advisory Group have recently been finalised and will be applied in all centres. Access to the labour market has also provided an important integration opportunity for eligible applicants. To date, the Minister has granted 2,633 labour market access permissions including 1,951 to Direct Provision residents. Residents also have access to the services of the Ombudsman and the Ombudsman for Children. Importantly, each centre also has a 'Friends of the Centre' Group. This initiative brings together residents, community and voluntary groups to increase integration opportunities and to provide support for residents by local communities.

The Department is engaged in its own review of the Direct Provision system. I Chair a High-Level Inter-departmental Group established to examine the current system and to report to the Minister. As part of this work, we are identifying any gaps in service provision, areas where we can strengthen existing service provision and supports, and may propose alternative options for the provision of services to applicants in the short and medium terms. The work of the Committee will be an important consideration for the Inter-departmental Group. As Minister Stanton has said previously, we would welcome proposals and tender responses from individual NGOs or groups of NGOs who want to work with us to improve the system. Indeed, we are already working with some NGOs to see how they can play a more active role in supporting residents.

While the system has provided a safety net for more than 60,000 individuals and families since its inception, there is, of course, room for improvement. These Committee hearings are timely and coincide with the work already underway in the Department. We have been following the hearings to date with interest and have listened carefully to the testimony of witnesses. We share many of the views expressed to you. The system of deciding on applications must continue to get faster and the improvements to living standards must continue to be implemented. Where we may differ is on how we get there and how quickly the protection determination process can be made, taking into account that this is a legal process, which requires full consideration of all aspects of each individual case. We are open to engagement

with all stakeholders to provide a system that is responsive to the needs of applicants, that treats applicants with dignity and respect and that continues to meet our international and humanitarian obligations to people seeking international protection on behalf of the State.

My colleagues and I will be happy to answer any questions that members have.



## Appendix 5 – Submissions

The Committee received a huge response to its public invitation for submissions on this issue. These have been compiled in a separate booklet that will be added to the Committee's homepage on [www.oireachtas.ie](http://www.oireachtas.ie)