

DÁIL ÉIREANN

AN COISTE UM ACHAINÍOCHA ÓN BPOBAL

COMMITTEE ON PUBLIC PETITIONS

Dé Máirt, 11 Bealtaine 2021

Tuesday, 11 May 2021

Tháinig an Comhchoiste le chéile ag 12.30 p.m.

The Joint Committee met at 12.30 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Pat Buckley,	Jerry Buttimer,
Cormac Devlin,	Gerard P. Craughwell,
Brendan Griffin.	Eugene Murphy,
	Fintan Warfield.

Teachta / Deputy Martin Browne sa Chathaoir / in the Chair.

Update on Direct Provision: The Ombudsman

Chairman: We have made every effort to negate the risk of the new variants of Covid-19 to members, witnesses and staff. I propose that we approve the minutes of the private meetings of 30 March 2021 and 29 April 2021, already approved in the virtual private meeting earlier. Is that agreed? Agreed.

I remind members of the constitutional requirement that members must be physically present within the confines of the place in which Parliament has chosen to sit, namely, Leinster House or the Convention Centre Dublin, in order to participate in public meetings. I will not permit members to participate where they are not adhering to this constitutional requirement. Therefore, any member who attempts to participate from outside the precincts will be asked to leave immediately.

Before we start, I wish to explain to the witnesses some limitations to parliamentary privilege and the practice of the Houses as regards reference they may make to other persons in their evidence. The evidence of witnesses physically present or who give evidence from within the parliamentary precincts is protected, pursuant to both the Constitution and statute, by absolute privilege. However, the witnesses are giving evidence remotely from a place outside of the parliamentary precincts and, as such, they may not benefit from the same level of immunity from legal proceedings as a witness who is physically present. Witnesses may think it appropriate to take legal advice on this matter. Witnesses are reminded of the long-standing parliamentary practice to the effect that they should not criticise or make charges against a person or entity by name or in such a way as to make him, her or it identifiable, or otherwise engage in speech that might be regarded as damaging to the good name of the person or entity. Therefore, if statements are potentially defamatory in regard to an identifiable person or entity, witnesses will be directed to discontinue their remarks. It is imperative they comply with any such direction.

An international applicant is anyone who is seeking international protection status, whether that is refugee status or subsidiary protection status. Direct provision is the means by which the State meets the basic needs, such as the need for food and shelter, of such protection applicants directly rather than through full cash payments while their claims for protection status are being processed. The system of direct provision was officially 21 years old on 10 April 2021. There have been many studies and reports on direct provision over the years, including two by parliamentary committees, the Joint Committee on Public Service Oversight and Petitions in 2015 and the Joint Committee on Justice and Equality in 2019. The Joint Committee on Public Service Oversight and Petitions recommended in May 2015 that the remit of the Ombudsman be extended to include the direct provision system. This was done in April 2017. We are here today to discuss the fourth commentary on direct provision from the Ombudsman, *The Ombudsman and Direct Provision: Update for 2020*.

On behalf of the committee, I extend a warm welcome to the Ombudsman, Mr. Peter Tyndall, who is accompanied by Mr. Sean Garvey, principal officer, and Ms Linda Joyce, assistant principal officer. I propose we publish the opening statement from the Ombudsman on the committee's website. Is that agreed? Agreed. I invite the Ombudsman to make his opening statement.

Mr. Peter Tyndall: I thank the Cathaoirleach for the invitation to appear before the committee. As he pointed out, the committee was very influential in the decision to ensure that my office had jurisdiction over complaints from residents in direct provision. As a consequence, it

is very useful to be able to report back to the committee on our work over the past year. I will not read out my opening statement in full as I believe members have had an opportunity to see it. I will just draw out a couple of principal points, if I might.

At the last meeting of the committee I attended, when the previous update on direct provision was considered, the committee was very anxious that my staff and I should engage in unannounced visits. At that time, we agreed to do so. The potential for any visits has been severely limited because of Covid. That is one of the major themes of the report. We did, however, begin the process of unannounced visiting and we will continue with it once it becomes possible for us to extend the number of visits we undertake to direct provision centres and to people staying in emergency accommodation, which has been one of the major themes we have had to address in the course of the last year.

The pandemic had a major impact on our ability to visit centres. I have always said to the committee that we recognise that it would not be terribly effective to expect people to come to us with their complaints. Although we have implemented a series of measures to enable people in centres to bring their complaints to us during the pandemic, there has been a fall in the number of complaints during the year. We are convinced that this is directly linked to our capacity to visit centres. People are sometimes much more willing to come and speak to us in person. Even though we have made arrangements for Zoom calls and the like, the take-up has been lower. We are very anxious to get back on the road again and we will do so at the earliest possible opportunity.

The other things to highlight have been the change to a new Department and the White Paper on the ending of the direct provision system. We were not entirely persuaded by the findings of the review of direct provision in respect of housing accommodation. We made that quite clear when we had the opportunity to meet with Ministers to discuss the proposals. The proposals in the current White Paper are more realistic. We are hopeful that we will see a gradual transition to a system of own-door accommodation. It is a point the committee will have heard me make on more than one occasion that it is very important that people should not be sharing accommodation with people to whom they are not related or with whom they have no other links. The issue for all of us will be to ensure that happens with sufficient pace so that, first, we can see an end to the use of emergency accommodation and a transition away from the direct provision centres with the fewest self-contained facilities and, eventually, a move away from direct provision altogether over a period that is not too lengthy.

Another point discussed as part of all of this is the lack of access to any oversight of the administration of the international protection process. It is entirely proper that decisions about granting or not granting citizenship are executive matters. They are not matters of administration, but the administration of the system has proved a source of great frustration to many people who have been seeking asylum or refugee status. I am encouraged that the proposal is now there so that my office should be able, as is the case with ombudsman offices across Europe and more widely, to look at the administration of the protection system. Those were the points I wanted to highlight and I am happy to take questions.

Chairman: This meeting is two hours. I ask members to keep to slots of five or six minutes. We should be able to get all contributors in and have time for a second round of questions, if needs be.

Mr. Tyndall spoke of how his outreach programme worked well until the pandemic affected his ability to travel. He noted that the best engagements had been face-to-face engagements

with the people in these centres. Does he have any concerns that the fall off in the number of complaints does not necessarily mean there are fewer complaints but that it is more difficult to report them? I set that against the background of the report on the safety and welfare of children in direct provision by the Ombudsman for Children's Office which makes for upsetting reading. It speaks to the reluctance to complain and the concerns that were highlighted. Is it Mr. Tyndall's view that concerns that are believed to be there are going unsaid or unreported? If so, does the Department's White Paper go far enough to deal with the issue in a prompt manner? Have we an accurate overview of the whole system?

Mr. Peter Tyndall: We are absolutely convinced that very many people within the direct provision system and in emergency accommodation are reluctant to complain. This is for a variety of reasons. They may also find it difficult to complain, which is a separate issue. First, many of the people do not have English as their first language. They do not necessarily have huge faith in the State because of their experiences. Many of these people are fleeing from very challenging circumstances and so gaining their trust is an issue. There is also an important concern in that people believe that complaining might have a negative impact on their application to remain in the country. When we are able to meet people in person we can address all those issues.

One final reason I want to pick up on is the lack of knowledge of the way one goes about making a complaint beyond the direct provision system. Although we make our information available, make sure it is displayed, that it is in a variety of the most common languages and so on, being at the centre and being able to talk to people is by far the best way to address their concerns. We can reassure them that their complaint will not impact on their application to remain. We work, often with the help of NGOs or others, or perhaps with other colleagues in my office, on being able to speak to them in a language in which they are more comfortable. It is the simple ease of access of having someone there. We do two kinds of regular outreach, one in respect of direct provision and the other where we simply have someone taking complaints in citizens' information centre offices in Cork, Limerick and Galway every month. We find there are many people, even people who are not at the disadvantage of being in direct provision, who prefer to simply come and talk to us. People come and talk to us in the office in Dublin too. With all the disadvantages of direct provision, clearly making oneself available is the best way to deal with it.

While Mr. Garvey is properly here in suit, collar and tie and Ms Joyce is dressed for committee, we try to dress informally when we go to the centres to be as unintimidating as possible and to make it easy for people to talk to us. We publicise the visits in advance. We have also been providing opportunities for people in emergency accommodation to come and talk to us. We work with NGOs, both national and local.

Yes, we have seen a fall-off in the number of complaints and I am absolutely convinced that it is not because there are not an equivalent number of complaints, although in our commentary we highlighted a couple of areas, particularly around people being able to prepare their own meals and so on, where we had many complaints which have been addressed in many centres. We would have expected some reduction in certain kinds of complaints.

We have had complaints specific to the current Covid pandemic but that is a different matter. I think our complaints will go up again once we are back on the road, which we hope will be in early autumn at latest.

Chairman: Deputy Devlin said he needs to go shortly, so with Deputy Buckley's agree-

ment, I will invite him to come in.

Deputy Pat Buckley: That is absolutely fine by me.

Deputy Cormac Devlin: Thank you very much.

I thank Mr. Tyndall, Mr. Garvey and Ms Joyce for their attendance today. I compliment Mr. Tyndall's on the update produced in March. It was very comprehensive and extremely informative, considering the committee's concerns. I was on the Special Committee on Covid-19 Response last year. Mr. Tyndall appeared before the committee and discussed many of the issues surrounding the residents in direct provision centres and their concerns in the face of the pandemic. It is evident from the Ombudsman's report today that there are ongoing complaints of different nature. What was the No. 1 complaint received by the office over the past few years, pandemic aside? Chapter 2 of the update raises issues such as driver licences, bank accounts and complaints about various Departments. Will Mr. Tyndall elaborate on the extent of those problems and why they exist?

Mr. Tyndall said there were 61 complaints in 2020, down 60% from 168 in 2019. I heard what Mr. Tyndall said about being physically present. He highlighted signage and advanced notice being given in various languages, Arabic, French, Russian, etc., which is welcome. Will Mr. Tyndall give a broad outline of the number of and the biggest complaints and how they can be resolved?

Mr. Peter Tyndall: I will turn to Mr. Garvey for some more fine-grained information.

The complaints have changed over time. As to the top element of complaints, early on, there were an awful lot of complaints about food, for instance, the unsuitability and inappropriate nature of the food being provided. As we saw the move towards more self-cooking facilities, that has probably diminished as a major complaint.

Consistent throughout is the issue of transfer, for a whole variety of reasons. This has become particularly acute during the pandemic, and Mr. Garvey will talk to that shortly. People want to transfer to be near particular medical facilities or to be near particular family members who may already be in the State. For example, we have just been dealing with a complaint where a couple want to be transferred so they can be in the same centre. Transfer is a particular issue.

We also get complaints, as the Deputy mentioned, about access to other Government services, and healthcare was one where we were very actively engaged with the HSE. For example, some of the centres were in areas where there is simply no availability on the lists of GP practices, so we have had to work quite hard to make sure people were not being denied access to appropriate healthcare.

I should have said that transfers also relate to education issues, where people have access to a course and want to be near it. That is the transfer issue.

The Deputy mentioned some very particular issues but those two would be the issues I would see as being particularly significant in terms of numbers. Mr. Garvey can add to that. The issues around things like driver licences are ones we have been raising and have raised at ministerial level, and we are seeing movement on all of those long-standing ones. Some of them are very difficult to resolve because of the legislative requirement for a fixed address. Bank accounts definitely fall into that category, as does access to medical cards. Sometimes

legislation has had to be amended. We are looking at changes to the current road traffic legislation to enable people to drive because, from an employment point of view, that is particularly important.

We found that a couple of the measures reduced complaints dramatically. I spoke about cooking and the other, of course, was the right to work. With people being able to work and being able to prepare their own meals, we noticed a change in morale in the centres in that it did not feel so bleak for people under those circumstances. We are continuing to work on this. Bank accounts are problematic. The State properly has anti-money laundering legislation and that makes it very difficult to open a bank account for many people, and it becomes impossible if people do not have a fixed address because they are in the direct provision system. Explorations are under way to find a way around that and I am optimistic they are coming to a satisfactory conclusion.

I want to go back to something the Chairman said because I should have picked it up earlier. We were very aware of the concerns of the Ombudsman for Children and his report was very powerful. We would also have had complaints from the other end, with families complaining about lack of access to facilities and, where we can, we have helped out with that. We work very closely with the Ombudsman for Children and where a complaint is more appropriate for one or the other of us, we transfer it promptly. When my staff are in the centres and they get a complaint about a children's issue, they will help that person and make sure that complaint reaches the Ombudsman for Children so it is not lost.

Mr. Garvey might want to come in on the volume of complaints and what the most common ones are.

Mr. Sean Garvey: As Mr. Tyndall said, I will fill in some of the fine grain. We got 41 complaints against the International Protection Accommodation Service, IPAS, in 2020, and 25 of those related to transfers. As Mr. Tyndall said, there are a number of different scenarios through which people seek transfers. IPAS has been operating a policy but given the volume of people in centres, and what is quite a high volume of people looking to move from one centre to another, it takes the view that priority cases should be the ones most likely to move. We do not have an issue in principle with the idea that people who have more pressing circumstances should be the ones who get a move, possibly even ahead of other people whose circumstances may be less pressing. Mr. Tyndall cited, for example, access to education, medical services, training, educational opportunities and family reunification as being among the priority circumstances that IPAS would look at. In situations where people's requests for transfers have been turned down, where the requests have been in these areas, we have succeeded in getting IPAS to overturn decisions. For example, of the 25 transfer cases that were dealt with in 2020, eight were refusals that we got overturned when we engaged with IPAS.

We have had a couple of new scenarios in 2020 in regard to transfers. Mr. Tyndall highlighted the particular case of two people who had formed a relationship after they independently arrived into direct provision and they wanted to be accommodated as a couple. Following our intervention, we are happy to report that has since happened. There was another scenario where a woman was in a centre with a child, but her partner, who had been a resident of direct provision, was at that point living in the community with status. She sought a move to a place which was closer to him for family reunification purposes. That had been refused but that decision was reversed following our engagement.

Mr. Tyndall mentioned that one of the more significant sources of complaints was food and

catering. That has significantly diminished over the past two years. While the wider move to the provision of own-door accommodation in the context of the White Paper is now, hopefully, starting to accelerate, over the last couple of years there has been a significant move within congregated settings to provide people with self-cooking facilities and a residents' shop where produce of the residents choosing can be got. Where we have visited centres, without exception, the residents have commented on how valuable they have found that and how independent it has made them feel to be able to select ingredients and prepare food of their own choosing. That has resulted in a significant reduction in the volume of complaints relating to food.

They would be the main sources. As Mr. Tyndall said, in the last two or three years, we have had a number of complaints relating to delays in people getting medical cards and PPS numbers, in particular. We have engaged with the Department of Social Protection and the HSE and, following that engagement, their processes for dealing with protection applicants getting access to those services has accelerated. That has resulted in a reduction in the number of complaints from those sources coming to us.

They would be the main subject areas or topic areas of complaints. I reiterate what Mr. Tyndall said on the reduction from 168 complaints in 2019 to 61 in 2020. I share Mr. Tyndall's confidence and belief that it is not a case of people having fewer issues but that, where people have issues, they are not reaching us. As Mr. Tyndall said in his opening remarks, we have provided facilities for people to reach us through Zoom meetings. We had scheduled 11 visits to the centres before the latest round of travel restrictions prevented us from doing them, and we facilitated those 11 meetings remotely. However, the uptake was considerably lower and we had a total of seven people across ten centres contacting us, whereas, at the one centre we managed to visit before the travel restrictions were reimposed, nine people reached us. That is an indication of the most successful way for us to engage with residents and, clearly, residents feel most comfortable engaging with us if it is face-to-face.

We have also found that our engagement with centre management on those visits has been very fruitful. Quite often, there are centre-specific issues where people are concerned or are not happy with certain things within centres. We have found frequently that the core issue is communication, whether a lack of it or a mix-up in communication. As Mr. Tyndall said in his opening remarks, some people are simply reluctant to complain. They feel that by complaining, either their protection application will be compromised or their day-to-day treatment in the centre will be compromised. We have been doing this for nearly four years and we have not found any evidence of anybody being disadvantaged as a result of complaining but there is fear of it and it is articulated to us. As Mr. Tyndall said, and this works better in a face-to-face context, we try to reassure people that if they complain, it is their right to do so.

We have not seen any incidents of people who have complained being disadvantaged, either through their protection application or through their situation centre. Those are the main issues that have come to us through the year. The trend is for fewer centre-specific issues as the current programme of provision of self-cooking facilities and a residents' shop for getting produce is rolled out. That leads to an in-house reduction in complaints and externally, as Mr. Tyndall said, the right to work has made a significant change, since people can finance more independent aspects of living and so on. That was an issue in complaints raised with us too.

Chairman: I thank Mr. Garvey. Before I call Senator Buckley, Senator Gerard Craughwell apologies. He has to leave. He wants to thank the Ombudsman, Mr. Garvey and Ms Joyce. Senator Buttimer is in the convention centre and is in and out, so sends apologies too.

Deputy Pat Buckley: I thank Mr. Tyndall, Mr. Garvey and Ms Joyce. I have a question for Mr. Tyndall about unaccompanied visits, which I welcome. In my last position, I was an advocate for mental health services. The unannounced visits seem to bear more fruit. I agree about the number of complaints before Covid compared with now. I am well aware of that because I have been speaking with NGOs and people in the centres. The White Paper is substantial, with more than 170 pages. There is a lot in it. I hope it is not only aspirational. I welcome the movement from the private sector to NGOs. It should work better since it seems to be more empathetic, with people who are in it for the job and not for the profit, so profit does not drive things.

The witnesses mentioned the complaints mechanism, specifically in the direct provision update for 2020. Regarding mental health, many people who enter direct provision are quite possibly suffering from post-traumatic stress disorder, PTSD, because they have come from conflict of one kind or another. My worry relates to the overlapping issues of when they come in, from feeling unsafe to an environment where they are afraid to complain or, worse still, they are afraid to ask for help because it puts extra pressure on management or staff and they are dismissive. It is a problem. I have been dealing with a number of cases where people have been hospitalised as a result of mental health issues and they have been penalised when they have come back into the direct provision setting. I am dealing with one or two at the moment. How do I get that complaints mechanism to assist those people?

Mr. Garvey spoke about another matter. In many cases, we find that a common sense approach seems to be lacking. If a couple is together but they are not together, with one in the community, the obvious thing is to make them a family unit. It progresses everything. How does one move that on?

There is a final matter I want to address. The witnesses touched on the matter of work, driver licences and social protection, the fact different families should not be living in the same rooms and cooking facilities, which are all niggling problems. There is possibly much anger as people are saying that while these people can be moved out of enclosed conditions into communal living, we cannot afford to put our own people into social housing. How does one find where the balance lies, and I will not say for selling it? I have seen Government reports and they have been shelved. It all sounds great on paper and it is a great plan but nothing is driving it. I am excited about the power the witnesses' office has. It is great to engage with the Ombudsman because there must be more of this and more collaboration. We are here today to try to do the right thing. Let us be realistic in that we will not sort everything out overnight but how can we address the main concerns when people come from a difficult situation and are dropped in to another difficult situation but are not in a position to tell the truth?

As mentioned, Zoom is not the same as person-to-person contact. One cannot read people's faces or the emotions in their eyes, whether they are telling the truth or whether they want to tell more. Is there a plan to accelerate that? I know there is much in it but I did not want to miss the opportunity to get this across. There are great people working here, such as the NGOs, which are brilliant and are volunteers in the centres. They want to do the right thing but when they come to us for help, we are stuck. They cannot go to management because management might be involved or to the corporate body because this gang is involved in it. Is there a direct route to the Ombudsman or to the Garda Síochána? If one involves the Garda Síochána, that escalates the problem again. Are the people punished for that? We will not mention protected disclosures because that is another box of frogs, as I call it. It sounds great until one gets to the final point and then one cannot check to see if it is resolved. Is there an endpoint for safeguarding everybody when it comes to these kinds of complaints? I know I raised a lot of issues and

I apologise.

Mr. Peter Tyndall: The Deputy will have to remind me if I miss any points in the response. I will get Mr. Garvey and Ms Joyce to speak more about mental health issues and complaints. The reason for doing annual commentary is to make sure that things do not get lost. It is all too easy to look at a complaint, to close the subject matter in that complaint, to treat it as a one-off event and then forget about it, or to deal with a series of complaints, to get some progressive legislation in response to them, and then not watch to see whether what is promised is delivered. To give an example, with the self-cooking facilities, by going out and checking, we could see whether it was happening or not. It was not an academic point. It was not something we stopped thinking about at the point at which a decision was made to fix it. We kept doing it.

The usefulness of an Ombudsman lies in a couple of respects. First, one can let the voices of the people themselves be heard. We do that through providing the case studies within the reports. It brings to life some of the individual circumstances of people. That is quite important. One has to anonymise them to protect the individuals. If one cannot see people as people then one has problems. I will come back to the housing issue in a moment.

Regarding what one can do if a complaint is not being resolved locally, many Deputies and Senators bring complaints to my office. We are more than happy to take complaints from Deputies and Senators acting on behalf of individuals in direct provision. We generally operate two things. The first is that we ask people to complain to the provider first. The second is that we ask that if a person is acting on behalf of another, that consent to that has been given. However, importantly, if issues arise where, for the reasons the Deputy described, it would be inappropriate to bring the complaints to the centre, we have discretion to accept them or to bypass the centre. We have discretion to accept such complaints in appropriate circumstances. It is occasionally the case, for example, that a person has genuine fears a complaint regarding a nursing home would impact on the treatment of his or her family member in the home. In such circumstances, we can take a complaint directly. We are not normally the first stop for complaints because we simply could not deal with the volumes we would get but, where circumstances require it, people can come directly to us with complaints.

We can deal with complaints about any public body, broadly speaking. The exceptions are quite narrow. We can pick up issues around healthcare, such as ancillary issues affecting people. Although matters such as banking are not in my jurisdiction and are clearly within the remit of the Financial Services and Pensions Ombudsman, if people complain to us about those matters, we will pursue those complaints anyway and have done so in the past. Some of those in the ombudsman community state that one's powers are what one makes of them until one is told to stop. If the law is on the side of the person or body telling one to stop, then one will probably be forced to comply. In general, we try to engage with people on their issues and raise those issues on their behalf where we can.

I am not especially familiar with the particular issue the Deputy raised regarding problems people have had on return from having received care in hospitals. We are well familiar with the issue of people having problems accessing healthcare. I will ask Mr. Garvey and Ms Joyce to address that briefly from their perspective.

Mr. Sean Garvey: As Mr. Tyndall stated, we are not familiar with the issue of residents facing issues coming back into centres having had treatment, be it mental health treatment or other treatment. That has not been brought to us. What we have seen is, as Mr. Tyndall noted, people having difficulties accessing appropriate health services, including mental health ser-

vices. What we do in such cases is to attempt to link that person in to his or her appropriate treatment. We succeeded in so doing in several such cases. However, we have not encountered the particular scenario of people who, having received treatment, come back to centres and are in some way disadvantaged. I am not for a second saying it does not happen, but it has not been brought to our attention as yet.

Chairman: Is Deputy Buckley happy with that?

Mr. Peter Tyndall: I will come back in on the housing issue, if I may. It is a difficult topic. Some members will know that in the distant past, I worked in social housing. It is an area to which I have a particular sensitivity. Affordable rented housing, and social housing in particular, is in general short supply. I know through the rest of my work that we get many complaints about waiting lists. Oftentimes, people do not get the property not because they do not deserve it but simply because the pressure is such that other people had greater needs than they had. There is a real problem in that regard. How one avoids creating resentment was one of our concerns about the original sets of proposals that emerged from the review of direct provision. Having a separate capital stream to purchase and make property available has the virtue of, at least, not forcing people into competition for scarce social rented housing. From that point of view, it is a good proposal.

As members will be well aware, the issue in all of these things is about delivery. We will continue to monitor progress in terms of producing the regular reports and in the course of our work. For instance, as I stated, we will be keeping an eye to make sure that emergency accommodation is phased out sooner rather than later. We have already seen that some of the least suitable centres are no longer being used. We will try to stay on top of these issues. The Government has many competing priorities. Due to the breadth of my jurisdiction, I am well aware of the various competing priorities for public funding, but I am hopeful that, as we are able to bring a particular focus on this issue, we will be able to monitor progress over time and will see genuine progress. I look forward to the day when everyone seeking protection here has access to own-door accommodation. I hope that will happen sooner rather than later.

Deputy Pat Buckley: I thank Mr. Tyndall.

Chairman: Mr. Tyndall stated that his office carried out visits before Covid. How many disclosed visits would the likes of the Ombudsman have made before Covid? Would it be more suitable for people in direct provision to be able to enter the labour market after three months, rather than six months as recommended in the White Paper? It is kind of disappointing that the recommendations to grant five-year leave to remain for people within the system for more than two years is only under consideration. That is not a sufficiently robust commitment as far as the committee is concerned. Many asylum seekers working in healthcare or the food industry, for example, are currently very anxious about facing deportation. There is a need for stronger commitments on the issue.

Is there significant consultation with local communities when centres are being set up and so on? Various issues have arisen in that regard. Would it be preferable to have more consultation with the local public before decisions are made? Are some existing facilities the subject of more complaints than other facilities? If so, why? Is Mr. Tyndall satisfied that measures are being taken to address that?

Mr. Peter Tyndall: I thank the Chairman. There are quite a lot of questions there. Some of the matters raised are policy matters and, as such, not directly within my jurisdiction. On the

issue of work, for instance, I can observe, as I have previously, that there were clear advantages and improvements in morale in centres when people were allowed to work. In that light, it is clear that any expansion of the right to work is likely to be met with very considerable satisfaction by the people concerned who are able to work as a consequence of any changes. However, it is clear that it is not for me to determine the policy on that issue.

On the issue of unannounced visits, it is a mixed bag because much of what we wish to do is to speak to people so that they can bring their complaints to us. By publicising visits in advance, we can get the maximum possible turnout while we are there. On the other hand, unannounced visits afford us the ability to get a real feel for what things are like when people have not been preparing for our visit. It was suggested in the UK that the Queen assumes that all toilets smell of fresh paint. I do not think anybody is busy painting before Mr. Garvey and Ms Joyce arrive but, nonetheless, announcing the visits in advance gives people an opportunity to put the best face on things. We will continue with a mixture of both. As we said in the report - and Mr. Garvey may well want to comment on this - one of the important things for us is that, where we are told things have been fixed or where we have difficulty in getting things resolved, we are better placed to deal with those issues when we make an unannounced visit. I will come back to Mr. Garvey on that in a moment.

The issue of consultation with communities in advance is very nuanced. Sometimes it simply generates a degree of anxiety and concern before the move, which then makes it impossible for the move to go ahead. I hope that the move away from larger centres will make this less of an issue in future. Helping people to integrate into communities is important. We have seen both outcomes but overwhelmingly communities have welcomed and supported people. In the past I have paid tribute to the role of the GAA and its clubs in welcoming people into communities. If one consults in advance, one can make sure that those people who are minded to be helpful are ready and willing to support people as they move. On the other hand, it can give momentum to opposition, which can sometimes make it impossible for the move to happen. The question does not have a straightforward answer but it is important to pay tribute to the very welcoming nature of many communities in Ireland, of which we have seen plenty of evidence. We have talked about NGOs. NGOs have been helpful but an awful lot of ordinary people have also gone out of their way to be welcoming and supportive. We have seen evidence of that as we have gone around the country.

Mr. Sean Garvey: I will come in on two points. With regard to unannounced visits, we carried out three such visits in 2019. As Mr. Tyndall said, we were not able to undertake any in 2020. We were only able to make one visit in total due to the travel restrictions. We did three unannounced visits in 2019 and, as Mr. Tyndall said, we found a mixed bag. The main purpose of our visits is to talk to residents. If we do not say we are coming, the residents will not know we are coming and we are therefore less likely to meet as many as we otherwise would. On the other hand, there can be issues. I am thinking of particular cases with which we have dealt. Different versions of events are presented to us with regard to how things are being done or things that are happening in centres that are impossible to resolve by way of desktop examination. One person may tell us one thing while somebody else may see something else. We have found that it can be best to go and see for ourselves. We did that three times and we were satisfied that what we saw when we showed up was the way things actually were and we were able to progress issues on that basis.

In 2020, we were not able to visit and received complaints about inaction in addressing Covid issues in centres. These included issues regarding whether there were adequate social

distancing measures or whether adequate masks, facilities for social hygiene or sanitation were being provided. We simply were not in a position to form a view as to whether centres were doing that type of thing reasonably because we could not see for ourselves. An unannounced visit would be of most use in such scenarios. We could show up and see how things actually are.

Another complaint received from a resident in 2020, when we could not visit, related to the quality and breadth of produce in the residents' shop in the centre. Again, we could not verify that without showing up to see how things were. These are the types of scenario in which unannounced visits are beneficial. However, overall we find that we get a much higher level of engagement if we engage with residents in advance so that they know we are coming. For example, because the one visit we did undertake in 2020 had to be carried out in the context of Covid, we had individual appointments with people rather than us turning up and holding an initial communal meeting with residents followed by individual one-on-one meetings with people. We could not proceed with the communal meetings so we met with people by way of a sequence of appointments. Every appointment was booked which demonstrates that people had a desire to come and see us. In a nutshell, we found unannounced visits useful where issues cannot appropriately be resolved by a desktop examination but we did not find them useful for getting a high level of engagement from residents.

Chairman: To be clear, I fully support the measures the Ombudsman takes with regard to unannounced visits and communicating with residents to get a true picture. With regard to communicating with communities, I think of the situation in Borrisokane. The trouble is that, if the local communities are not communicated with, whispers start and a momentum builds up. By the time the truth is known, it can be hard to reverse the decision. With regard to Borrisokane in north Tipperary, information got out to the community fairly early. The centre has worked brilliantly since. The residents have integrated with the community. The issue I was raising is that, the earlier communities know what is happening, ideally before the Chinese whispers of which we all know begin, the easier it is for those who are welcoming refugees or other immigrants to integrate them into the local community.

I call Senator Eugene Murphy. The Senator is muted. We can hear him now.

Senator Eugene Murphy: Someday I will get this right. I hope we do not have to put up with another year of Covid. I have never met Mr. Tyndall in person but I find his media interviews to be compulsive listening and I find his contributions and sound and solid points of view very helpful in this debate. I also acknowledge Mr. Garvey and Ms Joyce. I come from Roscommon, where we have had the emergency reception and orientation centre, EROC, in Ballaghaderreen on one side and on the other the debacle at Rooskey, which is just a couple of kilometres away. I will refer to my cousin, Mary Gallagher, in Ballaghaderreen, who got a lot of national coverage for the way she said that we must welcome people into Ballaghaderreen and look after them. She was helped by many people in the community. At that time, a quotation of hers was used which I came across earlier this morning. She said that if people are driven out of their homes and if one sees a child being picked up out of the clay in Aleppo, how could one say "No."? The vast majority of Irish people feel that way. Ballaghaderreen really shone when it had to shine. It did the right thing.

I very much agree that this cannot be a for-profit scenario. While emergency accommodation is sometimes needed, it gives me a bad feeling to hear anyone talking about making profit when we are talking about human beings. I accept that on some occasions emergency accommodation may be required and that is better to provide for-profit accommodation than to leave people stranded but, certainly in the longer term, people should be accommodated.

I have one or two things to say in that regard. To take Ballaghaderreen, at the time there was a lot of talk suggesting that there would be little grant-aided community schemes to encourage integration. Where are we with that? They do not seem to be there at the moment. Some of the people involved came to meet me a few years ago. They were being moved to housing, which was good, but they were being moved from Roscommon to a house in Donegal. This was one family on their own. They did not want to complain. They were really happy that they were going to be housed but they hoped that, if one of families with which they were friends were to be moved, they could move to a local community together. They had no fear of the Irish community where they were going. That was not the issue. However, any of us might like to have some of our own countrypeople with us. They were told that was their house in Donegal and they could take it or leave it. Do we have a policy that, where people express a desire that there would be another family house beside them or close to them for contact purposes in that locality, we try to accommodate that?

In Roosky, it was a horrifying situation and it was really annoying that the genuine local community, consisting of 18 different nationalities in that parish, was portrayed in such a manner by extreme people on the left and right, who exploited that situation. It goes back to a point I have argued for quite a while, that it appears to the public that secrecy in relation to putting vast numbers in a hotel, as was happening there, causes a lot of this. If people were engaged through GAA, soccer clubs or community parish groups in advance, much of this would never happen.

Moving a large number of people into a small village does not work and hopefully we will move away from that. There was no proper bus link in Roosky and nothing for those people to do. They had a roof over their head but they were all congregated in a smallish hotel. While some people would say it is good enough that they have a roof over their head, I do not look at it that way. If we are going to take in citizens, we will look after them properly.

There has been a tendency recently in one or two debates I have had where people said the foreigners were taking our houses. I never had a situation in Roscommon County Council where a foreign family was responsible for somebody local not getting a house. It is completely misleading but it is being used more and more. I do not like it. I do not know if any witnesses have a comment on that. Their work is fantastic and well done. It is great to have them before the committee. I look forward to engaging with them more in the future.

Mr. Peter Tyndall: The issue around consultation is a challenging one. If one can engage with opinion-formers in the community of the kind the Senator described, and get the generosity of spirit he described in Ballaghaderreen, those things can make an enormous difference to how things are accepted. Putting a notice in the local paper is not the best way of doing consultation. Consultation has to be nuanced and well thought through.

I largely agree on the point about putting large numbers of people into a small community. It is often not going to work. Many of the hotels and so on that became available to the Department were ones that were not commercially viable as hotels and were in the kind of situations where they were not ideal for accommodating large numbers of people seeking protection. In some ways, the system had its own issues.

I will ask Mr. Garvey to comment on the issue around allocation of housing to people who are refugees being accommodated from the EROC centres. The arrangement was made that each local authority would provide a certain number of properties. In the early days that caused a problem in that people were assigned to a local authority when they moved into the centre.

If one local authority was able to house a number of people, people were being housed out of order. That led to a lot of misunderstanding and resentment and we intervened.

I take the general point that if it is possible, and I do not know whether it will be or not, to accommodate more than one person or family from a particular country in a certain locality, it will make it easier for them to settle in. Perhaps Mr. Garvey could talk about the particular situation.

Mr. Sean Garvey: We had two complaints in 2020 on that point. The situation is different for UN programme refugees, whose right to reside has already been established before they arrive in the country. They remain in the small number of reception and orientation centres, such as Ballaghaderreen, pending the allocation of housing. It is a different scenario from most direct provision residents who are awaiting a decision on the right to remain. EROC residents are awaiting allocation of housing.

As Mr. Tyndall said, it was the case that people were assigned to a county list and, depending on the speed at which each local authority moved, that determined when they were housed. That has changed and it is more of a housing-need basis on which decisions are made. In the case I referred to in 2020, a family from Ballaghaderreen was to be accommodated in Wicklow. They were particularly close to another family in the centre who were to be accommodated elsewhere. We were able to engage with the Irish refugee protection programme unit within the Department of Justice, which was responsible for the programme refugees. As a result, those two families were housed in the same development.

There is more flexibility under the current system to deliver on the type of scenario the Senator raised. That was the one case of that sort brought to our attention in 2020. It could be that other people are having the same issues. The big change was the moving away from the county-by-county list and having people allocated based on housing need, which gives more room for flexibility.

Senator Eugene Murphy: There was only one case I was approached about on the housing issue, so I take on board what the witnesses have said. I asked about incentives for integrating people, which I think is important to help the communities who want to help, to integrate people and to make people part of their community. I should know this but I have not looked it up. Where do we stand with that now? When we were dealing with Ballaghaderreen, I think Deputy Flanagan was the Minister at the time and there were small grant initiatives to help local community groups with integration. Do they exist? Is that something we could expand on?

Mr. Peter Tyndall: I am not aware of the scheme so I cannot give a direct answer. I am happy for us to go back to the Department to check and come back to the committee with an answer. It sounds like a worthwhile scheme but I have no personal knowledge of it.

Chairman: Is the Senator happy with that? The Ombudsman will come back to him with an answer for that.

Senator Eugene Murphy: Yes, very happy.

Senator Fintan Warfield: I am in the convention centre. I thank the witnesses for the presentation they have made. I missed the opening statements but I have read them. I refer to the developments that came with the White Paper on direct provision around the right to work. I apologise if it has been mentioned while I was absent. Does the witnesses' office deal with complaints from asylum seekers in cases where they have been refused that right by the opera-

tors of the direct provision facility? Second, do people living in direct provision who get employment have access to the suite of protections under existing industrial relations legislation? Is anyone coming to the witnesses' office if they have a relevant complaint related to industrial relations?

Mr. Peter Tyndall: I thank the Senator for the questions. We talked briefly about issues around employment and the big advantage it had offered to those people who were able to pursue employment. My office is specifically excluded from dealing with industrial relations matters and there is a separate mechanism through the Workplace Relations Commission for dealing with that. If we did get somebody raising that kind of concern with us, we would signpost them in the right direction. Perhaps Mr. Garvey or Ms Joyce want to come in on this, but I am not conscious of complaints specifically about centres preventing people from working, which was my understanding of the thrust of the Senator's complaint. Clearly, he may have some knowledge of that and we would be very interested in hearing more. However, I am not conscious of us having received complaints on that topic, although perhaps Mr. Garvey or Ms Joyce would have more on that.

Mr. Sean Garvey: Yes, we have had complaints about people not getting access to the labour force but not to do with the centres. The Department of Justice labour market access unit is responsible for assessing applications to get labour force access. We had complaints in 2020 on that but, in fairness to the unit, we would have to say that the three complaints we dealt with were in the process of being looked at when we got the complaint. When we engaged with the Department, we were able to confirm that they were in train and, as it turned out, all three were subsequently granted. They were complaints from the residents' perspective about delays in granting access to the labour market and it was nothing to do with the centres. We have not had any complaints of that nature about any action by centres preventing people from accessing the labour market.

Mr. Peter Tyndall: Was there some context to the question? Is there something the Senator is aware of that we should perhaps be looking out for?

Senator Fintan Warfield: I might continue the conversation with Mr. Tyndall on another occasion, if that is okay.

Mr. Peter Tyndall: Yes. One of the things I said earlier was that we are more than happy to deal with complaints raised by Senators and Deputies on behalf of residents of direct provision.

Senator Fintan Warfield: I appreciate that. I thank the witnesses for their contribution.

Chairman: I have a couple of questions. New standards for the accommodation centres came into force this year. Have those standards improved things, in the opinion of the witnesses? To go back to 2011, Emily O'Reilly, the then Ombudsman, told the petitions committee that the administration of the law in regard to aliens or naturalisation is within the remit of most ombudsman offices in Europe but that is not the case in Ireland. What is the witnesses' view on the current position?

Mr. Peter Tyndall: I will take the second part. I alluded to this earlier. The proposals have been made to bring the administration of the protection system into my jurisdiction. That is a point Emily O'Reilly made very forcefully and that I have continued to make. It is actually the case that, not just in Europe but across the globe, public service ombudsman offices are able to look at the administration of the protection process. Clearly, as I said earlier, decisions as

to whether to grant asylum, leave to remain or citizenship must lie with the Executive and it is appropriate that that be the case. However, a lot of frustrations have been expressed about the administration of the system and, up to now, my office has not been able to look at those. Therefore, I welcome the proposal to bring that within the jurisdiction of the office, and I am sure that is something the committee will be watching progress on as it works its way through the legislative process.

Bringing things within the jurisdiction of my office is generally straightforward and it can be done with secondary legislation. However, where there are specific exclusions, it may be more complicated but, in this instance, I would hope that happens as a matter of reasonable urgency. The members of the committee have all been familiar, through their own case work, with the issues relating to the administration of the system. I hope we are able to look at that point. Perhaps Mr. Garvey will come in on the other point.

Mr. Sean Garvey: I will deal with the question of the standards applied to the model of communal centres, which is now in the process of being replaced. One of the key components is that, according to the White Paper, there is a three to three and a half year timespan to those reforms being implemented, so, by any definition, people are still going to be living in congested settings for at least three years.

On the standards, one of the key recommendations was that there would not be any more than three unrelated people in a room. It had been the case that it could have been more than that and, in a small number of cases, many more than that, but that is no longer the case. We have got confirmation from IPAS that there are now no examples of more than three unrelated people in a room.

In addition, there are specific requirements under the standards that the size and physical dimensions of a room should align with provisions in the Housing Act on the number of people per room. That is something we can look at. The advantage of having standards, from our perspective, is that there is a measure against which we can assess something. For example, if somebody says the room is too small for the number of people in it, we can get the dimensions and look at that, and see if that is the case or not. It gives clarity for us and an objective standard against which something can be measured.

We do not have a role in overseeing the rollout of standards *per se* but if a person has a complaint that would fall under the standards issue, we can pursue it on that basis. Again, as the changes in this sector roll out, we have not been getting many complaints on those lines. However, where we have, they are presented to us by way of transfer. If there is a family of four in one room, that family will generally seek to move to a different centre where there is more appropriate accommodation, and that is the mechanism under which we would receive most complaints of that nature.

Mr. Peter Tyndall: I want to clarify that although the standards say there should be no more than three unrelated people sharing a room, it remains my strong view and, of course, the White Paper will eventually facilitate this, that unrelated people should not be sharing rooms anyway. We will use the standards as a means of looking at complaints. As Mr. Garvey said, when we get a complaint, we can seek wider reassurance. If it looks to us as if a complaint is representative of a systemic problem, we can pursue the wider problem and we do not have to confine ourselves to the individual complaint. Nonetheless, I think it will take the measures in the White Paper to move us away from people sharing rooms with people they are not related to.

Chairman: Thank you. That was one of my next questions. Is there something Mr. Tyndall would like to have included in the White Paper that is not there? For example, he referred to the situation of families in one room. Are there other things the Office of the Ombudsman would like to see included in the White Paper?

Mr. Peter Tyndall: That is difficult because it takes me into some policy areas. We try to be evidenced-based, based on the complaints. The White Paper, to be fair, addressed most of the concerns we had, so our principal issue at this stage is making sure that the provisions of the White Paper are implemented, particularly around the own-door accommodation, the access to work and so on. In general, it addresses most of the concerns that we have been looking at. In a sense, we will be happy when that is implemented and then, in the course of our time looking at the implementation, if other issues arise, we will bring them up.

Chairman: I appreciate that. Thank you. I call Deputy Brendan Griffin.

Deputy Brendan Griffin: I am in the five storey block on the Leinster House campus. I thank Mr. Tyndall for his contribution and the work he does. What are his views on location, or should I say geographic dislocation? What does he think is unacceptable in respect of where direct provision centres are located? There was quite a high-profile example in Kerry last year. Varying views were expressed by people on that case. One thing that struck me most was the distance involved when it came to proximity to services and the availability of the various supports that one would expect would be available to residents in direct provision centres. Does Mr. Tyndall have any views on which locations are suitable geographically and which are not?

Mr. Peter Tyndall: It is a complicated issue. The first thing is that large concentrations of people in remote rural locations do not work particularly well. It does not serve the interests of the individuals. With some of the more remote centres with which we dealt, people were a long way from anything so that does not work very well. Large concentrations in small communities can have a unbalancing effect on the community. On the other hand, we are all aware of very bad examples of people being concentrated together to enable them to have access to facilities but this leading to ghettoisation to some extent. Luckily Ireland has avoided this experience, which is not uncommon in other European countries and the UK.

Moving away from large centres is a very important element in dealing with this issue. Putting groups of people in remote locations never works. Having people reasonably dispersed around the State and not concentrated in particular areas has helped to enrich our communities, as we have seen in many instances, but also helps to avoid that resistance one sometimes sees. There is no easy answer to this question. There is no perfect solution. What is proposed, which involves having people accommodated in a wider variety of settings, is good but people also need to be able to access facilities so using remote rural locations to house concentrations of people does not work.

Chairman: I thank Mr. Tyndall and his colleagues, Mr. Garvey and Ms Joyce, for coming here today, if only virtually. I hope they will be able to visit us again in person at some stage in the not-to-distant future. I think we all agree that the discussion was very beneficial and informative. It is very good to have people like the witnesses appear before us to give us a briefing like this and we can ask questions and find out what is happening in the wider community such as in the direct provision centres.

Chairman: The next item on the agenda is any other business. Do members wish to make any final comments?

Senator Eugene Murphy: I discussed this matter at our previous private meeting. I think we are all very aware that we have really bad gender balance on this committee, which has no female member. I know it is something in respect of which we have a common goal and want to rectify. If we are serious about gender balance, we need to ensure there is some percentage of females on the committee. I speak for everybody and I know the Chairman is aware of it. It is something this committee must address. If it came to it, I would be more than prepared to step aside for somebody from my own party to come forward, even though I love this committee. However, we might not have to do that. We need to address the lack of gender balance on this committee. We cannot stand up the Seanad, Dáil or committees and talk about gender balance and have committees that do not have any female representation.

Chairman: I agree with the Senator. I raised and will raise again the issue with my party. I ask the three major parties to bring it up. It will be hard for Independents to solve the issue of gender balance but perhaps the three parties could do something. The fact that the committee is all male is something that crossed my mind on several occasions. It looks bad so I ask members from the various parties to raise it with their own parliamentary parties to see if something can be done to address that situation.

Deputy Pat Buckley: I echo the Chairman's sentiments and those of the last speaker. I also echo the Chairman's remarks about the Ombudsman. The information was excellent. We need to engage like this. As I said a long time ago when I sat on the last committee, this is a very important committee. I thank the secretariat because it does a lot of work behind the scenes.

Chairman: I echo Deputy Buckley's comments about the secretariat. It has been a massive help to me as Chairman and the committee so I say "well done" to it.

The joint committee adjourned at 1.58 p.m. until 11 a.m. on Tuesday, 25 May 2021.