

# DÁIL ÉIREANN

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## AN COMHCHOISTE UM DHLÍ AGUS CEART AGUS COMHIONANNAS

### JOINT COMMITTEE ON JUSTICE AND EQUALITY

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*Dé Céadaoin, 22 Bealtaine 2019*

*Wednesday, 22 May 2019*

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The Joint Committee met at 9 a.m.

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Comhaltaí a bhí i láthair / Members present:

Jack Chambers,	Frances Black.
Peter Fitzpatrick,	
Jim O'Callaghan,	
Mick Wallace.	

I láthair / In attendance: Deputy Donnchadh Ó Laoghaire and Senator John Dolan.

Teachta / Deputy Caoimhghín Ó Caoláin sa Chathaoir / in the Chair.

## Business of Committee

**Chairman:** I thank Senator John Dolan for facilitating the commencement of this morning's business and he managed to make it here just in front of Senator Frances Black. Go raibh míle maith agat, a Sheanadóir. I remind members to please switch off their mobile phones as they interfere with the recording equipment. Apologies have been received from Senator Niall Ó Donnghaile. We shall go into private session to deal with some housekeeping matters.

*The joint committee went into private session at 9.10 a.m. and resumed in public session at 9.25 a.m.*

### Direct Provision and the International Protection Application Process: Discussion

**Chairman:** The purpose of today's meeting is to begin a series of engagements examining the direct provision system and the international protection application process. We are joined by Mr. Justice Bryan McMahon, former judge of the High Court, who also chaired the working group on the protection process and direct provision. He is very welcome. From the Immigrant Council of Ireland we are joined by Mr. Brian Killoran, its chief executive officer, and Ms Mary Henderson, solicitor. They are both very welcome this morning. From the United Nations High Commissioner for Refugees, UNHCR, Ireland we are joined by Mr. Enda O'Neill, head of office in Ireland; Ms Maria Hennessy, protection officer; and Ms Caroline Stephens, protection assistant. They are also very welcome. I also welcome our visitors in the Gallery from Jesuit Refugee Services Ireland.

As people may expect in a week such as this we have had some apologies from colleagues so we are not at full strength this morning. Something happening on Friday might explain this but so be it. That is part of life. I intend to invite witnesses to make opening statements in the order in which I introduced them if that is okay. Before commencing I must draw the attention of the witnesses to privilege. Please note you are protected by absolute privilege in respect of the evidence you are to give to the committee. However, if you are directed by the committee to cease giving evidence on a particular matter but continue to do so, you are entitled thereafter only to a qualified privilege in respect of evidence. You are directed that only evidence connected with the subject matter of these proceedings is to be given and you are asked to respect the parliamentary practice to the effect that, where possible, you should not criticise or make charges against any person or persons, or entity by name or in such a way as to make him, her or it identifiable. Members should be aware that under the salient rulings of the Chair, members should not comment on, criticise or make charges against a person outside the House or an official by name or in such a way as to make him or her identifiable.

Before proceeding I ask everybody to ensure their mobile phones are on silent mode. I invite Mr. Justice McMahon to make his opening statement.

**Mr. Justice Bryan McMahon:** The single most important issue identified by the working group in 2015 that had to be resolved was the length of time that many in the protection system had to wait before the application was fully determined. It is worth noting that at the time of the working group negotiations, more than 50% of direct provision residents had been 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 appli-

cation for protection was 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.

Recent trends in the number of asylum applications and the direct provision population indicated that new fault lines are emerging in the system. There are now approximately 6,100 people in direct provision. Four years after the report, it is worthwhile to review the progress made in implementing the working group recommendations. If I may, because of the limited time available, I will concentrate on big ticket items. First, I will speak about the right to work. Combined with the long time in direct provision centres, applicants who were denied the right to work suffered incredibly as a result. They became deskilled, depressed and felt themselves to be useless, to say the least. I remember one resident said, “As we wait for time, time kills us”, which paints a depressing kind of a scene. 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. The Supreme Court, in May 2017, held that the blanket ban in place against working was unconstitutional and, unusually, it asked the Government to put forward its proposals to rectify the situation. After some hesitation and toing and froing, the Government went beyond what the court required and opted into the recast reception conditions directive, something that had been advocated by some reformers for a long time. It could be said, therefore, that the Supreme Court’s intervention prompted a more generous response from the Government than that suggested in the measured proposal from the working group four years earlier. This response was much to the advantage of the protection applicants.

Asylum applicants have the right to work after nine months. 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 obtain 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’ rights to access the labour market. I visited a couple of centres in the past week. In one centre with 57 residents, 38 of them are now working and three of that group are in further education. Another centre, which was for women only, had 86 residents and approximately 70% were working. In a third centre, which was for men only, approximately 70% were working. I hasten to add that the centres were located in a tourist area where work was available. The morale in the centres where people were working was wonderful and the right to work was very much appreciated.

The second issue was allowances. The working group recommended that the allowances of approximately €19 for adults and €9 for children be doubled. That was not done immediately but it was done in the past month. Together with the right to work, this has made a significant difference to the morale and comfort of the residents in direct provision centres.

The third issue relates to the role of the Ombudsman and the Ombudsman for Children. Their respective remits have been extended to cover residents in direct provision centres. This change was sought by the residents and is having a very liberating and comforting effect because they can now make complaints without fear of retribution.

The fourth issue is cooking and independent living. One of the big complaints we got from residents was that they could not make independent decisions about eating. They had to go to canteens at given times and eat the food that was presented to them. It was a big issue for families in particular who were denied the privilege of sitting down together as a family at given times and making choices and culinary preferences. Progress has been made in this regard. We

recommended that all direct provision centres have independent living in the sense that there should be a shop where residents could purchase their food and facilities to cook it themselves. That has been done in approximately 38% of centres. Another approximately 1,400 residents have the right to cook but they do not have a shop and must shop elsewhere. Some progress has been made in that respect but it is significant to note that, as yet, none of the State-owned centres has provided access to a food hall and cooking facilities under the agency's independent living model. The State owns seven centres and none of them has provided independent cooking facilities. I am informed by the Department that discussions with the Office of Public Works are ongoing in that regard. There may be technical or logistical problems but it is notable that while 50% of centres have some form of cooking facilities available, the State-run centres have not provided any such facilities.

We also concentrated on accommodation standards, as it was felt that the accommodation in some of the centres was lacking. We recommended that there be a uniform minimum standard. I am pleased to note that in recent years national standards have been drafted and are now with the Government for final approval. These incorporate the minimum requirements set out in the recast reception conditions directive. That should help to promote equality, prevent discrimination and protect human rights, as defined by the public sector equality and human rights duty. Moreover, future tendering competitions will insist that all providers demonstrate their ability to conform to these statutory obligations.

The sixth issue relates to a phenomenon that has asserted itself in this country since the report was published, namely, the shortage of accommodation generally. The shortage of accommodation throughout the State, which was noted and considered by the working group, has become more acute since 2015. I need not tell members that as they are dealing with it every day. In 2018, there was a sustained increase in new applications, averaging more than 300 per month. That has put greater pressure on the existing stock of the Reception and Integration Agency, RIA, in that more protection applicants continue to live in direct provision centres while waiting for determinations. 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.

I leave until last the most important issue that was identified by the working group as a problem in the system, namely, the length of time that applicants remain in the system, and this is due to the processing. To cut it short, 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 con-

tinue 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.

I refer to the current administration. In dealing with these matters, about 3,600 come in every year and we are told that it is able to process 3,900. If only the current people coming in were being dealt with, the present system would adequately deal with them, but it is complicated by the legacy that I have spoken of coming into the system so that there is still a delay. Nowadays there is a backlog of about 19 months before an applicant can have his or her case heard. That is too long and the Department is working on it to try to get it down to 15 months and 12 months and it is hoping that it will do so within a year, but those are aspirations. At present there is an 18 to 19-month delay between application and processing, so that is too long.

The *ad hoc* scheme for long stayers ceased with the commencement of the International Protection Act 2015 in January 2017. However, 4,000 existing cases that are still in the system were transferred into the new single procedure. The failure to deal with this group, as the working group had recommended, hindered the success of this new single application system. This is far too long.

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. 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 one that the Government is trying to implement.

Since the publication of the working group report, there have been significant improvements, including the resolution of an estimated 2,000 long stayers who are here in the system for five years, the establishment of a new international protection procedure, the introduction of communal catering in family centres for many, the extension of the role of the Ombudsman’s office, the introduction of a right to work for eligible protection applicants, increased direct provision allowances, and the development of a national standard for accommodation. While

there has been considerable progress, there still remains significant work to implement the working group's recommendations fully, and it is concerned that some improvements are 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 the following in this regard: 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 in 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 on this yet. 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.

**Chairman:** Go raibh maith agat. We will now go to Mr. Brian Killoran, chief executive of the Immigrant Council of Ireland.

**Mr. Brian Killoran:** I thank the Cathaoirleach and the members of the committee. 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 in Ireland. We provide legal information, advice and representation through information and legal services. The Immigrant Council of Ireland legal team also specialises in holistic legal aid to victims of human trafficking, the majority of whom in our case are women recovering from sexual exploitation. We are a leading anti-trafficking advocacy organisation in terms of our expertise in policy and advocating for legislative change in this area. As such, the Immigrant Council of Ireland's 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 of the comments I will make to the committee today. The overall majority of victims of human trafficking represented by the Immigrant Council of Ireland 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.

To outline the problem briefly, the provision of safe and appropriate housing is an internationally accepted priority need for victims of human trafficking. 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 aftercare support for victims of trafficking. 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 its main function to house people seeking asylum in general. Our key concern is for women, in some cases under-age girls in age determination processes, who are trafficked for sexual exploitation and referred to the national referral mechanism for the support of victims of human trafficking. For such women, the introduction of gender-specific shelter and accommodation approaches in Ireland is of central importance. Integrated supports such as medical, material, legal and other integration assistance are key components of such support and recovery. 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 in general residential matters in the aftermath of the McMahon report from the working group, 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 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. The recommended single female gender hostel was set up in a location removed from any specialised complementary services for trafficked women in order for it to become a suitable alternative in these circumstances. It is our understanding there are no victims of trafficking living in the specialised single gender centre. There is recent evidence that Reception and Integration Agency, RIA, accommodation centres are, in cases of victims of trafficking, asking the victim of trafficking to leave the direct provision centre after 60 days, which they believe is the upper limit of their responsibility to support victims of trafficking, requiring the victims of trafficking in those cases to then present to homeless services. We hear this from many support services with which we interact, both State and non-State, which work with victims of trafficking. It is completely unacceptable when trying to support somebody who has been through an extremely traumatic situation.

With regard to international criticism, Ireland's track record in the provision of accommodation supports for victims of trafficking has been noted not just at national level but also through international bodies such as the Council of Europe committee of experts, GRETA, and the US Department of State's trafficking in persons, TIP, report, which in 2018 downgraded Ireland from tier 1 to tier 2, essentially stating Ireland was not meeting the minimum standards required to respond appropriately in this complex area. Accommodation standards and procedures were cited by GRETA and in the TIP report.

With regard to recommendations, in the long term we advocate for alternative housing entirely removed from direct provision centres for victims of human trafficking. However, we are aware that this transition may take time and of the current housing situation in Ireland. For this purpose and in addition to our long-term recommendations which I will address momentarily, we have developed urgent interim recommendations to be adopted by RIA centres to meet the immediate needs of trafficking victims who are living in direct provision centres.

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. To build on what Mr. Justice McMahon said, it is fantastic that there are improvements in that area, but they are not throughout the system and need to be. We need to see increased awareness among managers of centres of their salient role in the delivery of this most vital service to victims of serious crime who are recovering in the premises they run. There is a need for the training of key personnel in understanding human trafficking, the obligations of the State and the specific needs of victims, with a focus on those who recover from extensive long-term trauma. The provision of a roof over one's head

and three square meals a day is not adequate care for victims of human trafficking. There is a need for a significantly improved response in that regard. There is a need for a commitment to gender-sensitivity in view of the serious exploitation the majority of victims of human trafficking have suffered, including sexual abuse, rape and other extremely damaging practices.

I will address long-term solutions. The Immigrant Council of Ireland calls for gender-specific accommodation services for trafficked women who are recovering from sexual exploitation and recognition of the support needs among that group. As an interim and immediate measure, nomination of women's refuges for women fleeing domestic violence as emergency accommodation for trafficked victims and the provision of additional resources for those refuges are essential. This is the model of housing for trafficked women that is preferred in a number of EU member states. It calls for significant resources for those centres to meet the immediate needs of women fleeing the situations they are in.

As middle ground, creating a shelter that specialises in dealing with trafficked women who are sexually exploited is essential. This shelter-type facility would offer services to women who require long-term recovery services beyond emergency accommodation, including legal, trauma and health supports and counselling which are currently only sporadically available. Ultimately, for the long-term recovery of victims of human trafficking in direct provision centres, privately rented accommodation with a geographical spread located in areas where there are options to provide wraparound legal, medical and counselling services, including major cities such as Dublin, Limerick Cork and Galway, is the gold standard to which we must work. It would involve having a flexible number of units and a corresponding budget, in dispersed locations, to try to support the accommodation needs of victims of trafficking. It could be done in collaboration with approved housing bodies. We welcome the reflection of the particular needs of trafficking victims in the McMahon working group and the report and recommendations arising from it. This is a niche area within the direct provision system. It is internationally and nationally recognised that trafficking victims, owing to the high proportion who have been sexually abused, need an improved level of care beyond what they receive in direct provision centres. We urge in the strongest terms that that be the priority for the State and the Government.

I would welcome questions and thank the committee for giving me the opportunity to speak.

**Mr. Enda O'Neill:** I thank the joint committee for inviting me to address it on these important matters. The United Nations High Commission for Refugees, 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 persons. 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 legislation in the International Protection Act and EU legislation.

As the scope of the committee's work on this topic is broad, in my opening remarks I will focus primarily on the protection process and progress to date in implementing the recommendations made in the 2015 McMahon report. It contained 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 had to wait for a final decision on their claim.

Chapter 6 of the report details the financial model which was developed in consultation with officials in the Department of Public Expenditure and Reform to project the financial costs in implementing the report in full. Paragraph 6.45 of the report states:

The financial model developed by the Working Group 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 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. They should have before them some recent statistics compiled by the UNHCR which point to a number of trends. The number of new applications each month has been rising moderately and consistently for some time, with an average of 319 new applications per month in the last year or 360 per month in the last two quarters. However, annual numbers of new applications are still far below the 2002 peak of 11,634 new applications and comparatively fewer than in many other EU countries. There were 5,693 applications in hand at the International Protection Office, IPO, at the end of 2018. This represents an increase on the figure of 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 in hand. The McMahon report, at paragraph 6.29, points to the reason for the 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 in hand prior to the commencement of the International Protection Act 2015, transitional provisions of the Act resulted in approximately 4,000 cases being transferred to the IPO from the old tribunal, referred to as legacy applicants, on 31 Dec 2016. Despite a considerable increase in productivity by the IPO since, the number of substantive decisions taken in 2018 remained lower than the number of new applications received, at 3,319 compared to 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, with a view to meeting its target to reduce the average waiting time to nine months for a first instance decision by the end of 2019. All remaining legacy applicants whose applications were considered to be live at the end of 2018 have been scheduled for interview by the IPO, with final recommendations intended to be issued in these cases by the end of quarter 2. A separate unit within the IPO is 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 reiterate my concern about the length of time it takes to determine an application for international protection and recall the recommendation made in the McMahon report that the decision-making bodies be staffed on a continual basis with sufficient staff to ensure 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 their experiences in the direct provision system. Long periods spent in direct provision centres can impact on the future employability of refugees and their mental health.

I would like to make a broader point about the working group. That process benefited enormously from unique collaboration between civil society and the Government, with members displaying commendable commitment to attend weekly meetings throughout much of the duration, despite their heavy professional responsibilities. It was always envisaged that a new body, similar in structure, would continue this work after 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 the necessary flexibility to consider all matters related and relevant to the operation of the system. An annual review of the system was also recommended, with a view to making recommendations to guard against future backlogs, for example, a failure to provide adequate resources for all decision-making bodies.

On living conditions in accommodation centres and supports for persons in the system, the committee should have been given a copy of an article written last year by one of my colleagues, Caroline Stephens, entitled, *Developments in the Direct Provision System since the McMahon Report*. Members should also have before them a submission on measuring outcomes and supporting refugee integration. Time will not allow me to specifically address the contents of these submissions in my opening address. However, I would welcome questions members might have about them or any other matter relevant to their deliberations.

**Chairman:** I thank all of the contributors for their presentations and the associated documents they submitted. They will be very helpful in our deliberations prior to publication of our report. I thank those who are not coming before us for the hearings but who are taking the opportunity to submit their views on this very important subject.

**Deputy Donnchadh Ó Laoghaire:** I thank the speakers for their attendance. I hope this is the start of a valuable process that will allow us to consider where there have been failings and how we can map a better system. I would like to think - I think many other members of the committee agree - that in the long run there will be a radically transformed system. There have been significant failings in the direct provision system and the way we have treated people who are fleeing war and persecution. In many instances, their human rights have been failed significantly and many have suffered great hardship, some caused, as identified in all of the statements, by the delay and inordinate amount of time they have spent in the system. There have been other failings too.

The IPO is still processing more or less the same number of applications, or even slightly fewer than the number coming in. Is the solution simply the provision of resources? Are there not enough staff in the IPO to deal adequately not only with the backlog but also with the number of applicants?

Is there any sense that the private model we have chosen is flawed? I appreciate that this is the justice committee, but in many respects these are accommodation and housing issues and asylum seekers who in the long run will become long-term residents or Irish citizens will eventually have to be housed. Would it not be better to provide accommodation for people quickly, whether through voluntary housing agencies, the local authorities or direct build? The Immigrant Council of Ireland touched on this issue. The most significant element of people's criticism and concern about the direct provision system is its significant human rights failings, although it has cost over €1.25 billion since 2001. For a parent and two children, the cost is €40,000 per annum, which is more expensive than many other forms of housing.

**Mr. Justice Bryan McMahon:** On the processing of applications, there is room for possible improvement, but it does seem that the authorities are coping with new applicants. They

are roughly dealing with 3,900 a year, and 3,600 are coming in this year. The present system would be fine if we did not have what we call the inherited problem from the old system. There are a couple of pinch points. I think extra resources have been put in to the International Protection Office, IPO, and the International Protection Appeals Tribunal, IPAT. One area where there is a delaying factor is judicial review. I draw attention to that in my paper. There should probably be more judges dealing with judicial review, where delays hold up the applications in an area where the Government has no control. If more judges were dedicated for a period of time, we might make some progress there.

With regard to systems other than direct provision, the Deputy is absolutely correct that the working group had its remit confined to improvements in direct provision. We were not asked to look at other models. I am not an expert in alternative models around the world. I have investigated and have attended seminars where discussions were taking place in respect of Scotland, Portugal and other countries. I would have to be convinced that other models would succeed better in our economy with the accommodation crisis we have now. If we do not keep people together, we have to put them into other areas. The accommodation issue is a serious limitation on what a Government can do in terms of alternative models. I would have to be convinced that another model could work in our given situation with the accommodation crisis, and that it would be cheaper. I do not know that it would. I have not seen it. Work would have to be done to convince me that we would be better off shifting to something else in these difficult times in accommodation in this country. That is my personal view. I am not an expert and there may be models out there. Someone might do excellent research to show the Government.

Given the improvements that have been brought about in the past four years, as I have mentioned, it is in no way as bad as it was. One of my suggestions is that the State is probably in a better position than anyone to provide more accommodation. They could build them themselves, if they need to, on State-owned land rather than going out to the market and competing in a difficult accommodation situation. That is only a suggestion. I would need research.

**Chairman:** Is Mr. Killoran happy to come back to Deputy Ó Laoghaire's questions at this point?

**Mr. Brian Killoran:** In terms of processing times, as I mentioned in my opening remarks, our primary experience is with victims of trafficking who are within the direct provision system. It is a peculiarity in Ireland that we have non-concurrence, meaning that one cannot be an asylum applicant and be identified as a victim of trafficking at the same time. This is unusual in the international context. Somebody who is in the asylum process may be a victim of trafficking but cannot be identified as such. Someone who is a victim of trafficking living within direct provision cannot apply for asylum. They cannot be both things. This is an important point to make.

**Deputy Donnchadh Ó Laoghaire:** How are people usually recorded if they qualify in both categories?

**Mr. Brian Killoran:** In general, if they are seeking identification as a victim of trafficking it would be through the national referral mechanism.

**Ms Mary Henderson:** Perhaps I could respond to that. It will depend on how the person has come into the system. A person may have lodged an application for international protection, may subsequently have been referred into the national referral mechanism and been provided with advices, and may then seek to be recognised as a victim of trafficking. At that point,

they are faced with a decision as to which system may suit them better. In either event, they will still be accommodated in direct provision. As Mr. Killoran was saying, our focus is on the victims of trafficking who are being housed in direct provision.

**Mr. Brian Killoran:** In terms of the process of identification, in the cases that come to the Immigrant Council of Ireland, identification can often take up to two years. As a law centre, we sometimes take judicial review cases in respect of this complicated and long processing time for being identified as a victim of trafficking, which involves civil authorities, the Garda National Protective Services Bureau, and the Garda National Immigration Bureau. The process often breaks down in that time. A much clearer identification process for victims of trafficking that does not involve so many different bodies is needed. This would allow for the quick identification of a victim of trafficking. If somebody gets to the stage of getting a temporary residence permit, once they are identified as a victim of trafficking, they get a stamp 4, which is a residency status in the State that allows access to support services. That is taking a long time to happen but should it happen, that person could in theory then leave direct provision and live independently as they would be able to be supported.

In our cases, then, it is a question of a mix of resources but also a clearer identification process for victims of trafficking who are living in that system. I speak primarily to our area of expertise but internationally there are many models for housing victims of trafficking which take a gender-based violence approach. They rely upon women's refuges and other support services to provide accommodation, both in an emergency capacity at the initial instance of somebody being identified and in the long term through the model of approved housing bodies or voluntary housing associations, which rent private accommodation and house victims of trafficking. That is difficult to do in the current context here regarding housing. The housing bodies themselves are in difficult circumstances. The refuges are oversubscribed as it is. It would take additional resources for this to be a realised model of accommodation for supporting victims of trafficking coming from situations of sexual exploitation. However, that needs to be the goal to which we work and the guiding light by which we aim our approaches. As I said in my opening remarks, the housing of victims of trafficking within direct provision systems often adds to the trauma and continued difficulty of their recovering from the situation they have just come out of. While we recognise the context we are in, that needs to be the gold standard to which we aspire.

**Mr. Enda O'Neill:** In response to the Deputy's first question, the allocation of resources to the IPO in particular is always dependent on competing resource requirements within the Department of Justice and Equality more generally. It is difficult for external parties to say more than that but when we drafted the McMahon report, we tried to be proactive rather than reactive in planning for the future. The financial model developed for that report projected new applications for last year as slightly higher than the number that came in. The number of new applicants was predictable and could have been planned for. The report recommended front-loading of resources to put the priority on processing rather than reception and it projected that this would result in savings of €25.7 million in 2018 and €51.9 million in 2019. However, the situation in which we find ourselves now is that €3.4 million has been spent on emergency accommodation this year alone because of insufficient reception capacity.

Moving on to the Deputy's second question, without talking about a completely different model, it is important to acknowledge that the system as it stands today is quite different from the one 20 years ago, in many ways because of the implementation of the recommendations of the report. I would like to flag the fact that it has been put on a statutory basis through the

reception conditions directive, which includes the right to work. Draft standards have also been agreed with officials of the Department of Justice and Equality. It just remains for the Government to sign them off and for them to be implemented. We have done an awful lot to ensure that minimum standards have been defined in law and set out in standards to be applied when providing accommodation.

The next logical step is to review the operations and the tendering process to see how those standards can be put into practice and how uniformity can be guaranteed throughout the system. Officials appeared before the Committee of Public Accounts last month and flagged that the original tendering process will happen this year. I recommend that the Department take an open approach in consulting all relevant parties and that much effort be put into ensuring it is truly fit for purpose and flexible enough to allow for alternative models. If the standards are clearly defined, there is no reason that smaller accommodation units, clustered in a region, for example, could not be part of the solution. In the paper on measuring outcomes and supporting refugee integration that was circulated among members, I have tried to set out that much Government policy already exists and can be implemented in this space. One of the main challenges is that while the RIA is responsible for procuring accommodation, it is not an agency and it does not do integration. It is limited in its role and dependent on the Departments of Health and of Education and Skills and other agencies and service providers to link with it and provide those services for accommodation centres. Sufficient authority is needed to ensure co-ordination and to link with all the other Departments.

**Chairman:** Given that six members wish to contribute, they might specify whom they wish to reply to their questions, rather than putting them across the board because the time will not accommodate that for everyone.

**Deputy Donnchadh Ó Laoghaire:** I will respond briefly to some of the points made before asking series of questions. I take on board the point that the housing crisis is doubtless a significant consideration. It affects every sphere of life, including those who have received their papers and are in a position to apply for local authority housing, secure HAP and so on. There is nowhere else for those people to go at this time. The work will be important if we do it right. We need to take a view that looks to the future, beyond when the housing crisis has abated, which I hope it will do. We need to aim for the best possible system. Improvements may have been made to direct provision such as in respect of self-catering and the right to work, which is important. Nevertheless, not only asylum seekers but also the public have lost confidence in the system. The public consider direct provision a dirty term. People feel ashamed and embarrassed about it. While they may have different views of the reality of direct provision, that is the perception in society. There is a feeling that people's human rights have been, and are being, frequently breached. If we are to map out a report, therefore, we have an obligation not simply to consider incremental changes but to map out the best system that Ireland can deliver to receive people fleeing war, conflict and destitution, and to ensure that we treat them with the dignity they deserve. Although it may be an ambitious objective, we should pursue it.

A point was made about the location of direct provision centres. Asylum seekers have many appointments, generally in Dublin. It was recently noted that it takes ten hours to travel from Merville to Dublin and involves travelling through the Six Counties, which is not permitted, strictly speaking. It is possible to complete the journey from Lisdoonvarna in one day but one will have only a short period in Dublin. Travelling from Kenmare is likely to require an overnight trip, while Mount Trenchard does not have access to a public bus. Not all direct provision centres should be located in Dublin but a balance must be struck in that as much as possible,

the services that people require in Dublin should be brought to where they reside. Surely the centres should be located in places that are reasonably easy to access by public transport. It is a fair expectation.

Another point was made that people leaving direct provision centres often either find their own accommodation or stay with friends and then find themselves homeless and seek readmission to direct provision centres that are not in a position to grant readmission. That problem was identified by the immigrant council. It has been said the matter is probably contrary to the recast directive.

Does Mr. O'Neill consider it possible to predict trends in the coming years? Does he expect Brexit, with or without a deal, to have a significant impact on the number of people seeking asylum in Ireland?

I thank our guests for appearing before the committee.

**Mr. Enda O'Neill:** On the location of reception centres, I fully agree that transport is essential to allow people to go to the shops in a local town or access the services they need. One measure that was introduced by the reception conditions is a vulnerability assessment. 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.

With dispersal, interviews with asylum applicants could be relocated throughout the country. Not all the services must be centred in Dublin. We have had some recent indications that asylum applicants could be interviewed in County Tipperary, and Cork is also under consideration. There are ways, therefore, to ease the burden on people living in those locations. In the resettlement domain, a task force at national level has representatives from each Department, while there is an interagency group at local authority level. In 2015, there was an agreement on dispersal throughout the country and the numbers that each local authority area could expect. The same process is not replicated in this space. I do not see any reason, however, that those types of structures could not be put on a more permanent footing and include resettled refugees and refugees who arrive spontaneously, in order that there is appropriate planning at local authority level and cross-departmentally to ensure that people have access to adequate services, irrespective of where they are located.

On predicting the numbers, we in Ireland are quite fortunate from that point of view. We are not so easy to reach compared with other European countries and we are at the end of the line of many migratory routes. The numbers have been fairly steady in recent years.

On Brexit, we sometimes see movement from the UK. It is something which is harder to predict. The Dublin regulation is the law which regulates which country has responsibility for the determination of an applicant's claim. It is EU legislation and what happens to that after

Brexit may have a big impact. We do not have a clear answer on that now.

**Chairman:** I thank Mr. O'Neill. Does Mr. Justice McMahon wish to speak?

**Mr. Justice Bryan McMahon:** I will not repeat what Mr. O'Neill has said but I agree with most of it. The location of centres is a very important factor. It is important for the availability of work but also for the equality agenda. Were one to be placed in north Cork or west Mayo, that might make it much more difficult for a person to be gainfully employed in work than in some place near a centre of tourism or an urban centre. That is a fact of life. It did not make the same impact when the right to work was denied to everyone, but now that it is available, proximity to work is important. It should be remembered that there is currently full employment in the State. This morning I heard on the radio that unemployment is down to 4.6%, which economists classify as full employment. There is no shortage of jobs in the economy. Rather it is where they are. I also agree that location is very difficult for people when they must visit Dublin for meetings. We have heard stories of single mothers, for instance, who had to travel to Dublin to do an interview and so had to take the children out of school on that day and travel up on public transport on very limited resources to do so. I agree with the Deputy and with Mr. O'Neill that more interviews should be done locally in these cases.

As for predictions, who knows? I drew attention to the cases that have occurred in the world in the four years since 2015. Having said that, the figures we predicted for this year were an overshoot. We predicted that more people would come here than did so this year. We should get over the idea that everyone who was dislocated, the 68 million people in the world, want to come to Ireland. It might be a last resort for them, or it might be a first resort.

The view of the Irish public of direct provision is as Deputy Ó Laoghaire stated it. It needs to change now. Four years since the report, people ought to review the system. There will still be people against direct provision as a model but it is not as bad as it was and it is a good deal better than it was, and that should be said. What is the alternative? To quote the politicians, we are where we are. If the Deputy can get me a better model at the same money, I will certainly approve of it.

**Deputy Donnchadh Ó Laoghaire:** That is what this process is about.

**Mr. Justice Bryan McMahon:** We need to monitor it every year. The working group suggested that a body should be set up to monitor progress. It is not perfect and there is a lot to do, but we have made some progress.

**Chairman:** Does Mr. Killoran have anything to add?

**Mr. Brian Killoran:** It is the case that victims of trafficking in the direct provision system are located throughout the country in different places. Perhaps half of the victims who have been identified are in direct provision. The location of support services for these people is a significant issue.

Mr. Justice McMahon referred to the annual monitoring of asylum and migration trends generally. It may be a generalisation but largely true that Ireland has largely reacted to migration over the past 15 to 20 years, but we must get to the stage of planning and investing for it. Questions may arise such as what is the next conflict outside European borders that may put pressure on Europe in terms of accepting asylum applications, and there are other questions such as Brexit. We need not to be surprised by issues such as these when they arise and have mechanisms in place to allow us to plan and invest appropriately in our migration and integra-

tion systems so that we can respond to these things and be prepared instead of just reacting. Notwithstanding the improvements that have been made, we need to get off the back foot and begin planning and investing for migration, unlike our current approach.

**Chairman:** Before we move to Deputy O’Callaghan, I ask Senator Black if Deputy Wallace’s contribution might be taken before her as he has ----

**Senator Frances Black:** An election.

**Chairman:** A number of pressing matters to address.

**Senator Frances Black:** Of course.

**Chairman:** We will not allow canvassing, of course, but almost anything else is permissible.

**Deputy Jim O’Callaghan:** I thank everyone for coming. I have only two questions. Ms Stephens did not speak but I read her paper, which was very informative. Something she said remains a priority is the establishment of a designated and independent body that is responsible for the oversight of reception conditions. That was recommended by Mr. Justice McMahon. Does Ms Stephens still think this is essential?

**Ms Caroline Stephens:** It is essential. There must be oversight to ensure that contractors implement standards that have been introduced.

**Deputy Jim O’Callaghan:** Does Mr. Killoran think that would benefit the victims of trafficking and women who have been sexually abused who find themselves in direct provision centres?

**Mr. Brian Killoran:** Yes. There is a third strand to Ireland’s response to victims of trafficking which has been addressed at national and international level, namely, an independent rapporteur for trafficking. We have called for that, as has GRETA, the Group of Experts on Action against Trafficking in Human Beings, and other expert agencies. This would be similar to the children’s rapporteur and would have an overview of how the State was responding to victims of trafficking in general. That is one approach. Taking into account that there are victims of trafficking in direct provision, that kind of oversight is necessary. It might also feed into the findings of a rapporteur who was monitoring trafficking on an ongoing basis. That is essential.

**Deputy Jim O’Callaghan:** Deputy Ó Laoghaire raised the issue of how direct provision is seen as a dirty word. That is probably true. Many people compare direct provision centres with mother and baby homes where women were involuntarily incarcerated many years ago. Does Mr. Justice McMahon agree that it is important that the public is given an accurate assessment and presentation of what these centres involve and that there is an accurate assessment that the numbers of people seeking asylum in Ireland are very low by European standards?

**Mr. Justice Bryan McMahon:** Of course it is important that when informing the public, the information given is accurate. I do not know of anyone consciously trying to distort the situation. The McMahon working group, under my chairmanship, was very independent and truthful in what we saw, and we reported it as we saw it. Since then, all those who have participated in the system, and certainly the NGOs and individuals involved, have been very honest and open, as I have always tried to be. It is like anything. When one gives a dog a bad name, it will stick to it for a long time until the impression is reversed. It takes much longer to reverse a bad

impression than to create a bad impression to begin with. The message needs to go out that the direct provision that was in place four or five years ago is not the same as the direct provision that is there now. It is not as bad.

**Deputy Jim O’Callaghan:** Mr. Justice McMahon thinks it has improved?

**Mr. Justice Bryan McMahon:** It has definitely improved. It has dramatically improved. As I have said, I visited two reception centres in the past month. I was told by the managers that the right to work and the increased allowance had made a huge difference to the morale of the people in the system. They also said that the processing time had shortened. In fairness to everyone involved, if there is a better model out there, someone should research, cost and produce it. I do not see it at the moment.

**Chairman:** With Senator Black’s permission, I invite Deputy Wallace to contribute.

**Deputy Mick Wallace:** I am sorry I was late. I was listening to Mr. Justice McMahon in my office. I will be as brief as I can as I have a couple of questions, which I will direct to Mr. Justice McMahon in order that I do not drag out other people’s time. Mr. Justice McMahon said improvements have been made, things are better now and the numbers coming in on a yearly basis are being handled but that the backlog is a challenge. What does he think of the idea of introducing an amnesty for anybody who has been in the system for more than five years?

Are vulnerability tests being carried out in any of the centres as a matter of course? If so, do they happen within the first 30 days, as required by Article 22 of the reception conditions directive? Is there provision for ongoing vulnerability assessment as per the regulations?

The Minister of State, Deputy Stanton, told us that combined, the fully implemented, in progress or partially implemented recommendations make up 98% of the total recommendations contained in the McMahon report. A year ago Nasc disputed this claim, stating that at best 51% of the recommendations were in progress or partially implemented. What is the status of the implementation of the recommendations at present?

There are rising numbers in emergency direct provision where the conditions are even less attractive than in the regular form. Does Mr. Justice McMahon have serious concerns about this?

**Mr. Justice Bryan McMahon:** I will try to answer as quickly as I can. Starting with the final question, emergency accommodation is not desirable. It is costly and unsuitable and should be addressed as quickly as possible. No one should be in emergency accommodation. It costs €99 a night. If we do the maths for 500 people in accommodation at present, the cost is huge. We know the cost of keeping a person in direct provision is €10,900 a year whereas emergency accommodation costs €99 a night. That should be a priority. Emergency accommodation must be resorted to in extreme cases for short periods but it should not be part of the solution. I suggest that in this situation, given the housing crisis we have, the only way to address it might be for the State to build its own direct provision centres to house people. In those circumstances, emergency accommodation would not be needed.

The other problem on this front is that properties that were available, such as disused hotels and secondary schools, may no longer be available to the State for direct provision centres because they are probably becoming commercially viable again. The builders, developers and hoteliers - Deputy Wallace would know more about this - might state that the economy is now such that they can make a go of these properties commercially. There may not be that many

of them available. In these circumstances, the State should consider whether it should build. Father McVerry, the Jesuits and others have a pilot scheme to try to get people out of direct provision. This has been successful but the numbers involved are very small. I am totally against emergency accommodation. It is unsuitable and costly and is a last resort.

With regard to an amnesty for those who have been in the system for more than five years, we tried very much in our discussions to introduce something that was like an amnesty but we did not dare call it an amnesty. The politicians could not live with the word “amnesty” because it is not a prospect that would go down well with the public. To some extent, the word is taboo in the discussion because it will not fly. The administrators tried to do it in another way on an *ad hoc* basis. We cannot say we will give an amnesty to 4,000 people. The administrators stated they would prioritise cases by examining them quickly and being a bit more lenient or benign if people had been in the system for five years. It had to be done without using the word “amnesty”. There is no doubt that people in the system for five years or more deserve compassion and quick treatment.

The Deputy also asked about assessment in the Baleskin centre. This is another result of the accommodation crisis. Baleskin is the location for the initial reception process. It is the first place applicants go when they reach this country. They are medically assessed and legally informed and come into contact with the system. My understanding is that in recent times Baleskin has not been able to take all of the applicants so they are put into emergency accommodation before or during the assessment period. This is unfortunate and should not be allowed. The Department is taking some steps in this regard to expand Baleskin so it will accommodate everyone and enable people to have initial training and an initial legal and medical assessment. This is very important.

The Deputy asked about a statistic that was thrown out that 98% of all recommendations were implemented. I do not believe it. I cannot say the figure is 90%, 85% or 50%. I do not know. Many of the recommendations have been implemented, including some of the important ones. The figure of 98% has been disputed by some of the NGOs. With regard to cooking facilities, the Department states 38% of people have cooking facilities, which means 62% do not have cooking facilities for independent living. I will not challenge a statistic such as the one the Deputy mentioned. It is too general and I do not have enough specific information. I might be able to respond to a more specific statistic but I will give the Deputy this for what it is worth. Some of the NGOs did not agree with the general statement that 98% of the recommendations had been implemented.

**Deputy Mick Wallace:** I have a question for Mr. O’Neill. Is he happy with the vulnerability tests being carried out in centres?

**Mr. Enda O’Neill:** Frankly, the situation is not entirely clear. Anecdotally we know it is being done in some cases. It is being done on request. There have certainly been some positive developments on this of late but it is a new process. Often, when we ask the Department of Justice and Equality, it tells us it is in ongoing discussions with the HSE. The process is under development but I cannot say with any authority the extent to which such a test is done in every case. Mr. Justice McMahon alluded to the fact that not everyone was able to go through Baleskin registration centre where there are certainly some good medical assessment facilities. If people cannot go through Baleskin in the first instance, they cannot access those facilities. A measure we have been trying to employ to counter this is Safetynet’s mobile health screening. This has been a very useful service for people who have been able to access it. Plenty of work is happening but the situation is still evolving.

**Deputy Mick Wallace:** I thank the witnesses for their contributions.

**Chairman:** I thank Deputy Wallace and wish him good luck.

**Deputy Mick Wallace:** Is the Chairman looking forward to seeing the back of me?

**Chairman:** We will talk about that after you have left.

**Deputy Mick Wallace:** I still have to get elected.

**Chairman:** There we are. We will say no more.

**Deputy Mick Wallace:** I thank the Chairman.

**Senator Frances Black:** I thank all of the witnesses for their presentations and the work they do. This topic is of huge concern to me. I am really glad to hear Mr. Justice McMahon say the situation has improved over the past five years but I still find it very depressing, very sad and heartbreaking.

The first question I will ask Mr. Justice McMahon is about the right to work. This has been highlighted by direct provision residents and campaigners for decades and by the working group in 2015. We saw the Supreme Court decision in 2017, which I strongly welcomed and which effectively forced the State into some action, but I do not believe it is nearly enough. Residents raise issues of access to bank accounts, driving licences and the fact that the remote locations of many centres make it impossible to find work. Residents are still prohibited from many unprotected industries and jobs with certain pay. Estimates show that only some of the residents are working, as Mr. Justice McMahon mentioned. Because of this, it seems there is now a limited legal right to work but not an effective right to work. Does Mr. Justice McMahon agree? Is there a positive obligation on the State to actively ensure the right to work is accessible? I would like to know Mr. Justice McMahon's thinking on this.

I wish to ask Mr. O'Neill a little about the lack of common quality standards in the centres. We have touched on the cooking facilities and the ability to prepare a meal for oneself and one's children. This is so important. It is just a matter of basic dignity and respect. Those who cannot cook are infantilised and denied the chance to make basic decisions as to what they will eat and when. Does Mr. O'Neill agree that there should be a consistent set of standards across every centre? Does he think these opportunities and rights should be afforded to every applicant equally? Could he elaborate a little more on the standards being worked on at present?

I have a few more questions, if that is okay.

**Chairman:** All right. I call Mr. Justice McMahon first, as the Senator's first question was directed at him.

**Mr. Justice Bryan McMahon:** I agree with Senator Black that we should ask the question as to whether, just because people have the right to work, it is an effective right to work. I adverted to this in my paper. 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 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. Similarly, driving licences should also be tackled centrally. There is no reason in the world that this should be any different for people in direct provision. I know that some of them are driving, so they must get away with it. I do not know fully what the position is but I do know anecdotally that they have difficulty getting driving licences. How is someone living in Millstreet or Portlaoise who gets a job in Tralee, Listowel or Limerick to get there? It is an ineffective right. These two examples should be addressed and simply resolved. I am not telling tales out of school but I know that the Minister for Justice and Equality has spoken to the Minister for Transport, Tourism and Sport on these issues, so the matter is being kept alive.

I have addressed the issue of the locations of the centres already. The locations of some of them militate against getting a job. They can be six or eight miles out into the country and away from a town, and the transport is limited in some of these areas. I know centres which are served by a bus only once a day. The bus drops the kids at the school and comes home after collecting them, and there is no other transport in and out unless one has a bicycle or something. I therefore suggest to the authorities when they are picking a new location, if they have a choice of picking one near an urban centre or an area where work is available, that they consider those areas in making their choice and put them into their procurement process.

**Chairman:** There were further questions for Mr. O’Neill.

**Mr. Enda O’Neill:** I would like to make just one small point on the latter question as well. Questions such as the implementation of the right to work can sometimes become politicised and the debate can be quite polarised and anecdotally based. I referred to the Department of Justice and Equality’s culture and values charter, which states that it approaches policy development in a spirit of openness and consultation with all relevant stakeholders, employing evidence-based policy methodologies. This is also in the Department’s strategy statement. That is what we did in the McMahon report, in the working group. We were given the information and the evidence in order to be able to make well-informed decisions, to speak with all the relevant Departments and to frame policy in that environment. I am not sure I can say the same thing is happening on an ongoing basis. This is one example of an area where we should always conduct reviews and see whether it is effective and whether more can be done. I will give one positive example, which is the open doors initiative. A number of Government Departments and the private sector are collaborating on this, and we and a number of NGOs are supporting partners. We helped contribute recently to a support tool for employers in order that they can better understand the permissions and how they can go about employing people from various backgrounds, including migrants, refugees, asylum seekers and persons with disabilities. We need to encourage such constructive spaces where we can all play a role in trying to find solutions rather than throwing figures around that we are not sure of or finding criticism when we can perhaps find solutions.

To respond to the Senator’s second point about the standards, there was a meeting last week

with officials from the Department of Justice and Equality at which the final text was agreed. There was a public consultation, and I credit the Department as the initiative it took to this was very positive. We and many of the NGOs concerned and officials from the Department went to the various centres, met residents and discussed the standards with them. I understand that the final step is for the Minister to sign off on the text. I expect this to happen promptly. These standards have already influenced the contractual basis of some of the current arrangements with direct provision centres. The best way to understand the standards is that they translate the recommendations of McMahon into easy-to-understand binding standards that will apply universally to reception centres. There is certainly a potential issue with the divergence in standards across the system. Even within centres there can be a complete divergence of standards between the rooms for families and those for single males, for example. With these standards there will be uniform treatment. Of course, in order to ensure they are applied in practice, an independent inspectorate is required. That will form the basis of contractual obligations with any provider services. It is crucial that an independent inspectorate is given all necessary authority to go into centres unannounced and all the powers necessary to be able to say with authority that the standards are in fact being implemented in practice.

**Mr. Justice Bryan McMahon:** I agree that having an independent, external monitoring body is important.

**Senator Frances Black:** I am interested in the witnesses' views on private operators. In 2018, the State paid €72 million to private firms operating direct provision centres. Many of these operators are offshore companies, which means there is secrecy and a lack of information as to how much profit they are making. It is incredible that private companies are allowed to profit off extremely vulnerable people. It is very upsetting. When the profit motive is introduced, the concern becomes achieving a lower bottom line rather than the welfare of the people involved. If the State is responsible for the welfare of residents, should it be outsourcing that function to private companies?

What is the witnesses' view on the likelihood of legal action against the State? The special rapporteur on child protection has described the system of direct provision as State sanctioned child poverty. Asylum seekers have talked about the misery endured by them in the centres and how their humanity was slowly taken away and their fundamental rights ignored. Two weeks ago, I spoke at an event marking ten years since the Ryan report into the abuse inflicted on people in industrial schools. Is there potential for the residents of these centres to take further court cases now or in the future seeking a State apology and redress scheme? Could a claim be made that basic constitutional rights or rights outlined in international human rights instruments are being violated?

Mr. Justice McMahon's comments on the victims of trafficking are extremely upsetting. It is shocking to hear that there are no services in place for those who went through such horrendous experiences and are effectively being left in a state of post-traumatic stress. I find it difficult even to listen to commentary about it. What would the witnesses like to see done in this area? Can they provide clarity as to why people are asked to leave after 60 days?

**Mr. Justice Bryan McMahon:** The Senator asked about the involvement of private firms and overseas companies in direct provision and a lack of transparency regarding their profits. Once the State makes the decision not to be directly responsible for provision and engages outside commercial bodies to provide the premises and run the centres, there is then the problem that the operators have to be paid. There should always be transparency as to financial transactions in these matters. I do not know how accurate it is to say that very little is known in this

regard. I understand the figures are available in general but I am not privy to any information about profits. There is a certain amount of confidentiality in these transactions. I am not sure there is the degree of secrecy to which the Senator alluded but once the job is outsourced, it is inevitable that a commercial deal must be done. Private operators will not take on the job unless they are getting a reasonable profit out of it, although there is a question as to what is reasonable and not reasonable. The Senator is suggesting that these operators are exploiting the opportunity. That is a value judgment and I do not know whether it is correct. There are a lot of people looking into the matter and I suspect the level of profit-making is less than people might think. However, it is relevant to ask whether we are getting the best value for money under the existing system or if we would be better off were the State to be directly involved in provision. In the context of the accommodation crisis we are experiencing, I have suggested that it might be time for the State to provide more centres because the likelihood of getting commercial premises is shrinking. That is the route we might have to go and it would offer the benefit, one hopes, of ensuring better control on the part of the State. It should at least allow us to ensure the job is done transparently.

I have no opinion as to the likelihood of legal action. I am a retired High Court judge and have ceased to think like a lawyer. I certainly am not giving advice in this matter. The courts are always open to individuals in this country, as we have seen in respect of the right to work. Individuals may always plead their case as far as the Supreme Court and obtain a judgment. I cannot say whether an argument could be mounted similar to that which was made in respect of residential institutions. From that point of view, however, the improvements must be welcomed.

**Mr. Enda O'Neill:** On the issue of outsourcing, it is important to clarify that what is outsourced through the Reception and Integration Agency is only one aspect of the direct provision system, comprising the contracting of accommodation, catering and other services. When one visits a reception centre, one will often find a range of services available on site provided by, for example, the Health Service Executive or a non-governmental organisation. In fact, the centres rely hugely on other service providers and various Departments, and it is important that the latter are accountable for their areas of responsibility. That is actually set down in law under the public sector duty as set out in the Irish Human Rights and Equality Commission Act 2014. The centres are obligated, in accordance with guidance issued by the Irish Human Rights and Equality Commission, to plan for and report on how they are implementing that duty. In practice, not enough is done to hold different Departments and providers to account for their provision of services and to ensure there is sufficient co-ordination in place such that when a new centre is proposed to be opened, all of the required services are in place.

**Mr. Brian Killoran:** Regarding victims of trafficking, it is not entirely the case that no supports are available. Through the national referral mechanism for identifying victims and what happens to them thereafter, there is a model whereby access to health and support services can be activated. What we see in reality, however, is that there are huge inconsistencies in how that is done. Sometimes it does happen as it should and I do not wish to disparage any of the services in this regard, especially those connected to the HSE. However, because the identification process is so complex, with some cases taking up to two years before a person is identified as having been trafficked, we see inconsistencies and a breakdown in the process. One of the significant difficulties relates to the level of training provided to staff and managers in direct provision centres and RIA centres on the specific needs of these very vulnerable individuals. Staff and managers often have no idea of the particular circumstances of the person they are dealing with and, therefore, he or she may fall through the cracks in the system rather than hav-

ing his or her particular needs met. The model is there to be applied but our finding is that it gets undermined by the identification process and the inconsistencies arising out of it.

Victims of trafficking are a particularly vulnerable category of persons and there is also a gendered aspect to the issues they face. For example, being housed in mixed-sex hostels in a room with up to four people may compound the trauma they have experienced. It is important to acknowledge that there are many key civil servants in the Department of Justice and Equality who recognise this problem. It is not the case that there is a blanket denial of this from the Department or, indeed, from some of the politicians involved either. We are in this repetitive institutional context, however, where we are stuck with the approach we have. There is a recognition that we need to provide this ameliorated level of care. We are obligated to do so by the directives into which we have opted, by some of the pressure we are under from international instruments and, not least, from the experiences of the victims of trafficking who are in the system. Progress is being made but it is incredibly and grindingly slow, unfortunately.

**Senator Frances Black:** I referred to the 60-day period.

**Mr. Brian Killoran:** I apologise; I forgot that point. There are a number of stages in the response to a victim of trafficking. The first stage is called a “recovery and reflection” period, which is essentially that when someone is identified as a suspected victim of trafficking, he or she gets 60 days in which to recover initially from the situation from which he or she has just emerged. As one can imagine, someone who has been exploited in the sex industry is dealing with immediate trauma and often with immediate physical and psychological effects of his or her circumstances. That can lead to a temporary residency permit, which is a six-month permission. The 60-day period is the first part. We hear anecdotally from different services that some of the RIA centres are interpreting their obligations as relating just to that 60-day period and taking the view that once that 60-day period is up, the centre no longer has an obligation to the person. Such centres are writing people letters to request them to leave and those people are then going to the support services to ask what they should do. The support services are then going to homelessness services with such a person to ask whether a bed is available that night. While there is no research that can identify this, that is what we are hearing from the services and we have seen it ourselves. It is completely unacceptable for someone who has just come from a very traumatic situation.

**Senator Frances Black:** I thank Mr. Killoran.

**Deputy Jack Chambers:** I will be brief as many of the questions already have been teased out. I thank the witnesses for attending and presenting such comprehensive documents to us. I refer to Senator Black’s point about the effective right to work and the mismatch between the apparent right and the effective right. Do any of the witnesses have real-time information on what is happening in that regard? Are people getting jobs? Are there examples that can be given? How effective is the right?

How specific are the service-level agreements between private contractors and the State in respect of trying to improve the threshold of intervention regarding health, proper accommodation and so on? How effective is the oversight mechanism involved? Mention was made of national standards for accommodation and the introduction of an inspectorate to oversee them. Who would run that? How effective might it be? This committee in particular but others too have dealings with lots of siloed inspectorates and oversight mechanisms which are accountable to different bodies. Does it come back to the original point of having one unified body or agency to deal with this in a more holistic way?

I refer also to the healthcare issue, including mental health for people coming from war-torn countries. In my area in west Dublin, we have a lot of people who have gone through the process and who are now out the other side. The problem is that it does not end there, as the witnesses know, as to the healthcare deficit and housing issues. In terms of the afterpiece, do we need to oblige local authorities to be involved to a greater extent or even to improve the legal threshold with regard to healthcare rights for people who come out of direct provision and who are potentially accommodated? How do we continually provide a rounded intervention for them as they progress through society? In Canada, for example, that is done in a positive way at an early stage and they see the positive effect it has for their society. In Ireland, however, we are forever playing a game of catch-up which means the person in difficulty is never given a chance. That is what we must all seek to deal with. Those are some general points.

**Chairman:** Would the Deputy like them directed in any particular sequence?

**Deputy Jack Chambers:** No. I am happy to hear from whomsoever has a view. I know a lot of questions have been asked and answered very well already.

**Chairman:** We will start with Mr. Killoran.

**Mr. Brian Killoran:** I can speak a little to a couple of those points. The Deputy's point about local authorities is an interesting one. We do a lot of work with local authorities nationally on integration strategies. 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. It is quite a big thing but it can be quite fluffy. While integration strategies often focus on positive integration initiatives and community events, which are brilliant, a lot of this is about the nitty gritty of how one absorbs someone coming into the community, including someone who has spent five years in a direct provision centre which is a form of institutional living. We work very closely with some of the local authorities and urge them to build in any direct provision centre in their area as a strand of the local integration strategy in how they respond. 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. That comes back to the point about planning. Locating a centre in an area is not just a once-off action. It is something that will reverberate for years and it needs to be built into the infrastructure of that area. An integration strategy is a sure-fire way to look at that.

The Deputy asked about the right to work. It is worth pointing out that in Europe and Ireland so far, the tendency among asylum seekers who have a right to work is to enter self-employment due to the significant barriers they face in entering regular employment. While a large number of people have taken up the right to work in Ireland, it is unclear how many are in self-employment and how many are in actual employment. We hear from those contacting

our services and from our integration work that bank accounts are a significant issue. However, some banks have started to figure out what one could call limited-function, high-risk bank accounts, both because they have been forced to do so by recent court decisions and because they recognise this is something they need to sort out in the long term. Accounts like this will deal with the issues banks face of identification and address, while allowing asylum seekers to access a function that will satisfy an employer and allow salary payments to be made. There is movement in that area and I think some of the banks will come out with initiatives to address the issue this year. While that is positive, it remains a significant problem at the moment.

We have worked with the Department of Justice and Equality and the Department of Transport, Tourism and Sport to figure out driving licences. We are batted back and forth between the two, each of which says the matter is the responsibility of the other. As of yet, there has been no resolution of that issue. Location is a significant issue. As Mr. O'Neill said, the private sector involvement and level of knowledge on the right to work of asylum seekers is incredibly low. We are trying to work with the employer agencies and bodies to spread information and we are a supporting partner in the Open Doors initiative. The initiative involves 22 large private employers operating special schemes around employing asylum seekers and refugees and is very important. While positive things are happening, significant gaps remain. Those are the two parts to which I can speak.

**Mr. Justice Bryan McMahon:** On the specifics of the right to work, I have a statement from the Secretary General of the Department of Justice and Equality. It reads:

Approximately 2,300 applications for the right to work have been made, 1,600 having been approved. We have had 632 employment declaration forms returned.

That would suggest that officially at least 25% to 30% of the applicants are being approved. I mentioned when the member was not here that I visited three centres in the past ten days, all in the same area of the country. In one centre, which was a men only centre, 38 of the 57 men were working. That is a good number, and of the 38 men, three were also doing further education. In the next centre which was for women and children only and in which there were 86 females, I was told that about 70% were working in that centre. Some of the women would not have been in a position to work because they had young children. Therefore 70% of that cohort is a significant number. The third centre was for single women, and in that centre 70% of the women were working. I hasten to add that this was in an area of the country where there is a good tourist business and where jobs in the hotel service industry are readily available. I do not know how common that is. I have the figures for one area which are very encouraging. I would not expect it to be the same in Foynes, Millstreet or in some of the other remote centres. That is why we have talked about location.

The Health Information and Quality Authority, HIQA, was mentioned as a possible organisation that might be approached to do the job for direct provision centres. I am not sure whether it was accepted or pursued as yet, but it needs to be an independent body with teeth. The Departments will be negotiating between themselves. I am sure there will be a reluctance to set up a new agency, but some existing body could take it on board as part of its portfolio. Mr. O'Neill wishes to comment.

**Mr. Enda O'Neill:** Almost every Department is involved in some form or another. The driving licence situation is a good example. What often happens is that a person goes between one Department and another and there are ongoing discussion as to who has responsibility. There is no referee, nobody above that to decide. It requires a good deal of co-operation and these things can often take a very long time to resolve. That conversation is relevant to the

inspectorate as well. HIQA has been mentioned but legislative change would be required and there would be resource implications. What we need is a new approach, an all-of-government approach to these issues. It is bigger than just the Department of Justice and Equality, whether one has a rapporteur, as suggested by Mr. Justice McMahon, or some other model where somebody can have a bird's eye view of the entire system. We do not have performance benchmarks or baseline indicators across each Department so that we can see what success looks like and whether progress has been made against the targets. That is a difficult conversation but is one that needs to happen. The standards have been agreed at departmental level so it needs to be signed off. It is envisaged that there will be a period of two years where the centres will be expected to come up to standard over that period before they become binding. That said, they have informed the tenders already to date, so many of the important aspects of the standards coming from the McMahon report have been incorporated as some of the requirements of the tenders already done to date.

While we have not had sight of the contracts with direct provision centres, because this is commercially sensitive information, they are made available after a number of years. I believe we did have an example. It is in the appendix in the working group report but the tender documents themselves contain quite a bit of detail in terms of the expectations of contractors and what is required.

**Deputy Peter Fitzpatrick:** I thank the witnesses for coming today. This has been a real education for me. I would not know much about this area. I remember my mother told me years ago that if I do not know something, not to be afraid to ask questions.

Is it correct that there are approximately 6,000 people living in direct provision? What information do we have on the people who live in direct provision? Do we have statistics? How many are living in State accommodation and how many are living in private accommodation? What benefits are the asylum seekers entitled to? It was stated earlier that some of the people living in these asylum centres have qualifications, such as plumbers and carpenters. In recent months I have been contacted by painting, plumbing and electrical contractors who are experiencing a massive shortage of workers. They have been in constant contact with the Minister for Business, Enterprise and Innovation, Deputy Humphreys, about the work permit scheme for taking people from countries outside the European Union. I wish to address questions to Mr. Justice McMahon and Mr. O'Neill. Later I will have a question for Mr. Killoran. As a member who does not really know much about the asylum system but who is willing to learn, will the witnesses educate me on what is going on?

**Chairman:** That is a straight up request.

**Mr. Justice Bryan McMahon:** How long have I got to educate the Deputy? His first question is easily answered. There are 6,106 people in direct provision at present. People can come into the country and be an applicant for asylum and not live in the direct provision centre. People can choose to live outside, and if they have the means to live outside, they can do so. There is an undefined number outside the system. When we were doing our report in 2014, it was nearly 50:50. There was approximately 4,000 people living in direct provision and it was estimated that approximately 4,000 people were living outside. It is very hard to keep tabs on people outside direct provision. The figures are there and I am sure Mr. O'Neill has more accurate figures, because the person only has to make a legal application for asylum and the next time they are seen is at the next stage of the process, when they are called to come before a tribunal. They vanish and it may be that some of them go to England clandestinely. We do not know. There is a question mark about how many are outside direct provision. We were only

asked to report on the people in direct provision and the State's obligation to them. That is why our focus is confined to that. I suspect nowadays there are fewer people living outside direct provision than there was when we did the study. There are many more people living in direct provision because there are no alternatives available.

Deputy Fitzpatrick touched on a subject that is fairly complex, namely, the willingness of asylum seekers to work and their qualifications to do so. We met people in direct provision who were architects, economists, university lecturers as well as those who were tradespersons in their own country. The question of recognising their qualifications is a major question, and that applies not just to people seeking asylum but anyone who comes to the country and wants, for example, to practise as an architect. He or she has to show that his or her degree is equivalent. I suspect there is a resource of people who could work in the trades in country places. I am not sure if this would apply to electricians but there is work for everyone, as we are told by the economists. If one comes from a local provincial town, one hears people complaining that they cannot get people to tend to their garden, do handiwork or paint the house, which one imagines that people in a direct provision centre would have the skills to do. Somebody else on the panel might know more about their skills and how they are trying to match up the skills of those in direct provision with the needs of the local economy. In any event, the question was not asked simply because they did not have the right to work up until recently. Now that they have the right to work, I am surprised to hear it is not publicised in direct provision centres. It is a crying shame that it is not posted in all direct provision centres that a person there is entitled to work after nine months. It should be promoted. There is a role there for voluntary, local and community groups. Many direct provision centres have friends in these sectors.

**Deputy Peter Fitzpatrick:** The reason I asked the question is that people say people in asylum centres do not want to work. I am trying to be honest. That is why I am asking for information and statistics. I am delighted to hear that they want to work. There should be as much emphasis on them as on the question of work. I understand the issue regarding location. I come from Dundalk. The nearest centres are in Mosney and Monaghan. Committee members intend to visit these two centres in the coming weeks.

What are their entitlements if they want to work? It is great to hear that they want to work and that the entitlement to work is granted. It is easy enough to say that but when a person starts working initially, it could be one or two weeks before he gets any money. Are these people entitled to free public transport? To what are they entitled? I am delighted that the law has changed and that they can work. There are highly skilled people in the centres. As stated earlier, I have individuals ringing me up on a daily basis trying to get people to work for them but they cannot get staff. This morning, I received a telephone call from a painter in Dundalk. He has lost 11 contracts recently. He had ten painters working for him at one stage but now he only has two. It is nearly impossible to get painters.

These people came to this country for a reason. They came for help and we have to give it to them. If they have the qualifications that our guests state they have, then they are entitled to work. These people do not want to be freeloaders, they want to work.

**Chairman:** That is what we have established.

**Mr. Justice Bryan McMahon:** When we compiled our report, we came across a phenomenon that was quite depressing. If people remained in direct provision centres for five, six and seven years, they lost the will to work and became de-skilled. Their skills atrophied and they became institutionalised. We should not have that problem any more. The people who are in

these centres for six months, a year or two years want to work. I asked a man in one of the centres how he was getting on. I was inquiring about his legal papers. He told me to forget about his legal status. He urged me to help him to be allowed to get up in the morning, have his breakfast, go to work and then come back in the evening and sit down with his wife and children and say that that day he had worked. He said he would work for nothing. It means a great deal to the new people coming in. Deputy Fitzpatrick is absolutely right; there is a missed opportunity here somewhere. I am unsure as to how the matter can be resolved.

**Deputy Peter Fitzpatrick:** We are able to look after 3,900 applicants at present. There are approximately 3,600 each year. What lessons have we learned in recent years? Are these 3,600 applicants new? Are we starting with applicants from day one? What is happening? I will be honest. I would not fancy being stuck in a confined space for such a long period. What is the system at the moment? Have we learned anything? Have many of these people been in direct provision for five or six years? They want the right to work and do everything else. Have we learned anything? Have more people been employed to process applications? The figure of 3,900 seems large. They have got something right. What have we learned to get the process going at this stage?

**Mr. Enda O'Neill:** Thinking back over the years, sometimes people would say to me that if we made the system too good for asylum seekers, it would attract more people to Ireland. I do not think anyone who has been to a direct provision centre would make that argument but it is made elsewhere. Really, the fact that the system goes on for so long has the potential to make it a target for people who come irregularly and who are not likely to get status. The quicker a person's case can be resolved, the quicker we can identify his or her legal entitlement to stay and work. Our discussions at the working group also concluded that a fast process makes it more likely that a person would voluntarily return home if, at the end of that process, he was not given status. I go back to this point - the right to a quick decision is crucial.

Deputy Fitzpatrick asked about entitlements. It is important to state, especially in light of certain comments during the campaigning period of late, that asylum seekers are not considered to be habitually resident. Therefore, they do not qualify for social protection payments in the same way as Irish citizens. The payment rates to which those living in accommodation centres are entitled are €29.80 per week for children and €38.80 per week for adults. The allowances have increased considerably since the report came out and we have seen the implementation of the recommendations in the McMahon report. People are reliant to a large extent on the food and services available in the centres. They have a small living allowance to meet their other needs. They would also be entitled to a medical card. It is only when they get status or are granted permission to work and take up employment that they would have greater income.

**Deputy Peter Fitzpatrick:** My final question is for Mr. Killoran. It relates to with human trafficking. Mr. Killoran mentioned that it could take up to two years to find or identify the woman involved. That seems a long time. I have seen many documentaries lately dealing with trafficking. It is frightening, especially for a father of three children, two of whom are girls. The last thing we want is for our children to be kidnapped, taken to strange countries and so on. Have the numbers been rising in recent years? The Garda has been getting enforcement going in recent months. People are being arrested now whereas previously nothing was happening. There is enforcement by the Garda. Can the Immigrant Council of Ireland provide figures for the past 12 months, 18 months or two years? What is the success rate? The first thing a woman taken from a foreign country would want is to get back to her parents. Will Mr. Killoran outline what is happening? Is the Immigrant Council of Ireland working closely with the Department?

Is the council getting much response from the Garda? I am not being smart but to me it is the next thing to rape. At issue is a woman being forced to have sex against her will by these pimps, or whatever we call them. Many people seem to get away scot-free. The more we highlight this, the more people will realise it that this is happening in our back garden. I want to see it stopped.

**Mr. Brian Killoran:** Public awareness has increased in recent years but most people would be surprised to hear that it occurs in every town and village, unfortunately. By its nature, trafficking for the purposes of sexual exploitation is for the most part organised by organised crime gangs, Irish and international. These gangs often work in collaboration. They move women around on a regular basis and make it difficult for the women to escape.

Garda investigations tend to be part of international investigations involving Interpol and Europol and are large and complex in nature. Council law centre staff have to be conscious that those who come to us are often some of the worst cases. These are the ones that come to our attention. We have seen cases of identification of victims of trafficking taking up to two years. Often, we will go to the High Court for judicial review to review the whole process and try to find out why it is taking so long. One of the primary problems is looking at trafficking through the lens of immigration or seeing it as an immigration phenomenon. Trafficking can of course occur with EU nationals who enjoy freedom of movement as well, who do not necessarily have an immigration issue but are caught up in this system anyway. Although trafficking often and mostly involves migrants, we have to move our perception of it from being an immigration issue to an approach similar to that around gender-based violence, in that we need to be much quicker in identifying victims of trafficking and putting supports in place around them.

As for the numbers of victims of trafficking over the past few years, the State engaged in 90 investigations of victims of trafficking in 2016 and 115 investigations in 2017. These investigations were split roughly evenly between labour exploitation and sexual exploitation, although there were slightly more sexual exploitation investigations. While the official 2018 statistics have not yet come out, it looks like there will be a further increase on the 2017 figure. We are seeing an increase in prevalence and detection, but we are not seeing an increased level of conviction of traffickers, which is the biggest single issue. We have very close contact with the Garda, including the Garda National Protective Services Bureau, GNPSB, and the immigration authorities and I do not think the low conviction rate is because of a lack of willingness on their parts. The problem of identification hampers their ability to investigate effectively because they spend so long trying to work out the identity of a victim of trafficking that it takes from their overall powers of investigation. That needs to be reformed entirely and the Garda needs to focus on investigation so it can convict traffickers.

The Garda is very conscious of the international criticism it has received because of the fact that we have not yet convicted a trafficker in Ireland. That is a massive area. While all these complex responses are going on at State level, people are often sitting in direct provision, essentially going through the motions, trying to get into a position of recovery and trying to get their lives back on track. These administrative arrangements built around it often hamper those people's ability to get back from a horrific situation into one of having dignity and the ability to be on their own two feet again. We have the component parts of a good response to victims of trafficking, and we have the will, but we are lacking a clarity of approach and resources put behind it. Things like the Criminal Law (Sexual Offences) Act 2017, which decriminalises women in these circumstances but targets buyers, are very important but they need to be properly implemented as well. We are only seeing the initial stages of implementation on that par-

ticular legislation. It is a complex area, but I appreciate the opportunity to talk about it at length.

**Chairman:** That is a good invitation for me to now say what I have to say. For some reason, the recording equipment broke down in the course of the exchange between Deputy Fitzpatrick and Mr. Killoran. I know it would be of no trouble to Mr. Killoran at all, but we would like him to say it all once again when the recording equipment comes back.

**Mr. Brian Killoran:** Oh. What did I just say?

**Chairman:** I am only teasing. We will suspend for a moment to see if we can get back on track.

*Sitting suspended at 11.43 a.m. and resumed at 11.45 a.m.*

**Chairman:** We will now resume in public session. I now ask the panel and members to manually reactivate the recording equipment by pressing the button to make a red light appear on their microphones. I am sure the technical aspect of it will be sorted in time.

I had some questions myself but I am going to conclude with one observation, and to share a situation with the witnesses. When I was a member of the health committee, in a previous Dáil up to ten years ago, we visited a number of direct provision centres. At that time it was very much of the order Mr. Justice McMahon has referenced himself. Changes have been made, and that is to be welcomed. However, the reality still is that the lives of the greater number of people accommodated in these situations, particularly those who are waiting longer, are suspended. That is the way I see them. The 19-month wait that was referenced is totally unacceptable, albeit a significant improvement on the previous situation. Are any of the panel in a position to advise on whether there are people currently in direct provision who have been there for significantly longer than 19 months? Do we know the statistics on that point?

**Mr. Justice Bryan McMahon:** I have figures from the Department that were sent to me yesterday, so they could hardly be hotter off the presses. I have some difficulty in interpreting the tables but there were 346 people who have been residing in Reception and Integration Agency, RIA, sites for more than four years, of whom 75 had status granted, 41 had been issued deportation orders, and 230 are still under consideration. Moreover, 141, 66, 63, 16, 19, 26, 13, eight, one and three people have been there for more than five, six, seven, eight, nine, ten, 11, 12, 13 and 14 years, respectively. Therefore, a total of 702 people have been residing in RIA sites for more than four years. I can give these figures to the committee.

**Chairman:** Please do. It would be very useful.

**Mr. Justice Bryan McMahon:** The committee has those numbers now. In June 2015, when I finished the report with the working group, I was *functus officio*. I am no longer relevant as my job was finished. I am here today as the former chair of a working group that finished its job in 2015. I still maintain an interest in the whole area but I have no official status. I want to make that clear. I would classify myself, if I may, as an informed advocate at this juncture with no official status. However, I am being kept in the loop by the Department. In taking its evidence, the committee should pay attention to the people who are at the coalface in this matter. I have drawn attention to the differences that have arisen during the past 15 years but I am not at the coalface. I am sure many other witnesses will come before the committee and I want members to bear that in mind.

**Chairman:** I appreciate that and thank Mr. Justice McMahon for sharing such up-to-date

statistics with us.

We have heard Mr. Justice McMahon's view on the so-called emergency direct provision that has come into being relatively recent. We have challenged the Minister, Minister of State, who is a former Chairman of the committee, and representatives of the agencies involved on this matter. They point out that they do not have accommodation available for the numbers presenting and that their hand was forced on this issue. We are talking about private-for-profit interests because all the other centres bar those that were State owned in the first place, which are seven in number, are all private-for-profit entities. However, the situation regarding emergency direct provision comes down to what can only be described as block booked hotel and other accommodation opportunities. I am familiar with some of these in my constituency. I have personally witnessed a situation where a significant number of people are accommodated in a very rural location that is not served by public transportation and they have a big car park to walk around. This conjures up in my mind something akin to an exercise yard in a prison. I find that utterly unacceptable. What is more unacceptable is that the providers of this so-called accommodation and the Reception and Integration Agency seem happy to ignore a major inconvenience that occurred when more than 100 people - I do not have the precise number to hand - were removed from the hotel in which had been staying for some time and relocated elsewhere because the hotel had to honour a previous booking for a wedding event. These are human beings and that incident conjures up an image of a herd being moved to another field in order to facilitate whom? It is offensive, disgraceful and a very black mark on Ireland.

The joint committee will hold a series of engagements with the widest number of people we can physically accommodate. The expressed interest is beyond what we can facilitate. For this reason, I am laying great emphasis on the fact that we are open to receiving submissions. We will meet representatives of the Irish Refugee Council and the Movement of Asylum Seekers in Ireland, MASI, next week. We decided earlier in private on our meeting of 12 June and we will meet again on 19 June. We will also have planned visits, as Deputy Fitzpatrick noted.

We greatly appreciate the witnesses' attendance, the submissions they forwarded to us and their opening statements. We had more members in attendance than I expected or feared, which is great. The joint committee has 11 members and we had seven of our number in attendance today, which is not bad given the week that is in it. I thank Ms Mary Henderson, Mr. Brian Killoran, Mr. Justice Bryan McMahon, Mr. Enda O'Neill, Ms Maria Hennessy and Ms Caroline Stephens for their participation and assistance in this process. We will invite them to the launch of our report and if they are in a position to attend it that would be great. We intend to launch it publicly with recommendations that will be the result of a process of discussion among us. Hopefully, we will reach consensus on real and practical recommendations that will make a difference in the lives of people who are looking to us in times of agony in their lives for help and assistance. I also thank Senator Black for staying the course.

The joint committee adjourned at 11.55 a.m. until 9 a.m. on Wednesday, 29 May 2019.