

Review of Direct Provision and the International Protection Application Process

Submission by the Citizens Information Board to the Joint Oireachtas Committee on Justice and Equality (*May 2019*)

Introduction

This Submission by the Citizens Information Board (CIB) to the Joint Committee on Justice and Equality takes as its starting point the fact that there is some consensus on the need to develop a better accommodation system for asylum seekers and a more streamlined and efficient international protection application process. CIB considers that the review being undertaken by the Joint Committee is important in the context of finding innovative ways of dealing with a complex situation and of putting the matter more firmly on the public policy agenda. On the latter point, CIB notes that, while there have been many criticisms of the Direct Provision system, there has been relatively little public engagement on the issue to date other than in relation to difficulties with provision at local level.

Role of the Citizens Information Board

The principal functions of the CIB are to support the provision of and, where appropriate, provide directly to the public, independent information, advice and advocacy services in relation to social services. The CIB is also required to assist and support individuals in identifying their needs and options and in accessing their entitlements to social services. CIB funds and supports the nationwide network of Citizens Information Services (CISs), the Citizens Information Phone Service (CIPS) and the Money Advice and Budgeting Service (MABS). We also provide and manage the Citizens Information portal www.citizensinformation.ie which provides comprehensive information on the asylum-seeking process and on the operation of the Direct Provision system. CISs provide information, advice and advocacy services to people in Direct Provision through both their local centres and by periodical outreach clinics to Direct Provision centres. Such information complements that provided by other agencies such as the Reception and integration Agency and typically involves information on the international protection application process, service entitlements (e.g., under the Supplementary Welfare Allowance system) and seeking redress. Engagement with asylum seekers also involves an advocacy dimension – enabling people to use the information provided to optimum effect.

Difficulties with the Direct Provision system identified

CIB also has a role in identifying policy issues and blockages that arise from client queries and has over the years identified a number of difficulties associated with Direct Provision and the international protection application process including:

- Length of stay arising from the time required to process applications for international protection
- Limited choice relating to location, type of accommodation and dietary requirements

- An inappropriate living environment for children
- Lack of adequate income to maintain a reasonable quality of life¹
- Some over-occupancy and overcrowding
- Complaints not being addressed by Direct Provision managers
- Lack of housing options for people granted international protection
- Lack of access generally to Free Third-level Education²

More recently, feedback from information sessions and clinics organised by CIB for people in Direct Provision shows that housing issues are consistently the biggest problem for people with status trying to move from Direct Provision centres. The social housing system is largely ineffective for this group of people with a clear housing need (see Appendix for details). Other areas where issues were identified at these clinics were access to employment, training and education supports and registration and identification matters.

In addition to the 2015 Working Group on the Protection Process and Direct Provision Report (McMahon report), there have been numerous reports from NGOs, the Irish Human Rights Commission, the Ombudsman for Children, and the Special Rapporteur for Children and, recently, the Ombudsman's Report, all of which highlight endemic problems associated with Direct Provision.

The McMahon Report highlighted a combination of issues contributing to stress and poor mental and physical health for people who are already vulnerable and facing uncertainty. These included:

- Significant child protection concerns
- A lack of privacy
- Overcrowding
- Limited autonomy
- Insufficient play areas and places to do homework for children
- A lack of facilities for families to prepare their own meals and meet their own dietary needs

The Ombudsman's 2018 Report on complaints from refugees and asylum seekers living in Direct Provision centres identified a number of areas of complaint

- Refusal of requests to transfer to other centres
- Facilities at direct provision centres
- Refusal to readmit residents to centres
- Complaints about food, lack of cooking facilities and availability of transport

The McMahon Working Group made a number of recommendations which included ensuring asylum seekers received a decision on their application within 12 months. Positive developments in recent years have included the development of draft National Standards for

¹ Budget 2019 increased the weekly allowance for those in Direct Provision, to €38.80 per week for an adult and €29.80 for a child. While welcome, this increase still places the allowance below the recommended amounts set out by the McMahon Working Group and do not account for inflation in the intervening period.

² Under a Pilot Support Scheme introduced in 2015, school leavers who have been in the protection system for 5 years and meet certain criteria can apply for student supports.

Direct Provision accommodation, limited access to the workplace for asylum seekers who have not received a first-instance decision within nine months and the introduction of the EU Reception Directive in 2018 which places reception conditions on a statutory footing.³

These developments are clearly welcome. For example, the Ombudsman has highlighted the positive impact that the 'right to work' has had for some residents and the resulting improved mood at many centres. Despite the introduction of the International Protection Act 2015 which provides for a single application procedure for international protection and which sought to speed up the application system, people are still waiting on average 18-20 months for an initial hearing on their status. Also, the number of undecided cases has been increasing, for example, from 1,550 in 2016 to 5,100 in 2017.

Addressing the Issues

Quality Standards

While a public consultation has been carried out by the Department of Justice and Equality on a Draft National Standards for accommodation offered to people in the protection process, it does not appear that these standards have been finalised or put on a regulatory footing. There is an obvious need to finalise these standards and to put in place mechanisms for implementation and monitoring. In particular it is essential that staff working in Direct Provision centres have the appropriate skills and competencies to deal respectfully with people who are vulnerable and who have a range of needs which vary from individual to individual.

Better collaboration systems

CIB has over the years drawn attention to difficulties for users of public services, including:

- Administrative delays or difficulties in contacting services arising from location, opening hours or telephone availability
- Inadequate inter-agency referral practices
- Need to attend at multiple public offices

Inadequate integration within and between various government departments and statutory agencies that administer social services is a particular problem for people living in Direct Provision. Individuals are often faced with a bewildering number of information and service outlets of varying scale and scope and it may be difficult for a newcomer to comprehend the precise role of each and if and how they relate to each other. This difficulty is compounded in some instances by language difficulties and/or by the location of accommodation (sometimes at a distance from service centres).

Consultation with residents in Direct Provision

People in Direct Provision should be consulted on an ongoing and inclusive basis in finding out what services and supports they need and how these should be delivered. The Beyond McMahon report⁴, published in 2018, called for an "ambitious, systematic and accountable" overhaul of direct provision informed by the voices of the people who have experienced, or who are experiencing, the protection system in Ireland.

Additional mechanisms are required at both national and local levels to maximise a partnership approach to service provision in the context of cultural diversity and to further promote the

³ <https://www.asylumineurope.org/news/08-07-2018/ireland-new-reception-rules-following-opt-eu-directive>

⁴ <https://nascireland.org/sites/default/files/BMM-Consultation-Full-Website-FINAL.pdf>

active engagement of asylum seekers in developing and implementing appropriate participation strategies. On the latter point, there is a crucial distinction between consultation which tends to be 'top-down' and participation which is more organic and meaningful in terms of social inclusion.

Welfare anomaly

People living in Direct Provision who are recognised as refugees or granted alternative status are required to leave within two weeks of getting status. While they remain in Direct Provision, they are not entitled to full social welfare payments which would enable them to better plan for transition to other accommodation. This difficulty is exacerbated by the fact that it is not possible to access a rental deposit payment for accommodation in advance of securing a lease agreement (which generally requires a deposit). The following should be considered

- Paying full social welfare payments to people living in Direct Provision who have been granted international protection status
- Extending the two-week time limit in Direct Provision to enable people find alternative accommodation
- Provision for access to rental deposits to enable people to access private rented sector accommodation

Social inclusion and meaningful integration

The Direct Provision system is fundamentally at odds with Government strategy on migrant integration. There has been a tendency to exclude asylum seekers from integration policies and processes. While this is to some extent understandable in the context of minimising so-called 'pull' factors, it is counter-productive and serves to further marginalise a vulnerable group of people, many of whom will end up making Ireland their home.

The 2017 Migrant Integration Strategy: A Blueprint for the Future⁵ outlines a "long-term vision of Ireland as a society in which migrants and those of migrant origin play active roles in communities, workplaces and politics" This principle needs to be reflected in the way the needs of people in Direct Provision are identified and addressed. While some people in Direct Provision have some linkages into the local community and/or to support groups⁶, there are many who for various reasons do not belong to any networks.

Meaningful integration and social inclusion requires that people in Direct Provision are regarded as persons with multiple identities and individual life-stories, (e.g., parents, children, grandparents, members of ethnic groups, nationalities, life events that brought them to Ireland etc.) and not just as people who are seeking asylum. While Direct Provision centres as they currently operate are not ideal for such a people-centred approach, it is strongly suggested that much more could be done in terms of acknowledging people's individual dignity within the existing system. Clearly a more responsive people-centre system is required in the longer-term.

Need for a new model

Direct Provision centres were seen initially as providing essential short-term accommodation and subsistence for asylum seekers. The system, however, evolved into long-term accommodation provision in a largely unplanned manner. Since many people are clearly required

⁵http://www.justice.ie/en/JELR/Migrant_Integration_Strategy_English.pdf/Files/Migrant_Integration_Strategy_English.pdf
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⁶ For example, Movement of Asylum Seekers in Ireland (MASI) is an independent platform for asylum seekers to join together in unity and purpose.

to remain longer in 'transitory' accommodation, the introduction of more family-type accommodation as distinct from communal reception centres should now be proactively explored by Government. There is a need to examine systems in other jurisdictions in order to identify alternative models of provision which are more in keeping with a proactive social inclusion and people-centred response. Evidently, EU protocols and systems for dealing with asylum seekers are at the centre of how each country meets its obligations.

CIB notes the new community sponsorship initiative being developed by the Department of Justice and Equality which encourages villages, towns and parishes across Ireland to "sponsor" a vulnerable refugee family. This clearly has much merit and should be widely promoted. It should also be considered as one of a number of models that could provide a realistic alternative to Direct Provision.

Role of social enterprise

The current housing crisis presents major difficulties in relation to both developing alternative accommodation structures for asylum seekers and providing accommodation to people who have been granted international protection and who need to find alternative accommodation. CIB is of the view that social enterprises⁷ have the potential to develop accommodation alternatives on both fronts.

Given that Direct Provision suppliers were paid €72m from exchequer funds in 2018, there is clear scope for greater involvement by social enterprises where the focus is on social purpose and social objectives rather than on profit. Such initiatives could be developed in collaboration with or as an extension of dedicated housing bodies. A social enterprise approach would have the added advantage of providing stronger linkages with local NGOs working in the areas of social housing provision, community development and service delivery and would optimise the contribution of the Voluntary and Community sector and enhance social inclusion. Social enterprises could also in the longer-term contribute to the provision of additional housing to cater for the needs of people who receive international protection status.

Active consideration should be given by Government to incentivising social enterprises to engage with the public procurement system relating to 'Direct Provision'. Tender requirements should place particular emphasis on innovation and developing alternative models of provision.

⁷ The Government (Department of Rural and Community Development) has published a Draft National Social Enterprise Policy for Ireland which has recently been the subject of a public consultation.

Appendix: Policy Issues identified in Citizens Information Service outreach information clinics for those granted refugee status in Direct Provision Centres

Housing

- Lack of available accommodation within the rent limits and difficulty finding accommodation that will accept them
- Most landlords are looking for a deposit and a month's rent in advance. Residents are mainly being provided with deposits, but are unable to access a month's rent in advance, which is putting them at a disadvantage in the rental market.
- ENP for a deposit is only available once the HAP application has been approved. Considering the high demand and lack of supply in the Dublin rental market at the moment, Direct Provision residents who are unable to borrow money to pay for a deposit in advance, are finding it very difficult to secure a tenancy when competing with people who are in a position to pay a deposit and first month's rent up front.
- Pressure on residents to move out of the Direct Provision centres – letters and notices received. This is putting residents trying to find accommodation under stress.
- Difficulties in not being able to transfer housing applications from one area to another. Residents have to apply to one local authority and then when they can't find accommodation in that LA area, they have to apply again to a different LA. These delays are causing difficulties and prevent people moving out of the centres.
- Difficulty obtaining affidavits/documents required for housing application to prove that claimants do not have property in their country of origin – this is very difficult especially for refugees and also delays the housing application.
- If a client owns property in their country of origin, they are not allowed on the housing list, even where the property has negligible value. If they sell this property and fund their accommodation costs with the proceeds of this money, at what point do they become eligible for social housing? For example, if they sell the property with proceeds of €20,000, do they have to use this full €20,000 on rent, or are they allowed to keep a certain amount?
- Issues around how to complete housing applications for people in unusual family situations, for example, if one half of a couple has been granted status and the other has not?
- Difficulties filling in the Social Housing Application form
- Access to Homeless HAP. Time with status in the direct provision centre could be classed as 'homeless' so residents can access the extra supports given for homeless HAP in Dublin, such as higher thresholds etc.
- Requirement to show a 'local connection' to access the housing list in each county (and avail of HAP) is preventing DP residents from moving to locations outside Dublin, where there is more accommodation.

Employment, Training and Education

- Residents enrolling in education courses outside the centres are having difficulties with fees, transport and food costs. They have to pay for travel to and from the course and often miss lunchtime meals at the centre so have to feed themselves from their weekly DP Allowance.
- Long periods of inactivity while in Direct Provision are causing difficulties for people looking for employment, as the long gap in their CVs is often questioned by employers who use recent experience as a strong criteria for awarding jobs.
- Difficulties for young, independent adults in education. For example, one leaving cert student granted leave to remain but cannot find accommodation and cannot access jobseekers while in school.

Registration and Identification

- Cases where officials are insisting on passports as proof of identity, which is difficult when some people are having problems getting one from their countries of origin.