

Fourth Meeting of the Working Group on the Protection Process

Thursday 29th January, 2015, 11:00 am

Minutes

Dr Bryan McMahon	Chair
Aidan O'Connor (DECLG)	Dept of Environment, Community & Local Government
Barry Magee (RAT)	Refugee Appeals Tribunal
Caitriona O'Brien (DES)	Dept of Education & Skills
Caroline Daly (AG)	Office of the Attorney General
Dr Ciara Smyth (CS)	Lecturer in Law, NUI Galway
Dan Murphy (DM)	
David Costello (ORAC)	Office of the Refugee Applications Commissioner
Martin McDonald (ORAC)	Office of the Refugee Applications Commissioner
David Moriarty (JRS)	Jesuit Refugee Service
Rory Halpin (SPIRASI)	SPIRASI
Jennifer DeWan (NASC)	NASC
Madeleine Halpin (Tusla)	Tusla
Jackie Harrington (DSP)	Dept of Social Protection
Paddy Duffy (DJE)	Dept of Justice & Equality
Michael Kelly (DJE)	Dept of Justice & Equality
Michele Clarke (DCYA)	Dept of Children & Youth Affairs
Noel Dowling (RIA)	Dept of Justice & Equality
Patricia Balatine (DPER)	Dept of Public Expenditure & Reform
Patrick Lynch (HSE)	Health Service Executive
Reuben Hambakachere (IRCCG)	IRC Core Group of Asylum Seekers and Refugees
Sophie Magennis (UNHCR)	UNHCR
Sue Conlan (IRC)	Irish Refugee Council
Tanya Ward (CRA)	Children's Rights Alliance
Tim Dalton (TD)	
Enda O'Neill (UNHCR)	UNHCR
Brian Merriman (ORAC)	Office of the Refugee Applications Commissioner
Tony Fallon (RAT)	Refugee Appeals Tribunal
Ultan Ryan (RIA)	Dept of Justice & Equality

Apologies:

Brian Power	Dept of Education & Skills
Ronan Gallagher	Dept of Public Expenditure & Reform
Mary O'Sullivan	Dept of Social Protection
Eugene Quinn	Jesuit Refugee Service
Greg Straton	SPIRASI

Invited Speakers

Representative from Cork consultation
Representative from Kerry consultation
Representative from Waterford consultation
Representative from Limerick/Clare consultation
Representative from Meath consultation

1. Minutes and matters arising

Minutes of the previous meeting (22 December 2014) agreed.

No matters arising.

2. Progress reports and emerging proposals

The Chair noted that each of the three thematic groups had met on two occasions since the last plenary and that the commitment by all involved continued to be good but emphasised that the time had come for those participating in the groups to start focusing on solutions to the problems that they had identified and developing practical proposals for submission to the plenary. In terms of plans for the next couple of months he said that four further meetings were scheduled for each group during February and into early March. At that point it was expected that each thematic group would have finalised their proposals and have a report ready to submit to the plenary on 13th March. It would then be for the plenary to consider all the proposals in the round taking account of their practicality, cost and implications for immigration system and finalise a coherent set of recommendations that has a strong chance of being acceptable to Government.

The Chair also noted that in terms of ensuring a coherent set of proposals it would be important to keep in mind the linkages between the three themes – what has emerged strongly from the discussion in the Theme 1 and 2 Groups, which are considering improvements to the direct provision system and supports to protection applicants is the importance of the work of the Theme 3 Group in relation to the length of time issue and how the situation of long stayers can be addressed.

a. Theme 1 (Chair)

Improvements to the direct provision system (i.e. living conditions while in designated centres) aimed at showing greater respect for the dignity of persons in the system and improving their quality of life.

The Chair updated the Group on the progress of discussions:

- The substantive topics tabled at the two meetings were: physical conditions and issues arising from the CA and TA judgement. The deliberations have been informed by the visits to the accommodation centres and the regional consultation sessions.
- Physical conditions is a broad topic - it covers the location of centres, living and sleeping arrangements for different family types and vulnerable persons, catering facilities and communal facilities within centres including play and recreation facilities for children.
- The discussions are proceeding on the basis that the single procedure will be introduced and lead to a significant reduction in processing times, and that the proposals emanating from Theme 3 will address the position of long stayers. These factors should result in a freeing up of space in centre but working against this is, of course, the steep upward trend in the number of applicants. Cost is an issue and all proposals will need to be costed. It may be appropriate to focus on the unit cost (the average cost of accommodating a person in direct provision for a year) in order to avoid costs that will rise from increasing application numbers.
- The impact of living in accommodation centres on different family types and vulnerable persons, the location of centres, the prevalence of multi-

occupancy rooms, the absence of family units with a separate private living space and the absence of self-catering facilities have all been identified as problems. The location of some centre in remote areas can create additional challenges for residents due to transport issues and costs. The prevalence of multi-occupancy rooms require persons of different religions/cultures to share rooms for long periods – this can create tensions. In relation to families it seems that they collect their food and bring it back to eat in their rooms rather than eating in the canteen.

- With regard to the CA & TA High Court Judgement no decision has yet been taken on whether to appeal the judgement. Five matters were found to be unlawful. RIA has submitted proposals to the Group to address three of them; the two issues outstanding are causing difficulty - visitors in the rooms and the complaints system. RIA is considering these issues further and is to revert to the Group with proposals.
- The Chair met with the Ombudsman and the Ombudsman for Children to discuss the issue of an independent complaints mechanism. The bodies have agreed to submit a joint paper to the Group setting out what they believe they could bring to the table if given the role of final arbiter in the complaints process. This paper is expected shortly. They have clarified that they are not seeking to have a role in status determinations. A legislative change would be required to allow them to take on a role in relation to the complaints procedure.
- Further discussion is required to identify proposals for plenary on the physical conditions and issues relating to child protection
- Adherence to statutory obligations by centre staff and their training needs, the inspection regime for centres and also the transfer policy remain to be discussed.
- The Secretariat is preparing a framework for the report to plenary.

Discussion

TD suggested that when considering the question of whether the Ombudsman/OC should have a role in relation to complaints around services in accommodation centres it would be important to consider whether the general population has access to the Ombudsman in relation to similar issues. Not considering this could affect the WG's credibility.

CRA, welcoming the joint approach by the two Ombudsman and noting that their role relates to maladministration said that the Offices are a mechanism of last resort and that effective internal complaints procedures are the means to ensuring that only a small number of complaints end up before those Offices. CRA also noted that where, for example, an appeal mechanism exists such as for social protection cases the system still provides access to the Ombudsman/OC as the final backstop.

DECLG referred to his participation in the consultation session in Mosney, raised the issue of transport links, in particular the fact that the train station is closed. He also referred to the difficulties in accessing third level due to international fees being charged and the additional financial hardship due to the prescription charges as some of the issues raised during the session.

ORAC said that a clear message coming from the consultation sessions was that communications were a problem - applicants do not know at what stage their case is at, why it is delayed or why they have been moved from one centre to another.

b. Theme 2 (Chair)

Improved supports (e.g. financial, educational, health) for protection applicants aimed at showing greater respect for the dignity of persons in the system and improving their quality of life.

The Chair updated the Group on the progress of discussions and also reported on the issues raised during the consultation sessions relating to Theme 2:

- The substantive topics tabled for discussion at the two meetings since the last plenary were:
 - access to education,
 - access to the labour market,
 - improved linkages with local communities, and
 - training of persons who come in contact with applicants to ensure that they are equipped to deal with specific issues affecting applicants, for example members of the Garda Síochána.

Education

- In the case of primary and post primary, access is on the same basis as the general population with the result that the issues that come up are income-related - inadequacy of the back to school clothing and footwear allowance, the cost of books and the inability to take part in some school activities. The more fundamental issues arise in relation to those who wish to pursue further or higher education. In the case of further education fees are payable for the most part and, in some instances, access is barred because the courses are aimed at persons who are on the live register. Many of those in the system have done all the courses that are available to them and are blocked from going any further. The consequences are despondency and a lack of job-readiness in the event that they get status or, indeed, return to their country of origin. In the case of higher education, the level of fees charged has been identified as a key barrier – international fees are charged by the institutions which are, of course, autonomous bodies. The impact of these issues on children who have completed their leaving certificate and cannot move ahead with their peers has been highlighted. Fees are not the only barrier however, English language ability has also been identified as a barrier and practical issues around accommodation, transport and so on can also be obstacles. Possible solutions include negotiations with the sector to encourage them to charge EU fees. A member of the Group is preparing a proposal taking account of the discussions so far and that will form the basis for future discussion on this issue.

Access to the labour market

- Members who have participated in the consultation session will know that this is a very important issue for those in the system.
- Discussions thus far have focused on the common European standard on this subject contained in the recast Reception Directive. In the event that a proposal emerges to the effect that there should be some access to the labour market it will require legislation.
- No conclusions have been reached on this topic. Members of the Group are preparing proposals for consideration at a future meeting.

Improved linkages with local communities

- Discussions to date suggest that experience on this front is patchy. In some rural locations the linkages were said to be good e.g. Millstreet invite the community to an annual BBQ, the local GAA club recruit some children living in the centre, but this varies from region to region.
- An influencing factor would seem to be the existence of an active local support group. In order to get an overall picture of the linkages that are in existence, who takes the lead and how they are funded, a short questionnaire is in preparation for distribution to centre managers. Once that information is available the Group will consider proposals for how the linkages might be improved including in relation to where responsibility should lie for encouraging such linkages.

Training of persons

- This topic concerns persons, other than the staff of direct provision centres, who come in frequent contact with applicants in the course of their work. The discussion so far has focused on: who requires training in awareness of multicultural and diversity issues, who should be prioritised for training to ensure that resources are used to best effect, and the importance of refresher training. Various organisations have been identified including frontline health care staff, staff of the Department of Social Protection and members of the Gardaí.

Discussion

NASC informed the Group that SVP carry out home work support groups in some centres for children and it may be worth inviting them to speak to Theme 2 about their work.

DM reminded the Group to be conscious when looking at educational financial supports not to look at them through middle class eyes; in deprived urban areas many families cannot afford to fund after school activities for their children or send them to third level.

DM stated boredom was prevalent among residents in centres and some form of activity would be of benefit. He cited a Red Cross programme which operates in prisons as a model that might be worth considering. He has sent some information to the Secretariat.

ORAC referred to the issue of prescription charges noting that it had come up frequently during the sessions. HSE stated that they have made the policy

decision to exclude those in accommodation centres from the charge but the ministerial order must be signed - it has been submitted to the Minister.

DCYA informed the Group that the loss of the on-site Public Health Nurse in Mosney seemed to be a problem - children now seem to have difficulty getting to their appointments in the community. Residents reported that children are becoming depressed and DCYA suggested that preventative measures need to be looked at and asked whether mental health experts could work proactively with people living in direct provision centres.

Spirasi, in relation to training for frontline staff, said that they can become vicariously traumatised themselves; they may become tired or cynical. This needs to be taken into account and addressed.

CS, referring to the presentation given by ADAPT as part of the consultation session with victims of trafficking, said that it used to be the case that the CWO was available directly to residents in the accommodation centres but that this had been discontinued with the consequence that those experiencing domestic violence were finding it harder to access the services that they need.

c. Theme 3 Sub-Group (Chair of the Subgroup)

Improvements to existing arrangements for the processing of protection applications with particular regard to the length of the process.

The Chair of the subgroup updated the Group on progress.

- Two meetings in January - one dealt with the proposed International Protection Bill, the other heard from the legal entities: the Law Society, the Chief States Solicitors Office and the Bar Council
- The next four meetings of the sub-group will deal with: leave to remain and deportation orders, Assisted Voluntary return, Development of the draft report of the sub-group (2 meetings)
- The focus of the sub-group now is completion of the problem analysis in relation to all of the issues set out in the sub-group work programme. Once this is complete, the sub group will have established the baseline of the problems to be addressed. The focus will then shift to the costing of the current system, the identification of the solutions (pros and cons) and the consequences of the solutions.
- In relation to the discussion on the proposed International Protection Bill the key points arising were: it proposes a single procedure for the consideration for Refugee Status and subsidiary protection and any other reasons why a person should not be deported; a number of issues require further examination including the content of the 'third level' of considerations envisaged in the Bill, where a person is found not to be a refugee or in need of subsidiary protection; the extent to which the Bill will apply to existing applicants; the rationale for the envisaged changes to the RAT; and the discontinuance of ORAC. The need for resources to support the introduction of the new legislation has been highlighted.
- In relation to judicial review – backlogs: the aim of the consultation meeting was to engage with the Law Society, the Chief States Solicitors Office and the

Bar Council on the reasons for the delays at the judicial review stage, review recent developments and identify possible solutions for the future. The exchange was very useful indicating the positive effect some recent changes have had and areas where additional solutions will need to be implemented.

- In relation to children and vulnerable groups: the sub-group is maintaining a focus on the specific position of children and vulnerable groups in the discussion and members are reminded at the outset of all meetings and throughout to consider the specific situation of children and vulnerable groups.
- In relation to the compilation of information received to date: The sub-group has received information from INIS, ORAC, RAT and other agencies to assist in the problem analysis exercise and appreciates the work undertaken to provide the information. The sub-group continues to liaise with all agencies to gather all necessary information.
- The sub-group received two compilations of issues raised by residents of direct provision centres from the Secretariat, of the written submissions received to date. One compilation reflected the submissions received from adults the other from children and young people.

3. Consultation Process

a. Feedback from regional sessions to date

Addressed under item 2.

(Time - 12:10)

b. Oral submissions from protection applicants (5 mins each with Q & A at the end)

- i. Representative from Kerry**
- ii. Representative from Cork**
- iii. Representative from Limerick/Clare**
- iv. Representative from Waterford**
- v. Representative from Mosney, Meath**

The Chair welcomed the representatives from the five regional consultation sessions. He assured them their submissions would be confidential and would have no impact on their protection cases.

Representative from Kerry

Thanked the WG for the invitation to speak on behalf of the residents in Kerry.

Key points:

- The problems among asylum seekers are common
- Children born in Ireland know no other country and they should be allowed live in Ireland – they question everyday why they are in the centres – some are in the centres 7 -8 years
- The length of time in the system is a problem - even if you lived in a five star hotel it would be a problem as you would have the same food etc.
- Living in a centre long term causes frustration, depression and other mental health issues

- Moving single men with issues to Foynes is not a solution as the same problems will arise there.
- The residents want to integrate - centres are open but there are barriers to integration
- The fact that they cannot work is a problem, being in a system a long time with no training makes it difficult when they get status to find a job
- People are seven and eight years in the system before they get Leave to Remain
- Residents are concerned that if they speak out it will cause a problem and they might be transferred to another centre
- The ceiling on training/education i.e. not able to have funding for classes above FETAC level 4 is a problem
- Left wondering is being an asylum seeker a crime

Representative from Cork

Thanked the group for the invitation to speak on behalf of the residents in Cork.

Key points:

- The problem is that people are filled with bitterness due to the system – they have hope from time to time but it gets dashed. They have placed their hope in the WG and ask that the members look on them as human beings, not as numbers on paper
- When the speaker came to Ireland ten years ago she was healthy, now her health has deteriorated, she suffer from not sleeping at night.
- It seems that applicants need to suffer from mental health issues to get Leave to Remain - two people had strokes and then received their status. People do not come with mental health issues but get them due to the system and then receive status.
- The food is fine, prescription charges are not the major issues - length of time spent in the system is the main issue
- Residents see others being picked up from centres at 4am for the purpose of removal – they wonder will their time come
- Children are born in the centres and know no other life; they should at age 10 be able to wash their own cereal bowl etc. but they cannot. They hear people shouting and fighting in the centres - leaving your children out of sight for any length of time is a worry.
- If you have your freedom you can look for a job - you need to be able to provide for yourself and your family and have a sense of responsibility – If the speaker died today what legacy would she have left for her children?
- Reforms are needed

Representative from Limerick/Clare

- Wished to agree with the previous speakers regarding the major problem of people being in the protection system a long time. Being five or more years in the system before a final decision is made on your claim is too long – it is like death row -you do not know when you are going to be executed
- If they received a final decision within the first year, even if it was that a deportation order was made, it would be fine.
- Conditions in centres are fine for the short term

- Children born while living in accommodation centres know no other life, no other country - those children are Irish not African
- The lack of privacy is an issue, with other persons coming into the room, without warning/knocking.
- The inability to have an intimate relationship, if you share a room with three other people. You cannot bring your boy/girl friend to your room.
- Sharing a room for 4+ years with the same people from different cultures is a problem.
- The length of time spent in the system equals a loss of skills - there is a need for people to up skill or learn a new profession.
- This effects morale and relationships
- Simple things like changing a light bulb, cooking dinner - people need to carry out these basic tasks – enforced idleness diminishes people
- A social life is difficult on €19.10
- Staff in centres need to be knowledgeable in dealing with people from different cultures/countries
- People are a long time in the system but do not know exactly at what stage their case is as they do not get this information from their legal representatives or officials. There needs to be regular updates on their case issued to them.
- Signing in/out of the centre every day is unnecessary
- Some are pushed into criminal behaviour
- What is the difference between the people who get status papers and the people who do not?

Representative from Waterford

Thanked everyone for the opportunity to speak to the WG and going to Waterford.

- The speaker said that he wished to speak about human life, children and families.
- There is the issue of families of six living in two rooms - a teenage boy shares a bedroom with his sister and a family of four shares one room - the lack of privacy is difficult.
- It is difficult to live in centre where there are many different cultures; single people of all different ages are required to share
- There is a centre in Waterford city for single men - there were five men transferred out of the centre last week. There can be instances of violence in the centre - they are facing a crisis at present. They (the residents) have noticed only criminals are coming to Ireland and claiming asylum.
- They do not know how or when their protection claims will come to an end - they are living in limbo.
- Many groups have come to visit the accommodation centre and speak to them but nothing has changed and therefore they have lost faith.
- What residents need are jobs, to contribute to society, and live in the community.

Representative from Mosney

Thanked the group for inviting her to speak.

- The length of time is an issue. You arrive in Ireland with vitality and hope but become disillusioned - it is not good for adults or children
- The persons who are 'long-stay' should be paramount in the WG deliberations
- Food/accommodation are not issues if living in direct provision was short term
- DPA is not an issue if you were out of direct provision after 3 to 6 months
- Getting a deportation order, when you are living in Ireland nine years and three of your four children were born in Ireland is heartbreaking
- Having to sign in the Garda station and bring your child with you means that you have to take them out of school
- Since 2005 children born in the State are not Irish and they find it embarrassing filling in that they are African on a school form when they were born in Ireland
- Access to third level education is a problem
- Sharing with someone you don't know for a long period of time means that you have no privacy
- Mental health problems are an issue due to living in direct provision
- The right to work and contribute to society is critical

The Chair thanked all the speakers paying tribute to their eloquence in giving their testimony and noting that the WG had felt that it was very important that the voices of those in the system should be heard and inform its deliberations.

NASC asked members to keep in mind for the remaining consultation sessions how hard it is for those in the system to recount their experiences – they are disclosing personal information and may experience a sense of renewed trauma when speaking of certain events in their lives.

4. Communications

It was agreed that the Secretariat would prepare a short progress report for the Group's webpage.

It was also agreed that the progress report would welcome the imminent change to HSE policy on the prescription charge; an issue of concern that had been raised repeatedly in the course of the consultation sessions.

5. Next Meeting

Next meeting 13 March 2015.

6. A.O.B.

ORAC informed the Group that it had placed advertisements in the national newspapers seeking applications from law graduates to its panel. Those on the panel carry out refugee status and subsidiary protection interviews and also work in RAT presenting cases. The recruitment drive is aimed at addressing the backlog of cases. ORAC noted that the trend to date in applications suggests an increase of 116% compared to 2014. There was a 53% in 2014.