

## **Fifth Meeting of the Working Group on the Protection Process**

**Friday 13 March, 2015, 11:00 am**

### **Minutes**

#### **Attendees**

Dr Bryan McMahon	Chair
Aidan O'Connor (DECLG)	Dept of Environment, Community & Local Government
Tony Fallon (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
Fiona Finn (NASC)	NASC
Madeleine Halpin (Tusla)	Tusla
Paddy Duffy (DJE)	Dept of Justice & Equality
Michael Kelly (DJE)	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
Simmy Ndlovu	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
Greg Straton	SPIRASI
Mary O'Sullivan	Dept of Social Protection
Tim Dalton (TD)	
Enda O'Neill (UNHCR)	UNHCR
Tony Fallon (RAT)	Refugee Appeals Tribunal
Ultan Ryan (RIA)	Dept of Justice & Equality
Linda Keating (RIA)	Dept of Justice & Equality

#### **Apologies**

Brian Power	Dept of Education & Skills
Ronan Gallagher	Dept of Public Expenditure & Reform
Eugene Quinn	Jesuit Refugee Service
Jackie Harrington	Dept of Social Protection
Barry Magee	Refugee Appeals Tribunal

#### **Documents**

- IHR&EC Policy Statement on the System of Direct Provision in Ireland
- Seventh Report of the Special Rapporteur on Child Protection
- No Chance No Choices – Doras Luimní

### **1. Minutes and matters arising**

Minutes of previous meeting agreed.

### **2. 11:15 – 11:55: Oral submissions (5 -7 mins approx. each)**

**Dr. Geoffrey Shannon, Special Rapporteur on Child Protection**

**Betty Purcell, Commissioner, IHREC**

**Teresa Blake SC, Commissioner, IHREC**

**Prof. Siobhán Mullally, Commissioner, IHREC**

**Q & A**

**Dr Geoffrey Shannon, Special Rapporteur on Child Protection**

Dr Shannon presented his views on the Direct Provision System as articulated in his Seventh Report on Child Protection published last November. He suggested that the less quantifiable costs of the System including the effects on mental health and referrals to social services required to be taken into account in any assessment of the System. He referred to the CA and TA judgment delivered by the High Court in November which found some of the House Rules unlawful including unannounced room inspections, requirement to sign-in daily, requirement to give notification of absences, rules against having guests in your room. He noted that the prohibition on guests in rooms had a significant impact on children – it made them feel different. He also said that there should be an independent monitoring procedure - RIA cannot satisfy this requirement as they wrote the House Rules and cannot be viewed as an independent arbitrator. He also suggested that a robust inspection regime was required. He identified the Children and Family Relationships Bill as containing the best example he has seen of a framework for applying the “best interests of the child”. He reiterated his recommendations: the maximum amount of time in Direct Provision should be set at six months; adults should be allowed to work; the State should opt-in to the Reception Directive and the DP allowance should be increased.

### **Irish Human Rights & Equality Commission**

The Commissioners presented the recommendations contained in the IHREC’s Policy Statement on the System of Direct Provision published last December:

In the discussion that followed the key point arising were:

**TD** said that the IHREC would not find any significant disagreement around the table with the general criticism of the system and the unjustifiable length of the determination process. He noted that there was no compulsion on anyone to live in the DP system. Referring to the Group’s remit to identify practical measures he asked the IHREC had they any advice on how the Group could balance practicality with principle e.g. how to apply the best interests of the child test where in many cases the parents have no entitlement to remain in Ireland; how to deal with the consequences of the housing crisis which means that those granted status can not leave DP. He also referred to the need to consider the general population, many of whom live in restricted circumstances in order to minimise a racist reaction. **CS** raised the question as to whether “best interests of the child” should be included in the International Protection Bill noting that the authorities were wary of it being pulled out as a trump card that would oblige them to allow a family to remain irrespective of any concerns. **Dr Shannon** noting that the Reception Conditions Directive included the best interests test referred again to the model in the Children and Family

Relationships Bill. He also referred to very comprehensive guidance provided by the convention on the Rights of the Child and urged that the principle should be applied to children in DP so that they have an equal level of protection as other children. He said that it was not a case of the child's interests predominating to the exclusion of all other interests rather it was a case of respecting all rights and engaging in a balancing exercise – immigration control is a legitimate factor to be considered. He emphasised that there needs to be consistency in the decision making process and transparency in the system.

**Ms Purcell** said that there was a responsibility to engage with public opinion where racism raised its head e.g. where claims were made that asylum seekers were getting too much but at present it seems that the public is conscious of the poverty and deprivation in direct provision and that the Working Group would be “pushing an open door” with recommendations for improvements. Ms Purcell also said that the fact that others may be experiencing deprivation cannot be an excuse to maintain a system that is essentially institutionalises poverty.

**Prof Mullally** said that the important thing was to begin the process of reform - the Group's recommendations would not solve the problems immediately but there should be a plan put in place with a timeline for a move to have greater self catering facilities etc. - the crisis should not be used as an excuse for inaction. **Ms Blake** said that if a person has a legitimate case to remain in Ireland, the sooner a decision is made the better for all concerned. She did not wish to see racism raise its ugly head -she had visited an accommodation centre and met with a resident who spoke fluent Irish and whose brother played on the local football team. She said that there were many positive things happening on the ground but that there was a gap between the policy level and that on the ground response and urged the WG to make proposals to address that gap.

**UNHCR** noting that the JR backlog had contributed significantly to the length of time that persons spend in the system and also noting the inroads that had been made in recent times asked whether the IHREC would see any role for itself in troubleshooting any issues that might arise in the future. **Ms Blake** said that JR was about the process and that there should be great concern about the number of JRs - the key to reducing JRS is to ensure quality at the first instance stage. Quality requires access to early legal advice and proper interpretation. The sequential process must also be reformed.

**Nasc** referred to the concern on the part of some members that allowing access to the labour market, improved access to education and increased DP allowance would act as pull factors and asked for the IHREC's view. In reply **Prof Mullally** Stated that concern should be a fair and just asylum process and linked to that, a fair and humane DP system that respects dignity. Prof. Mullally said that there was limited evidence around pull factors. In any case safeguarding human rights and equality was the priority for the IHREC and hopefully also of the Working Group.

The Chair thanked the guest speakers for their contributions.

### **3. 12:00 – 12:30: Oral submissions (5 mins approx.) - representatives from the consultation sessions**

The Chair noted that the representative from the Dublin consultation session had sent apologies.

#### **Representatives from Galway consultation session**

Key points raised:

- Asylum seekers are not here by choice
- Concern that the Working Group is focused on new applicants rather than those who have been in the system for a long time - those in the system a long time need a solution
- The right to education, especially for children who have completed their leaving certificate who wish to proceed to third level education
- Mental health issues due to people spending a long time in the system
- The need for a higher rate of DP allowance - the needs of a young child are not the same as the needs of a teenager
- The right to work - many asylum seekers are very talented workers and due to the restriction on the right to work, their skills are lost - people wish to work and support themselves and live independently
- The need to have a dignified life and living conditions
- For children to live a normal life
- For adults to be able to cook, to hold a drivers licence
- For asylum seekers to be seen as human beings
- There is support for the Working Group – it is as a beacon of hope

#### **Representative from Westmeath consultation session**

Key points raised:

- Appreciation for the safety offered by Ireland
- An asylum seeker is like a baby, dependant on their mother for food, water, heating etc. When an asylum seeker arrives this is what they need. But a baby moves on and grows, they experience new things etc. Asylum seekers remain the same.
- The length of time in the asylum system is unacceptable
- When the new single procedure system comes into practice, what will happen to the legacy cases.
- Children who have completed their leaving certificate do not have access to third level education.
- There are problems such as young adults gambling to make money
- The right to work is essential - if you spend up to ten years in the asylum system who will employ you with such a gap in employment and loss of skills during that time?
- Children born in this country should not have to make an asylum claim; they are not accepted as Irish people and will not be accepted in their parents' home country either.

- A decision should be made on an asylum claim within six months, then the person should be given status or deported - this would be a fair system.

### **Representative from Monaghan**

Key points raised:

- The length of time spent in Direct Provision centres is too long. Accommodation centres were set up for people to live in on a short term basis. There are large families sharing one room with teenage children in the same room as their parents.
- There have been improvements in the accommodation centres i.e. new showers etc.
- Single persons have to share their bedroom with strangers - this can cause issues i.e. watching TV etc.
- Communal eating in the dining hall - although there is a residents' kitchen there is a limited amount of cooking equipment for the number of residents in the centre
- There is no footpath outside the accommodation centre
- There is a centre bus which brings adults to town, children to school and there is also a hospital bus to bring people to their appointments. The centre bus also brings people to church on Sunday and evening functions.
- The DPA of €19.10 is too low - people need their mobile phones as they are a lifeline.
- The lack of respect and security
- The loss of skills as asylum seekers are not permitted to work
- The need for further education i.e. third level and FETAC at all levels.
- The high instance of depression from living a long time in Direct Provision
- The need for positive feedback from the Working Group for asylum seekers.

UNHCR, in capacity as Chair of Sub Group 3 offered reassurance to the speakers that the Working Group was concerned with existing applicants, in addition to future applicants, and urged the speakers to share that message with other residents.

The Chair thanked the representatives for their time and presentations.

### **4. 12:30 – 12:50 Oral presentation (5-7 mins) and Q & A - Karen McHugh, Doras Luimní – feedback from consultation session on victims of trafficking and related submissions**

#### **Concerns raised**

- Bedroom allocation - some accommodation centres endeavour to allocate single rooms to VoT but more commonly they share a room. This causes anxiety and frustration. Privacy is an issue and lack of adequate space.
- Food is a cause of frustration - set meal times, lack of variation, ethnic dishes not being available. Unable to purchase food with only €19.10 per week.
- VoT require medical or psychological assistance for physical or emotional injuries. All suffered from poor mental health - feelings of anxiety, sleeplessness and feelings of anger, shame, and desperation were common.

Sexual and reproductive health issues present as issues of long term effects of exploitation. Due to a lack of resources it is often up to organisations like Doras Luimní to source affordable or free services from local service providers.

- RIA accommodation is inappropriate for VoT; accommodation centres are not gender or issue specific. Female victims are vulnerable to grooming, sexual harassment or further sexual exploitation. It was reported women in centres were approached by local men for prostitution purposes. The accommodation centre locations are known, and therefore the VoT can be targeted again by their trafficker/exploiter.
- When complaints are made by VoT to management they have been met with hostility. There is a need for an independent complaints mechanism in direct provision.
- VoT cannot prove their HRC as they did not have tenancy agreements, receive wage slips or employment contracts etc.
- There is a lack of specialist supports for VoT
- Language and interpretation services provided for dealing with State agencies etc are inadequate.

### **Recommendations for improvements**

- Safe and appropriate accommodation for VoT is central and essential for recovery. VoT have complex needs and the Direct Provision system does not come close to meeting them. Trained professionals with the requisite social care or social work qualifications such as those found in domestic abuse shelters are essential to support the transition from exploitation to recovery.
- Recommend accommodation in specialist centres along the lines of Adapt Domestic Abuse Centre
- Access to English language classes
- Right to work and access to further/third level education
- Funded and resourced dedicated services to support exit/rehabilitation. Specialist funding for case management services.
- Dublin Centric service provision – this does not work – there should be adequately State funded decentralised service provision.
- When transfers are being considered, the needs of the resident and the services available in the new location should be taken into account.

The Chair thanked Doras Luimní for their contribution and their help in the facilitation of the Clare/Limerick regional consultation and the Victims of Trafficking consultation

### **5. Review of progress to date**

The Chair provided a review of progress to date and set out the next steps:

- at the first meeting the Minister said that she would welcome the Group's report by Easter and the work was organised with this in mind – while the Group will not complete its work by Easter it will not be too far off

- the three thematic groups, following an intensive schedule of meetings, are formulating their proposals for consideration by the plenary and the dedication of members has been impressive
- the reports from the thematic groups will not be ready for the plenary scheduled for next Friday 20 March but may be ready for the plenary on Friday 27 March
- it is important that the Thematic Groups are allowed the time to complete their deliberations and achieve as much consensus as possible on their proposals - this will ultimately assist in ensuring that the consideration by the plenary is focused on signing off on proposals having regard to the terms of reference
- intend to cancel the meeting scheduled for Friday 20 March and schedule a further meeting of the plenary for **Tuesday 31 March**
- once the three reports have been considered by the plenary the Secretariat will work on preparing a draft of the final report. This work will take a number of weeks.
- a further meeting of the plenary will then be scheduled for consideration and sign-off of the final report
- he would make contact with the Minister to update her on our time frame
- the Secretariat will circulate revised meeting schedule for your information.

The Chair stated that he intended to reflect on the procedures for plenary over the next week to ensure that the process would be efficient and fair and would not become a forum to rehash debates that have already taken place at subgroup level. He noted that the reports from the three groups would represent the considered view of the very extensive expertise and experience of the members of those groups and it would be unwise to seek to reopen debates at the subgroup level.

## **6. Communications**

A brief progress report will be prepared by the Secretariat and posted to the webpage and soon as practicable.

## **7. Next Meeting**

The next plenary meeting is scheduled for 27 March at 10:30AM.

## **8. A.O.B.**

None.