

Seventh Meeting of the Working Group on the Protection Process

Tuesday 21st and Wednesday 22nd April, 2015, 11:00 am

Minutes

Attendees

Dr Bryan McMahon
Aidan O'Connor

Brian Power
Caitriona O'Brien
Marian Carr (Day 2)
Caroline Daly
Dr Ciara Smyth
David Costello
David Moriarty
Eugene Quinn
Enda O'Neill (Day 1)
Sophie Magennis
Susan McMonagle (Day 2)
Fiona Finn
Jennifer DeWan
Greg Straton
Jackie Harrington (Day 1)
Mary O'Sullivan (Day 2)
Noel Dowling
Michael Kelly
Linda Keating
Ultan Ryan (Day 2)
Paddy Duffy
Madeleine Halpin
Michele Clarke
Ronan Gallagher
Stephen Ng'ang'a

Simmy Ndlovu

Tanya Ward
Tim Dalton

Tony Fallon
Dan Murphy (Day 2)

Diane Nurse (Day 2)

Chair
Dept of Environment, Community & Local
Government
Dept of Education & Skills
Dept of Education & Skills
Dept of Education & Skills
Office of the Attorney General
NUIG – Law Lecturer
Refugee Applications Commissioner
Jesuit Refugee Service
Jesuit Refugee Service
UNHCR
UNHCR
UNHCR
NASC
NASC
SPIRASI
Dept of Social Protection
Dept of Social Protection
Dept of Justice & Equality
Dept of Justice & Equality
Dept of Justice & Equality
Dept of Justice & Equality
Dept of Justice & Equality
Tusla
Dept of Children & Youth Affairs
Dept of Public Expenditure & Reform
IRC Core Group of Asylum Seekers and
Refugees
IRC Core Group of Asylum Seekers and
Refugees
Children's Rights Alliance
Retired Secretary General of the Dept of
Justice
Refugee Appeals Tribunal
Former General Secretary of PSEU and ex-
President ICTU
Health Service Executive

Apologies:

Patrick Lynch
Barry Magee

Health Service Executive
Refugee Appeals Tribunal

Documents:

- Reports to Plenary from the Thematic Groups - Procedures for consideration and decision-making

- Theme 1 Report to Plenary
- Agreed Recommendations from the Theme 2 Sub Group for consideration – 21 April 2015 + draft report to Plenary (for background information only)
- Theme 3 Report to Plenary + draft Chapter 7 relating to costings
- Draft outline of the final report (REV)

1. Draft Agenda

Agreed.

2. Minutes and matters arising

Revised draft minutes agreed.

3. Procedural matters

The Chair referred members to the document entitled “Reports to Plenary from the Thematic Groups - Procedures for consideration and decision-making.” The Chair drew attention to para. 5 noting that the Plenary should not seek to rehash debates that had taken place at the Sub Group level. He also drew attention to Para 2 which makes it clear that all proposals agreed for inclusion in the Final Report are provisionally agreed only until such time as the Plenary has considered all proposals from the Thematic Groups, and has assessed the projected costs (in so far as they can be ascertained) of the full set of recommendations against the overall cost of the protection system. The Chair, referring to the voting arrangements set out at paras. 8 to 14, said that he hoped that it would be possible to reach a consensus on all proposals.

4. Report from Theme 3 Sub-Group – remaining proposals

a. Presentation by the Chair of the Sub-Group

b. Proposals for consideration and provisional agreement

The Chair of the Theme 3 Sub Group (Sophie Magennis, Head of Office, UNHCR) presented the remaining proposals noting that the proposals contained in section 5.1 of the Report (pages 60 – 68) were approved by the Plenary at its last meeting on 31 March.

All remaining proposals concerning—

- the solution for persons in the Overall System for 5 years or more (set out at 5.1) be applied after the introduction of the single procedure in respect of any future cases where a final decision has not issued within 5 years (set out at 5.3), and
- quality issues (set out in section 6)

were agreed by consensus subject to the textual changes identified in the Appendix to these minutes.

In relation to the material under the heading “Implications” on pgs 74 and 75 and, in particular, the last sentence concerning risks, this text should be finessed in the Final Report in order to reflect the fact that the recommendations under 5.3 are formulated to take account of those risks by *inter alia* the inclusion of the requirement that the person have cooperated with the process.

In relation to the implications of the solution for the legacy cohort DSP raised the question of the cost implications for its Department. It emphasised that it had no objection to the proposed solution but was of the view that it would be remiss of the Working Group not to flag that the proposed solution had cost implications beyond the protection process – substantial costs would arise for its Department within 6 months of the roll-out of the solution. The Chair suggested that this point could be addressed in the Final Report with the inclusion of a paragraph referring to potential cost implications for other Government Departments /Agencies. DECLG said that its view was that the potential costs relating to housing were not marginal but that it recognised that the problem of the long stayers required a solution. DES, DPER favoured the inclusion of an acknowledgement of the broader cost implications in the Final Report. TD agreeing that the broader cost implications would need to be flagged for Government said that the only alternative to incurring the costs was to envisage a situation where long stayers were left in Direct Provision indefinitely. IRC Core Group said that those granted status had no interest in remaining reliant on social protection and wished to find employment once they were granted some form of status.

The Rapporteur (Eugene Quinn, Director, JRS) presented the draft section of the Theme 3 Sub Group Report relating to costings. He noted that the draft was subject to a major caveat as it had not been subject to review by relevant Departments/Agencies. He also noted that transitional costs that might arise due to those granted status under the long stayer solution remaining in Direct Provision because they could not find accommodation in the community were not included. ORAC said that the Final Report would need to make it clear that any savings identified would accrue only if the Single Procedure was in operation and working effectively. DJE said that the question of whether GNIB was resourced to execute DOs was also relevant to the success of the Single Procedure.

DPER said that it would be useful to include a counter factual scenario viz. what would happen if nothing was done e.g. would the costs associated with accommodating applicants in Direct Provision increase. IRC Core Group said that the draft did not factor in the human cost. D/JE noted that ORAC would not exist post the introduction of the Single Procedure and queried whether the HR requirements identified for INIS and ORAC would be required post the abolition of ORAC. It was confirmed that they would be required.

The Chair's proposal that a Costings Sub Committee be established under the Chairmanship of Mr Quinn to progress work on the costings with a view to finalising the content for the Theme 3 Sub Group Report and preparing the content for the Final Report was agreed. The membership is to include Spirasi, ORAC, RAT, INIS and other Government Departments and Agencies.

5. Report from the Theme 1 Group

a. Presentation by the Chair of the Sub-Group

b. Proposals for consideration and provisional agreement

The Chair of the Theme 1 Group (the Chair of the Working Group, Dr McMahon) presented the report from the Theme 1 Group. He referred members to Chapter 5 of the Report which contained a full list of the recommendations with those having significant cost implications highlighted. All recommendations were provisionally agreed by consensus subject to the textual changes identified in the Appendix to these minutes.

6. Report from the Theme 2 Group

a. Presentation by the Chair of the Sub-Group

b. Proposals for consideration and provisional agreement

The Chair of the Theme 2 Group (the Chair of the Working Group, Dr McMahon) drew members' attention to the two documents before them - Agreed Recommendations from the Theme 2 Sub Group for consideration (21 April 2015) and the draft report to Plenary. The Chair explained that the first document only was for consideration and agreement; the draft report had been circulated for the purpose of background information only. The draft report was a work in progress – it had been open for comment from Theme 2 members until 19 April and it had not been possible to take account of all comments received before the Plenary. In due course a revised draft would be prepared and circulated to Theme 2 members for sign-off.

The recommendations that were provisionally agreed (by consensus) are set out in the Appendix to these minutes and are subject to the textual and other changes identified there.

Other points arising

Financial supports - it was agreed that the narrative supporting the agreed recommendation relating to an increase in the DP allowance (to €38.74/€29.80) would be extremely important especially in relation to children. Points identified for inclusion: provenance of the original payment – hospital comfort payment for inactive group not an appropriate comparison for protection applicants; level of increase to comfort payment in intervening years; fact that child benefit was payable when the DP allowance was first introduced but is no longer payable; rationale for not providing for adult dependent allowance; fact that in no case would the amount payable to residents exceed 50% of the amount payable to social protection recipients in the general population; re comparisons with other EU Member States – important to refer to higher cost of living in Ireland; other options considered by the Working Group to be set out to show depth and breadth of consideration together with rationale for not proceeding with them. Some members cautioned that the Group needed to be careful in saying that “everything else is paid for” for those in Direct Provision; that is not the case, for example the clothing allowance for a child for a year is €50 which is not enough. Some potential risks were also referred to: the risk of a reaction from the general population to the size of the increase and a risk that protection applicants

outside of Direct Provision would be attracted in to Direct Provision, again due to the size of the increase particularly in the case of larger families. DPER cautioned that changes to social welfare rates are announced in percentage terms and that any increase approved by Government as part of the budgetary process would be announced in tandem with any other approved increases – in this context it would be important to ensure that the rationale for the level of increase recommended was set out clearly.

Education – recommendations 3, 6, 8, 10 and 11 were agreed in principle but referred to a drafting sub committee at the suggestion of UHNCR in order to facilitate a review of the terminology used having regard to the Theme 3 Sub Group report and also having regard to the AGO view that recommendation 3 was discriminatory in limiting itself to those in Direct Provision. In relation to recommendation 10 the Plenary identified a 2 year threshold in order to provide a steer to the Sub Committee.

Access to the labour market – the Chair presented an alternative proposal that had been drafted by a number of members at his request. Due to the sensitivity around the subject copies were circulated for consideration by members and collected by the Secretariat at the conclusion of the discussion. The Chair's alternative was agreed subject to a number of changes: addition of two paragraphs to the preamble - one acknowledging long-standing Government policy and the proposal to maintain it in the General Scheme of the International Protection Bill (to be drafted by DJE -MK) and the other acknowledging the case for giving protection applicants access to the labour market (to be drafted by JRS); insertion of "issue" after "the right to work" in the fourth paragraph; the insertion of "first instance" before "decision" in the second line of the recommendation; and the insertion of "statutory" before "arrangements" in the last paragraph of the recommendation.

Transitional supports – it was agreed that the implementation of the recommendation on this subject (the convening of a task force) was a high priority and that it would be useful to flag it in the foreword to the Final Report.

7. Consideration of overall cost of provisional recommendations and prioritisation of recommendations

This item was postponed pending conclusion of the work of the Costings Sub Committee.

8. Preparation of the final report

The Chair said that now that the Plenary has agreed a full set of provisional recommendations the Secretariat would prepare a draft of the Final Report. The work will take a number of weeks. The content will draw on the content of the Sub Group reports but it will be necessary to edit the material to ensure that the final report is concise and speaks in a consistent voice. The focus will be on ensuring that the recommendations are well supported by the text. Once a draft of the final report is available members will be given adequate opportunity to review it before they are required to sign-off. In the event that the Attorney General's Office identifies any potential legal difficulties they will be brought to

the attention of members for their consideration. IRC Core Group asked that the reports of the consultation process be included as appendices to the report.

9. Submission of final report to the Minister and publication

The Chair noted that the Terms of Reference require the Working Group to “report to Government”. In line with this, the procedure is that once the Working Group has signed-off on the report the Chair would submit it to the Minister and Minister of State. Before the end of May is the target for the submission of the report to the Ministers after which it will be a matter for Minister Fitzgerald to submit the report to Government. The Chair mentioned that in his meeting with the Minister before Easter she had raised the subject of the launch of the report and her desire to have all members present at the event.

10. Next meeting

The next meeting is provisionally scheduled for 14 May 2015.

11. AOB

None