

# First Meeting of the Working Group on the Protection Process

Monday 10 November 2014, 11:00 am

## Minutes

<b>Attendees:</b>	Dr Bryan McMahon Aidan O'Connor	Chair Dept. Of Environment, Community & Local Government
	Brian Power	Dept. Of Education & Skills
	Caitriona O'Brien	Dept. Of Education & Skills
	Caroline Daly	Office of the Attorney General
	Dr Ciara Smyth	Lecturer in Law, NUI Galway
	Dan Murphy	
	David Costello	Refugee Applications Commissioner
	Eugene Quinn	Jesuit Refugee Service Ireland
	Fiona Finn	NASC
	Greg Straton	SPIRASI
	Jackie Harrington	Dept. Of Social Protection
	Madeleine Halpin	Tusla
	Mary O'Sullivan	Dept. Of Social Protection
	Michael Kelly	Dept. Of Justice & Equality
	Michele Clarke	Dept. Of Children & Youth Affairs
	Noel Dowling	Dept. Of Justice & Equality
	Patrick Lynch	Health Service Executive
	Reuben Hambakachere	IRC Core Group of Asylum Seekers and Refugees
	Ronan Gallagher	Dept. Of Public Expenditure & Reform (DPER)
	Sophie Magennis	UNHCR
	Sue Conlan	Irish Refugee Council
	Tanya Ward	Children's Rights Alliance
	Tim Dalton	
<b>Apologies:</b>	Barry Magee Chairman	Refugee Appeals Tribunal,

**Documents:** Draft Work Programme (7 November 2014); Draft Working Methods (7 November 2014)

### Item 1 Welcome by the Chair, Dr. Bryan McMahon

The Chair welcomed the members of the Working Group, Minister Fitzgerald and Minister of State O'Ríordáin.

## **Item 2 Remarks by Minister for Justice and Equality, Frances Fitzgerald, T.D.**

The Minister:

- thanked the Chair and Members for agreeing to take on the task and said that the varied composition of the membership would be of great assistance in evaluating the wide-ranging and complex policy issues that arise for consideration;
- said that the Government was committed to introducing practical, sustainable improvements to ensure greater respect for the dignity of applicants in the system and enhance their quality of life and to reducing the length of time an applicant spends in the system;
- said that she believed that all could agree that many of the concerns that are raised by applicants and commentators alike, are linked to, or exacerbated by, the length of time that applicants spend waiting for a final decision on their claim.
- stated her intention to have legislation to provide for a single application procedure on the statute book by Easter 2015 with implementation to follow as soon as possible and suggested that the Group would wish to examine how existing applicants could benefit from that legislation
- referred to the terms of reference as agreed by Government stating that they were broadly framed and would give the Group scope to consider all of the concerns that have been articulated by applicants and by those who participated in the Roundtable Consultations that she had hosted jointly with the Minister of State last September
- urged the Group to be realistic in relation to what is practicable – it is necessary to keep in mind the budgetary realities and also the importance of ensuring that the State’s existing border controls and immigration procedures are not compromised
- when examining the shortcomings in the direct provision system she said that it was important to recall its strengths which she identified as not having left any protection applicant homeless – over 50,000 accommodated since 2000 and its flexibility in reacting to application trends - 34 centres at present down from 70 centres
- set out some details of those in the system– approximately 4,300 in direct provision, 900 applicants with live legal proceedings, 800 with deportation orders and suggested that the Group would wish to examine these issues
- expressed her desire to have report by Easter 2015.

## **Item 3 Remarks by Minister of State for New Communities, Culture and Equality, Aodhán Ó Ríordáin T.D.**

The Minister:

- referred to the priority attached to this issue by the government and his view that the Group had a historic opportunity to influence change and urged them to seize it
- referred to his visits to accommodation centres in Waterford, Sligo, Dublin and Limerick and the message coming through that the length of time a

person remains in the Protection Process is the issue and this needs to be addressed.

### **Item 3 Introductory remarks by the Chair**

The Chair:

- referred to the visits that he had paid in recent weeks to a number of direct provision centres and the useful insight that they had provided and to the importance of finding a means of hearing directly from protection applicants so that the deliberations of the Group could be informed by their experiences.
- drew attention to the terms of reference and their focus on identifying improvements to the system rather than identifying alternatives to it
- expressed the view that improvements to the existing process with particular reference to its length was the most important work area facing the Group as so many of the difficulties that people experience flow from it,

On procedural matters the Chair said that his aim was to facilitate orderly, inclusive discussions within the terms of reference with a view to timely conclusions. He urged all members to engage as fully as possible and in an open manner.

### **Item 4 Terms of Reference**

### **Item 5 Draft Work Programme**

### **Item 6 Draft Working Methods**

### **Item 7 Visits to direct provision centres**

A discussion encompassing items 4 to 7 followed. The key points arising were as follows.

#### ***Terms of reference***

Children's Rights Alliance said that: the terms of reference were broadly framed and criticisms were misplaced; in relation to the need to work within budgetary realities, it could be that some of the recommendations would require a reallocation of resources rather than additional resources; it was accepted that existing border controls/immigration procedures should not be compromised. Children's Rights Alliance also said that the work of the Group must be considered in the wider context and in the case of children, the Group must be cognisant of the National Policy Framework for Children and Young People 2014-2020 which requires all laws and policies to comply with the UN Convention on the Rights of the Child.

UNHCR referred to the cross departmental review of integration policy and the consultations being undertaken by the Office for the Promotion of Migrant Integration at present with a report expected in February 2015. UNHCR concerned that asylum seekers have not been included in national integration policies to date and suggested that it would be useful to get a "topline steer" from the OPMI on their work.

In relation to the stated aim of the work of the Group – to show greater respect to the dignity of persons within the system, IRC Core Group representative

expressed the view that the system of direct provision, which requires people to live in a controlled environment, is incompatible with the dignity of the person.

### ***Draft Work Programme***

The Chair presented the proposed thematic framework for the Group's work:

- Theme 1 concerning 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.
- Theme 2 concerning 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.
- Theme 3 concerning improvements to existing arrangements for the processing of protection applications with particular regard to the length of the process.

The draft Programme was agreed subject to the following clarifications/ amendments:

- the themes would be addressed concurrently
- the issues identified under each theme were not exhaustive
- the themes overlapped in some respects and it would be necessary to ensure that discussions could be brought together where such overlap was identified
- themes 1 and 2 relate to reception conditions and theme 3 relates to the determination process – with this in mind themes 1 and 2 should be presented under the umbrella of “Reception conditions” and theme 3 under “Determination process”.

### ***Draft Working Methods***

It was agreed that in addition to meeting in plenary the Group would meet in the following formats:

- Theme 1 Format to be chaired by the chair of the Group
- Theme 2 Format to be chaired by the chair of the Working Group
- Theme 3 Subgroup to be chaired by Sophie Magennis, Head of Office, UNHCR with support from Eugene Quinn, Director, Jesuit Refugee Service Ireland as rapporteur

The Chair clarified that a member could participate in more than one format.

Members were requested to contact the Secretariat and indicate which format(s) they wished to participate.

### ***Prioritisation of issues***

A number of members suggested that there would be benefit in identifying issues that were capable of resolution more easily and provide an early benefit to those in the system. The Chair indicated that he would have no difficulty with producing interim recommendations subject to being satisfied that they were properly examined.

### ***Information needs***

A number of members identified a need for background information for those not familiar with the subject and also information to provide a context to the deliberations of the Group. It was agreed that the Secretariat would compile a briefing pack including:

- Information relating to the protection process
- Status of persons in the protection system – both in direct provision and outside (Office of the Refugee Applications Commissioner to assist)
- Statistics relating to direct provision including number of people accommodated, family type (Department of Justice & Equality to assist)
- Example of contracts with accommodation providers/service level agreements (RIA, Department of justice & Equality to assist)
- Costs of the system including social protection, healthcare and education costs (Department of Justice & Equality to assist)
- Breakdown of legal proceedings before the courts (ORAC/Department of Justice & Equality to assist)
- Relevant EU and international instruments

The possibility of the heads of the Protection Bill being shared with the Group was raised [Note: The heads have not yet been approved by Government and cannot therefore be made available to the Group]

It was further agreed that the following would prepare short papers by way of background

- D/Social Protection on financial supports
- D/Education on access to third level education
- D/Environment on housing standards
- D/ Justice and Equality on the determination process/possibilities for speeding it up
- Jesuit Refugee Service on residents consultation process.

ORAC suggested that the European Asylum Support Office (EASO), an agency of the European Union could be of assistance. It has done a considerable amount of work on the quality of the determination process. The Commissioner is the Irish representative on the board of EASO and indicated that the Executive Director of EASO would be happy to talk to the Group.

IRC said that they had received senior counsel's opinion on how the backlog of applications might be addressed and would be happy to share it. IRC also agreed to provide a position paper that they had prepared in relation to children.

### ***Engagement with persons in the system***

There was consensus that it would be important to engage with persons in the system and that different voices should be heard – single men, families etc. DPER suggested that it will be necessary to identify in easily understood terms what they are being consulted on. UNHCR said that a lot of information was already available on the concerns of those in the system and that a lengthy consultation

process should be avoided. UNHCR also said that residents in centres can become frustrated at being asked by different visiting delegations what their concerns are. Ideas for how the engagement might happen included open meetings in centres and liaison with residents groups in centres

Department of Children said that a means of engaging with children and young people in the system would need to be considered. While it is necessary to be respectful of where people live it is essential to see with one's own eyes the living arrangements. Children's Rights Alliance agreed that it would be necessary to seek ways to hear the voices of children.

### ***Engagement with others***

Spirasi said that it would be important to engage with professionals working the system eg Health Screening Team in Baleskin, medical health professionals and also the staff of accommodation centres. It was also suggested that it would be useful to hear from the Refugee Legal Service.

### ***Visits to centres***

The importance of visiting centres and seeing the facilities firsthand was acknowledged subject to the importance of being respectful of what are people's homes. It was agreed that visits should be done in a structured way and that large visiting groups should be avoided.

### ***Financial supports***

Social Protection said that in addition to the weekly allowance significant payments are made for exceptional needs. Any changes to the weekly allowance would need to be benchmarked in some way and the work of the Social Inclusion Unit of their Department with the Vincentian Partnership could be relevant. The need for discussions with DPER was also mentioned.

### ***Education***

IRC Core Group representative said that access to third level education was a key issue for those who had completed the Leaving Certificate. Dr Smyth suggested that the universities might be open to moving away from requiring protection applicants to pay the fees applicable to non-EU citizens and noted that exceptions had been negotiated in individual cases. UNHCR said that the minister of Education appeared to be open to changes on this front. D/Education cautioned that while the Minister has indicated her support there were no concrete proposals on the table and cost would need to be considered.

### ***Healthcare***

Spirasi (also the HSE) identified the prescription charge as an issue – it must be paid from the weekly allowance provided by Social Protection. Spirasi also said that for those outside direct provision access to primary medical care was very difficult.

### ***Report***

Mr Dalton suggested that work should get underway on the report, in particular the background sections. He also suggested that it should adopt a plain English

approach and include a glossary of terms. Mr Dalton also suggested that the Group should focus on recommendations that were likely to be accepted by Government and with this in mind the input of DPER would be important. He also said that the Group should be mindful of the importance of not fanning resentment of migrants.

### ***Legal proceedings***

The Chair informed the Group that the CA and TA High Court judicial review challenging the direct provision system was expected shortly.

UNHCR while acknowledging the sensitivities around the independence of the judiciary said that it was important that appropriate interlocutors be identified to engage with the High Court on the handling of judicial reviews in this area. UNHCR referenced some positive effects arising from recent changes introduced by the Department of Justice to the ex parte notice and also referred to the dramatic reduction in the number of JRs arising at the Tribunal stage this year.

### ***Communications***

The Chair's request that members refrain from leaking the discussions of the Group was agreed. It was also agreed that the Secretariat would draft a short statement summarising progress to date for the agreement of the Group. The need to keep protection applicants up to date on the work of the Group was also mentioned.

### **Item 9 Schedule of meetings**

Next meeting scheduled for Wednesday 19 November, 11 to 1:30; The Atrium, 51 St Stephen's Green.

### **Item 10 AOB**

None