

## Open Letter to Alan Shatter TD, Minister for Justice

2nd November 2012

### **A better way to deal with people**

Dear Minister Shatter,

We read with interest your parliamentary answer to questions from Deputy Wallace numbers 522 and 523 in which you commented upon the IRC report: *'State Sanctioned Child Poverty and Exclusion: The case of children in state accommodation for asylum seekers'*. We would like to take the opportunity to reflect upon your comments and hope that these observations may be of assistance in deciding whether the issues raised in our report should receive closer consideration and response.

You state that our report **'cites individual cases in order to draw general conclusions about the system'**. We have taken a number of specific cases to illustrate the conditions for children living in Direct Provision. These cases are consistent with other reports, some of which are referred to in the report itself. The conclusions are not drawn from isolated cases. They are evidence of a pattern. Indeed, following the launch of the Irish Refugee Council's report on 18<sup>th</sup> September, we have heard a number of complaints which further support the report. These include a mother who was given out of date milk for her baby in one centre, a family with a diabetic child who were given out of date meat in another and the disruption of the closure of Lisbrook House which has affected the welfare of children.

Your answer also talks about the accommodation system being **'long standing Government policy'** and **'how the normal structures for dealing with homelessness could not cope when the number of asylum seekers arriving in Ireland increased'**. This system was put in place as an *emergency* coping measure with an expectation that asylum seekers would not remain in such centres for more than six months. Homeless people would not be expected to stay in a temporary hostel for years. The number of asylum seekers arriving in Ireland has actually decreased so the opportunity to review the system is there. This would be consistent with your previous statements in opposition. At a meeting of the Joint Oireachtas Committee on Justice on the 7<sup>th</sup> of July 2010 you stated: *'The direct provision system was introduced as a cost saving for the State in the context of the amount spent on social welfare. The manner in which it operates should be subject to a fundamental review. I hope within the next two years, or preferably in the next six months, we will see Fine Gael in government. That review should take place and we need to see if there is a better way to deal with people'*.

If you are now of the view that your opinions on the Direct Provision system when in opposition were wrong, we would value an insight into what has led your change of mind. Has the review you spoke about been carried out? If so, with what result? If there has been no review, do we take it that you no longer stand by your comments of 7<sup>th</sup> July 2010?

Regarding our report's concerns about the conditions some of the centres force people to live in you commented that **'RIA has in place contractual obligations... backed up by an inspection system'**. The inspection system is not independent. Therefore some of the centres are given notice of inspections allowing time to prepare for them. Furthermore, the inspectors are not charged with commenting upon the underlying problem that these centres are not suitable for long-term accommodation. There have been several calls for HIQA to

have responsibility for the inspections and this would be consistent with the need to ensure that state-funded residential institutions maintain the required standards.

You explain how **‘RIA does not, and will not, designate centres as being specific for one ethnic or cultural group’**. We are not suggesting that centres are differentiated in this way. The 2010 FLAC report *‘One size doesn’t fit all: A legal analysis of the direct provision and dispersal system in Ireland, 10 years on’* gives a full explanation of the unsuitability of one type of accommodation for very varied needs over extended periods. ([http://www.flac.ie/download/pdf/one\\_size\\_doesnt\\_fit\\_all\\_full\\_report\\_final.pdf](http://www.flac.ie/download/pdf/one_size_doesnt_fit_all_full_report_final.pdf)). We acknowledge that these people may **‘otherwise be homeless’** if the system was not in place but again we say that this system is not suitable for long-term accommodation.

In relation to people being offered another centre and in **‘some cases, the offer is not accepted and families prefer to stay in the centre’** the issue is that people don’t want to be dispersed. Many families with school going children can find it very difficult to relocate. If you take Lisbrook House as an example you can see how this disruption has affected the welfare of children. If people refuse the offer to move, RIA leaves them in their current accommodation which may be inadequate, breaching housing laws. It is understandable that there has to be cutbacks and closures of centres but asylum seekers deserve the right to be considered in these decisions and told if they have to move with reasonable time to adjust and prepare themselves. One of the issues relating to Lisbrook was that the notice came after the start of the new term. Overall, however, it shows that the system cannot respond appropriately to the varied needs of those who seek asylum in Ireland and whose circumstances change over a period of time.

The supports you mentioned regarding education are often indeed **‘one-off’** payments which do not allow children to fully participate in all schooling or extra-curricular activities. These children are growing up with real grievances because of the discrimination that they suffer by very unequal treatment. In addition, payments to supplement the weekly allowance of €19.10 and €9.60 is not always paid. On 1<sup>st</sup> November the IRC received a letter from residents at one centre indicating that the clothing allowance of €150 every six months is not being paid.

We would like to draw your attention to the fact that your statement: **‘all family centres with school going children are asked to set aside a quiet space’** is not the same as all centres actually setting aside a space. Does anyone check if the space is there or if it is adequate? There is a difference between studying in an old canteen and a library. You mention that these spaces are where homework can be done **‘under parental supervision’**. There are parents with younger children or other demands on them which mean that they cannot supervise even if space is provided

You also say: **‘Some centres have on-site playgrounds some do not. Children can access recreational facilities in the locality in which they are living’**. It is a fanciful idea that all children with no on site playgrounds can access facilities in the locality. Often, there are no consistent play activities or play space which children in Direct Provision centres have access to. In some parts of the country, people may have to take buses to the area where their children can play. This brings us back to the problem of money inhibiting participation and also it is a safety issue as children cannot be expected to travel unaccompanied to these spaces if they are far away. There is then the risk that some children are being deprived of play time. UNICEF recently ran a campaign about the right to play emphasising its importance in the life of a child.

It is true and fair to say that, on the whole, ‘**no asylum seeker who has sought international protection from this State has ever been left homeless**’. That is to be welcomed. However, that does not detract from the detrimental effect of the Direct Provision system.

Regarding the delay in applications, you explain how ‘**All asylum applications and appeals are processed in accordance with the Refugee Act 1996 and high quality and fair decision-making in all cases continues to be a key priority at all stages of the asylum process**’. If there was a fairer and more robust decision made at an earlier stage there would not be a need for as many appeals or applications to the High Court. The IRC report, ‘*Difficult to believe: the assessment of asylum claims in Ireland*’ (<http://www.irishrefugeecouncil.ie/wp-content/uploads/2011/08/Difficult-to-Believe-The-assessment-of-asylum-claims-in-Ireland.pdf>) contains evidence of very real concerns about the quality of the decision making process in the asylum system.

In relation to ‘**leave to remain**’, though decisions must be given ‘**scrupulous care and attention**’, there is no explanation as to why it takes so long to do this within a reasonable timeframe. It is completely within the Department of Justice’s control to resolve the applications in a timely manner and asylum seekers, even when they seek to resolve a case at an earlier opportunity, have found their efforts frustrated. They are victims of delays both in the High Court and the leave to remain system.

The Immigration, Residence and Protection Bill which you ‘**intend to publish in the near future**’ is to be welcomed but it is not going to help those that are stuck in the backlog. It will only deal with applications for international protection which are submitted after the new legislation, if passed, comes into force. With the concerns raised by the IRC about the quality of decisions, particularly at the appeals stage, it is hard to see how even those new applicants will not find themselves stuck in lengthy procedures hoping for fair and independent consideration of their claims.

Thank you for taking the time to read this. We would welcome an opportunity to discuss the issues raised in our recent reports with you and look forward to hearing from you.

Regards,

Irish Refugee Council