



**SUBMISSION TO JOINT OIREACHTAS
COMMITTEE ON JUSTICE AND EQUALITY**

May 2019

TABLE OF CONTENTS:

A. Executive Summary.....	3
B. Introduction.....	5
C. Recommendations for a new protection system	10
D. Principles for a New Approach.....	14
E. Alternative Models	19
F. Minimum Standards for Accommodation	21
G. The International Protection Process.....	25
H. Annex 1: opening address to Justice Committee, 29 May 2019 31	
I. Annex 2: What are the alternatives to our broken direct provision system?, Irish Times 12.02.2019	34

CONTACT:

Nick Henderson, CEO, nick@irishrefugeecouncil.ie

Rosemary Hennigan, Policy and Advocacy Officer,
rosemary@irishrefugeecouncil.ie

A. Executive Summary

Efforts to improve Direct Provision since the publication of the McMahon Report in 2015 have been slow and patchy in nature. While some improvements have been made (increase in Direct Provision allowance, the introduction of the, albeit, limited right to work, modest expansion of self-catering facilities) in the experience of the Irish Refugee Council, the challenges faced by residents in Direct Provision remain enormous. We meet people each day who are worn down by a system which, taken cumulatively, makes ordinary life impossible for long periods of time. In our view, changes to the system must begin with a much more radical vision for an alternative way to accommodate people who seek protection in Ireland. The fact that Geoffrey Shannon, the special rapporteur on child protection, has called on Ireland to abolish Direct Provision and that the Ombudsman has said it is not a suitable long-term solution for those waiting on an protection claim, should alone be enough to bring about wholesale change. We should start with the vision of what we want and work backwards rather than incremental improvements to an existing system.

There are 6,497 people living in Direct Provision as of April 2019. This is a modest and manageable number for the State, yet the way in which we accommodate people creates substantial cost to the State. Our reliance on the private market has failed. It has meant a decrease in supply at a time of rising demand has pushed the State towards the costlier option of emergency hotel accommodation and has left people arriving in Ireland isolated and distressed in hotel rooms around the country.

The system isn't working for anyone, but there are alternatives. Persistent criticism of Direct Provision has been met with the response that better alternatives do not exist. While it will take time to properly design and implement an alternative system, there are numerous models for better accommodating people while they wait for their application.

No reception system will be adequate while delays continue which is why a new system for reception must also consider the need to properly resource the international protection system so that delays are drastically reduced.

The Irish Refugee Council works every day with people living in the Direct Provision system. The lived experience of residents should be the start for considerations of change. The length of time spent waiting, the indefinite nature of that wait, the overcrowding, the inability to cook or live a normal family life, the idleness, the isolation, the difficulty accessing services – all of these combine to make Direct Provision a very difficult, and in many cases, a very painful experience.

The Irish Refugee Council is calling on the Government to begin a process of review with the goal of designing an alternative reception system for international protection applicants so that Direct Provision can end.

Nick Henderson

CEO, Irish Refugee Council

B. Introduction

This consultation is timely and important. It presents an opportunity to look at ways to move forward from the current Direct Provision system and to radically improve our approach to the accommodation of people seeking international protection while also recognising that Direct Provision should not be seen in isolation from the international protection process itself.

The current accommodation conditions of people seeking international protection in Ireland are made worse by the time they spend living there. When a person arrives in Ireland and requests protection, they are immediately confronted with a system which is barely functioning. Leaving aside the political arguments about Direct Provision, the indisputable fact is that the system is broken. It has not worked - it is not working - and it cannot continue in its current form. Not only is it failing, most importantly, the people seeking protection in Ireland, it is failing the State and the taxpayer by costing millions each year, all of which is paid to private actors.

Reliance on the market to solve social problems only works if there are private actors in the market who are willing to supply to the State. The current crisis is multi-faceted and complex which has impeded the State's ability to respond to it. The lack of forward, strategic planning at policy level has made Ireland's approach to accommodation reactive in nature and deficient in outcome.

The problems with Direct Provision are well-documented but to summarise them briefly:

1. Long processing times leading to lengthy and indefinite delays;
2. Inappropriate and substandard accommodation;
3. Lack of sufficient care services and supports.

The current system relies on short-term contracts with private providers who tend to have little or no background or expertise in human rights and social care, leaving them frequently unable to meet the social needs of the people they are accommodating.

People are accommodated, without any choice, in remote, isolated spaces where there are few services available and they have nothing to do for indefinite amounts of time.

People are given insufficient information about their rights and entitlements and wait for years with no update on their application for protection.

People often receive no or insufficient legal advice and, in many cases, do not fully understand the protection process or what's expected of them as applicants. To receive refugee status, you must meet a legal test: a well-founded fear of persecution for reason of race, religion, nationality, political opinion, or membership of a particular social group.¹ This test is complicated by extensive case law around the definition of refugee. Without knowing the grounds on which you are being tested, it is very easy to not disclose relevant information. Adequate legal advice and assistance can assist people to make the strongest application possible.

In Direct Provision, people live in cramped conditions, sharing a small living space with strangers. They are unable to transfer to other accommodation except in the most exceptional cases. Mental illness goes undiagnosed and underlying conditions are often exasperated by the sheer frustration of spending long periods of time in limbo, as well as the lack of privacy and the absence of a space to call your own. It cannot be surprising that in such settings, interpersonal difficulties develop with other residents as well as staff and management. Management in many centres are, primarily, commercial operators of hotel accommodation and are not qualified to respond adequately to the social needs of the residents. They also cannot be expected to fulfil what is a public law obligation on the State to vindicate the human rights of all people seeking protection.

Conditions in Direct Provision accentuate existing difficulties a person is experiencing when they arrive in Ireland seeking protection. It can lead to people leaving Direct Provision, preferring to sleep on couches or sleep rough rather than continue to live in conditions they find insufferable in centres. With the lack of bed capacity in current Direct Provision centres, the Irish Refugee

¹¹ <https://www.unrefugees.org/refugee-facts/what-is-a-refugee/>

Council has seen a large increase in people presenting as homeless and seeking to re-enter Direct Provision. People in this situation live in dangerous and precarious situations where they can be easily exploited as they have no entitlement to any social welfare or housing outside of Direct Provision. People seeking asylum are specifically excluded from social welfare entitlements as they cannot pass the habitual residency requirement. The only State support is provided through the mechanism of Direct Provision. People who apply to be readmitted to Direct Provision and are refused for a lack of bed space face destitution. The Irish Refugee Council has successfully assisted people in this situation to access supports but we are gravely concerned about the unknown number of people who have not come forward to seek help.

As of May 2019, due to the lack of bed space in the Direct Provision estate, there are 687 people living in 19 emergency accommodation locations around the country, including 88 children.² The situation for people living in emergency accommodation is particularly acute.

At the end of the international protection process, people who receive refugee, subsidiary protection or leave to remain status often struggle to transition out of Direct Provision and to set themselves up independently. Nothing in their experience of Direct Provision prepares them for life in Ireland. It does the opposite, creating a culture of institutionalisation and dependency in which even the most positive and energetic person loses motivation and hope in the face of a system which continually dehumanises them.

The need for transition and integration supports has contributed to delays exiting Direct Provision for people with status, but there are also administrative barriers and difficulties accessing private rental accommodation. This is in part due to the shortage of accommodation generally, but also due to administrative barriers, as well as discrimination and stigma.

2

https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/committee_of_public_accounts/submissions/2019/2019-04-18_correspondence-cronan-goodman-private-secretary-to-secretary-general-department-of-justice-and-equality-32r002102-pac_en.pdf

Direct Provision cannot continue. Ireland needs to urgently change our approach to the reception and accommodation of people seeking protection. We look forward to working with policymakers in future on the design of a new reception system, which is rights-led, efficient, and fair.

Changes to our current system will take time and a realistic timescale will be important to ensure that the design of a new system produces a real departure from the current Direct Provision model.

The Irish Refugee Council calls on the Government to provide adequate funding and capacity to allow the Department of Justice —in conjunction with other, relevant government departments and agencies — to begin the work of designing a new fit-for-purpose reception system for applicants for international protection. This process should involve consultation with current and former residents of Direct Provision, as well as relevant civil society organisations.

The Irish Refugee Council believes that the current Direct Provision system should be phased out and replaced with a system of reception which does the following:

1. Adopts a rights-led approach by ensuring that the basic dignity and human rights of every person are the primary concern of the State.
2. Allows every person a minimum space of their own or with their family, within which their privacy is guaranteed and they can cook autonomously.
3. Supports and enables people by treating them respectfully and providing them with information about the protection process, their rights, entitlements and obligations, so that they will feel empowered rather than institutionalised.
4. Ensures that people can engage properly and fully in the international protection process and that their accommodation arrangements consider this need.

5. Prioritises integration and fosters an inclusionary approach to accommodation which prepares people for a life in Ireland, instead of assuming a negative conclusion to the application process.

C. Recommendations for a new protection system

The following are a summary of recommendations and ideas for improving the Irish protection system. Many involve no spend, those that do, we submit, are likely to be a cost saver in the medium to long term.

1. Implement the vulnerability assessment required by the Reception Conditions Directive and the Reception Conditions Regulations 2018. This will help ensure reception needs are met and providers of accommodation and other services have information about people's reception needs.
2. Reduce delays by increasing staffing and training in the International Protection Office. Refugee status determination is a critically important function of a modern state and resources and support should reflect this.
3. Opt in to the revised Asylum Procedures Directive which includes the obligation to conclude the initial protection procedure within six months of the lodging of the application.
4. Respect and implement existing law. Several provisions (right to health, education, information) of the European Communities (Reception Conditions) Regulations 2018 have, in certain cases, not been implemented.
5. Introduce a system of training and regulation for interpreters. Poor interpretation undermines the process.
6. Increase the provision of early legal advice, all protection applicants should receive at least 10 hours of assistance in preparing their application. This is widely recognised as improving the protection process.
7. Introduce child benefit for people in the asylum process, free travel pass to allow people to travel to appointments in Dublin (rather than the ad hoc discretionary system) and monitor the daily expenses allowance.

8. Shift the accommodation of people seeking protection away from the Department of Justice. Move it to the Department of Housing with a ring-fenced budget or create a new entity.
9. Embed human rights obligations in contracts with accommodation providers using Section 42 of the Irish Human Rights and Equality Commission Act 2014.
10. Own-door accommodation, within communities, with the option of self-catering should be mandatory going forward.
11. A matrix should be developed that considers issues like local services and accessibility to Dublin to test whether a particular area is appropriate. Local communities can provide a welcome but many existing centres are remote and isolated.
12. Implement the National Standards for protection accommodation and mandate an independent enforcement and inspectorate body.
13. Move to non-profit delivery of accommodation by involving Approved Housing Bodies. To do this, amend the procurement process to allow for smaller clusters of accommodation (currently a provider must provide for 50 or more people which perpetuates congregated living). Give providers a longer lead in time to provide accommodation. Allow for conversion and capital costs to be included in bids and give longer contracts to increase certainty.
14. The State should build accommodation. This will save money in the long term and maintain greater control over capacity.
15. Broaden the right to work. Only 14% of the adult population of Direct Provision is working. Work reduces dependency.

16. Change the Migrant Integration Strategy to include people seeking protection. The 'New Scots' strategy from Scotland is a template for this approach.
17. Streamline the process of leaving Direct Provision by: reducing delays of the Ministerial Decision Unit in giving declarations of refugee status; create a process for Direct Provision to be given as a reference address; grant full welfare allowance on recommendation of refugee status; extend Homeless HAP and consider a temporary extension of priority categories on social housing lists.
18. Enact the International Protection (Family Reunification) (Amendment) Bill 2017.
19. End the practice of moving aged-out unaccompanied minors into Direct Provision on reaching eighteen
20. Conduct an annual, independent, review of the protection process which includes consultation with people in the process, supporting organisations and lawyers practicing in this area.
21. End forced deportations. Returns should be based on: fair and consistent protection procedures that properly assess whether a person is entitled to international protection; fair, voluntary, humane return procedures, and fair and transparent relations with third countries based on international human rights law and standards including post return monitoring.
22. Ratify the UN Optional Protocol to the Convention Against Torture, (OPCAT) and create a national preventative mechanism.
23. Allow for independent and open investigation by an independent inspectorate of deaths in protection accommodation to identify facts and circumstances and to identify any shortcomings or failings which may have occurred.

24. Inter departmental and cross departmental approaches to protection should improve. The International Protection Office (IPO), the International Protection Appeals Tribunal (IPAT), the Legal Aid Board (LAB), the Reception and Integration Agency (RIA), the Ministerial Decisions Unit (MDU) of the Irish Naturalisation and Immigration Service (INIS), An Garda Síochána (AGS) and Coroner's Service are all under the aegis of the Department of Justice and Equality but they could work in a more cohesive way to the benefit of people in the system and also their own missions.

D. Principles for a New Approach

Principle 1: Determining accommodation needs & identification of vulnerability

In order to assess the needs of people on arrival in Ireland and to ensure their basic requirements are met, it is necessary to first accommodate people in a Reception and Orientation Centre. This will allow for an orderly, centralised approach to establishing the varying levels of vulnerability and need in the population arriving. It ensures that on arrival, people are immediately in a supportive environment where information is available, trained staff are on-site, and they have an opportunity to orient themselves on immediate arrival in the State.

While living in a Reception and Orientation Centre, a vulnerability assessment must be carried out in line with Reception Conditions Regulations 2018³ and the Reception Conditions Directive (recast)⁴. This would allow the State to identify the special accommodation needs of people presenting with vulnerabilities and make special provision for accommodation where necessary.

Induction should also include access to health care on site, applying for a PPS number in order to access a weekly allowance, basic language courses, and an information pack in a language they can reasonably understand explaining their rights and entitlements in Ireland, as well as their obligations.

Failure to identify a person's particular accommodation needs on arrival may lead to a deterioration in a person's physical and mental health, and reduce their ability to effectively engage with the protection process. Ireland has no identification procedure in place for the assessment of special needs, either in the context of Direct Provision or as part of general international protection

³ <http://www.irishstatutebook.ie/eli/2018/si/230/made/en/print>

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033>

procedures, which runs counter to numerous national and international recommendations to the Irish government.⁵

Good Practice Example: In France, authorities are obliged by law to identify vulnerability during the initial interview with the applicant.⁶ Officers conducting the interview are specially trained on identification of special needs. The assessment takes the form of a separate vulnerability-assessment interview conducted on the basis of a questionnaire. Any findings are added to the applicant's file, and taken into account in the allocation of accommodation and the decision making process on their case.

Recommendations for DP Alternative: Everyone seeking protection in Ireland should be accommodated first in Baleskin, or a similar reception centre, for induction information purposes, to ensure they have a PPS number and can access immediate health care, as well as to facilitate a vulnerability assessment. An identification mechanism must be established at an early stage in the protection procedure to identify any special accommodation and procedural needs.

Principle 2: Physical space appropriate to meet peoples' needs

Much criticism of Direct Provision focuses on the physical accommodation space, namely that centres are not fit for long-term accommodation, especially for families with children and people with particular vulnerabilities.⁷ The physical space in which a person is accommodated should reflect both their general and specific needs. This must be in line with fundamental rights central to human dignity, such as access to appropriate food, recreation, education

⁵ See eg: Working Group Report, pp. 194-196; Irish Human Rights and Equality Commission Submission to CEDAW, p. 117; UN Committee against Torture Concluding Observations on Ireland, July 2017, Art. 12 (b).

⁶ Forum Refugies – Cosi, Asylum Information Database (AIDA) – France Country Report, 2016, p. 79.

⁷ See generally: Working Group Report, pp. 162-164; S Arnold, State Sanctioned Child Poverty; L Thornton, Direct Provision and the Rights of the Child in Ireland (2014).

and financial autonomy (either through employment or a suitable financial allowance).

The physical space must ensure privacy and, for families, fully respect their right to family life. There are numerous models for accommodating people, all of which allow for these two basic requirements. For example: units containing three/four own-door bedrooms with a shared living space and kitchen.

Good Practice Example: In Austria, people seeking protection may access special reception facilities suited to their specific needs where they or a social worker/legal representative make a request.⁸ People seeking protection are included under the State's *Basic Care Laws* which provide for anyone with special accommodation needs in Austria, such as people with medical conditions or disabilities. Furthermore, some reception centres provide cooking facilities for residents.⁹ Where food is provided, regulations oblige management to ensure that meals take account of religion, culture and other dietary requirements.¹⁰

Recommendation for DP alternative: Own-door accommodation, within communities, with the option of self-catering should be mandatory going forward. Physical living space should meet people's needs and requirements. Accommodation should have amenities that allow a basic level of independent living such as independent cooking and recreational facilities.

Principle 3: Autonomy and Integration

Key to ensuring a person's mental wellbeing while in the protection process, as well as ensuring their transition out of the protection procedure afterwards, is an accommodation system that promotes personal development and integration into the host society. In Ireland, people live in isolation from the

⁸ AIDA Austria Country Report (2016)

⁹ AIDA Austria Country Report (2016).

¹⁰ Fundamental Rights Agency, *Oversight of Reception Facilities* (September 2017), p.9.

file:///Users/user/Downloads/fra-2017-september-monthly-migration-report-focus-oversight_en.pdf

community in situations of forced idleness. As many Direct Provision Centres are situated in rural locations, it is difficult for people to engage with the local Irish community and due to visiting rules in many centres, it is difficult for local communities to, access Direct Provision centres.

Good Practice Example: Connecting civil society initiatives with protection seeker accommodation centres can promote integration and peoples' self-reliance.¹¹ The Lighthouse project in Spain helped migrant women to integrate by creating spaces for connection with local women.¹² The project also offered training and links to educational, medical and social services. In Germany, the *Asylothek* project is a volunteer-run library for asylum seekers, which offers languages courses and general information.¹³ A core component of their work is the provision of information about rights and responsibilities, and courses on Germany's value system.

Recommendation for DP Alternative: 9. A matrix should be developed that considers issues like local services and accessibility to Dublin to test whether a particular area is appropriate. Local communities can provide a welcome but many existing centres are remote and isolated. Links should be made between the accommodation centre and the local community to introduce opportunities for integration and personal development.

Principle 4: Transparency and independent oversight of accommodation facilities

Key to demonstrating compliance with international human rights standards is full transparency in relation to accommodation management, which allows for deficiencies to be addressed. With the exception of the Working Group process and report there has been little independent, systemic scrutiny of Direct Provision or Ireland's approach to accommodation of people seeking protection generally.

¹¹ How Civil Society Organisations assist Refugees and Migrants in the EU: Successful experiences and promising practices from the 2016 EESC Civil Society Prize (2016). <http://www.eesc.europa.eu/resources/docs/ge-02-17-304-en-n.pdf>

¹² See homepage here (in Spanish): www.fundaciolasalutalta.org/que-fem/far/

¹³ See homepage here (in German): www.asylothek.de

Good Practice Example: In Austria, the Ministry of the Interior is responsible for national oversight and standard-setting of reception conditions, whereas provincial governments oversee reception centres at the local level. Each centre hosts a Ministry representative, who is responsible for ensuring each centre meets federal standards. The Austrian Ombudsman Board has power to investigate cases of maladministration and conducts monitoring visits in its role as National Preventative Mechanism as assigned under the Optional Protocol to the Convention against Torture (OPCAT).

Recommendations for DP Alternative: The organisation responsible for management of the centre must conduct regular evaluations and quality assurance assessments to quickly identify and address any emerging issues. An independent third party inspectorate must be in place to assess the implementation of National Standards. Ireland’s ratification of OPCAT may provide additional avenues for independent oversight. In addition, the recommendation of the McMahon Report that there be an annual review of the protection process, with a view to making recommendations to guard against any future backlogs, has not yet been implemented.

Principle 5: Supporting Transition out of Accommodation Centre

Protection accommodation should only ever be a temporary measure and residents must be properly supported to make their eventual transition out of the protection system. In Ireland, research has indicated that the protracted length of time spent in Direct Provision makes it incredibly difficult to transition to independent living.¹⁴ Along with the measures set out above regarding integration and autonomy, people should be fully-supported in their transition out of protection accommodation.

Good Practice Example: Belgian group, ORBIT, supports people during the first stages of residence in Belgium, which includes providing refugees with support in the search for housing, they work with employers to give refugees

¹⁴ M Ni Raghallaigh, M Foreman, M Feeley, Transition from Direct Provision to Life in the Community – the experiences of those who have been granted refugee status, subsidiary protection or leave to remain, (2016).

and migrants a fair chance in employment opportunities, and bring together third-country nationals and host communities to foster mutual understanding.¹⁵

Recommendation on DP Alternative: Supports must be provided to assist people move to independent living. Streamline the status process and reduce delays at the Ministerial Decisions Unit. Accept Direct Provision centres as an address for social welfare claims from people with status to allow them access their entitlements. Grant full welfare allowance on recommendation of refugee status to assist people to prepare for independent living. Extend Homeless HAP. Issue a medical Card and DP allowance for people who choose not to enter DP but who may otherwise require some access to State supports in order to reduce the number of people entering Direct Provision. Consider a temporary extension of priority categories on social housing lists.

E. Alternative Models

There are numerous different models to meet accommodation needs. These vary depending on the level of intervention and associated supports required. Many people seeking international protection are highly able and independent people who have minimal support needs. Others have a specific vulnerability which, again, varies in degree depending on their circumstances. With this in mind, there is likely to be no one-size-fits-all model appropriate to meet every person's needs. A range of different accommodation types should be considered.

The following are three models identified as possible alternatives to the current Direct Provision system:

- 1. Expand current social and protected housing stock** – Accommodation of asylum seekers would be provided on a local level by local authorities, with overall responsibility and oversight resting with a cross-departmental agency comprising Justice and Equality, Health, and Social Protection.

¹⁵ See homepage here: www.orbitvzw.be

The benefits of this model are:

- (a) Integrated living with local population;
- (b) Access to social supports on-site where needed;
- (c) Ownership remains with the State;
- (d) In the event that the population of people seeking protection falls, the accommodation is immediately available for other groups of people requiring supported accommodation.

A challenge to this model includes the need to increase the current social housing stock to accommodate a further population of approximately 6,500 people. This could be overcome by long term planning to build accommodation. For example, the Government could commit to building 600 units each year from 2020, with planning and approval commencing in 2019. This initial outlay would be outweighed by long term saving rather than an annually recurring outlay to private operators.¹⁶

- 2. Cluster model** – Recognising the varying support needs of people seeking protection, this model employs a cluster system where different types of accommodation are provided depending on needs. This would involve a main accommodation centre for people with low support needs living largely independently. Proximate to this central hub, a number of smaller homes would accommodate people with similar vulnerabilities or special needs.

For this model to succeed, the standard of accommodation in the main centres would need to include own-door accommodation, access to cooking facilities, and recreation spaces. The location of such centres should also be proximate to large urban centres and have adequate public transport links.

- 3. AHBs build or convert existing sites** – This model would involve housing associations participating in the current tendering process with a view to

¹⁶ See Eoin Ó Broin, 'Direct Provision system is broken – let's fix it', Sunday Business Post, 25 November 2018

implementing a rights-led, not-for-profit basis accommodation model for international protection applicants.

The Irish Refugee Council have engaged with several AHBs to pursue implementation of this model. There are however a number of barriers in practice to AHBs participating in the current tendering model. These include:

- The current that the model requires tenderers to have accommodation of more than 50 beds or over, this risks perpetuating congregated living.
- Contract lengths (2 years with an option to extend for 24 months) may also not give enough certainty to providers.
- Conversion or build costs which were added to a tender cost, and which would result improved quality provision, may result in the tender being unsuccessful compared to lower bids from incumbent commercial providers.
- Many of these bodies are involved in ongoing, extensive work meeting existing social housing needs.

We believe these barriers are surmountable if the procurement process is altered.

F. Minimum Standards for Accommodation

A. Physical Space – Self-Catering Units

A longstanding criticism of Direct Provision has been that it has involved congregated settings. The HSE have described congregated settings as where 10 or more people with a disability live together in a single living unit or are placed in accommodation that is campus based. In most cases, people are grouped together and often live isolated lives away from the community, family and friends. Many experience institutional living conditions where they lack basic privacy and dignity.¹⁷ Given this criticism, and Ireland's history of institutional living, we recommend that accommodation for single individuals

¹⁷ [Time to Move on from Congregated Settings A Strategy for Community Inclusion](#), Health Service Executive, June 2011

should house no more than a maximum of 10 people except in circumstances where a larger grouping is appropriate. It is concerning that the Reception and Integration Agency are procuring¹⁸ for accommodation of more than 50 beds as this risks perpetuating congregated settings.

Suitable living space for international protection applicants must offer both privacy and autonomy. To achieve this, the accommodation model must comprise self-catering apartment units and must meet the current regulatory standards around living space. The storage needs of residents must also be considered.

Where possible, each apartment should accommodate a maximum of 4 single adults, with individual rooms for each single person. Accommodation should also have regard to circumstances where the health needs of a particular individual change. For example, a single woman who becomes pregnant may require more space and privacy.

Families should be accommodated in a private apartment unit or, at a minimum, together in a shared accommodation unit of adequate size. The accommodation unit would include one shared kitchen, living space, and bathroom for 4-6 people.

B. Location

The location of accommodation will be integral to its success. In order to ensure access to education, employment and services, accommodation will need to be within commutable distance from an urban centre. Transport connections will be an important aspect of this to ensure residents are not cut off from the rest of the community.

C. On-site Supports

It is vital that staff working with residents are adequately experienced and trained to meet the specific needs of people who may be particularly vulnerable or have particular social needs based on their life experiences to

¹⁸ Multisupplier Framework Agreement for the provision of premises, available on E-Tenders

date. For specialised support, regular medical, psycho-social supports and legal clinics should be available on-site.

D. Transparent, Independent Complaints and Inspections

The Offices of the Ombudsman and the Ombudsman for Children have jurisdiction to investigate complaints from residents in direct provision. Currently, there is a low level of awareness around the complaints mechanism and low engagement with the complaints process as a result. Oversight is enormously important to ensuring standards of service are high. The best way to achieve this is through an independent inspectorate which does not place the burden of raising issues on individual residents. Instead, the inspectorate should be empowered to launch its own investigations and to assess the system as whole.

A rights-focused accommodation model must also ensure the dignity of residents is safeguarded by ensuring that due consideration is given to the voices of people living in accommodation. A forum for discussion and feedback must be provided to residents.

E. Commitment to National Standards

At present, draft National Standards for Accommodation are at an advanced stage and near completion. A set of national standards applying equally to all accommodation centres would ensure that a minimum level of comfort and dignity is in place for everyone seeking protection in Ireland. As a baseline, these standards should be considered as part of the delivery of alternative accommodation and care for residents. The Irish Refugee Council commented on these Standards and recommended improvements¹⁹.

F. Integration and Transition Support from the Outset

¹⁹ Irish Refugee Council, [Submission On The Draft National Standards For Direct Provision Centres](#)
3 October 2018

The physical conditions of accommodation for people seeking protection in Direct Provision needs to vastly improve, as does ensuring other basic needs are considered and supported.

An alternative model must involve wraparound supports to ensure that integration and transition support begins from the moment an applicant seeks international protection. This must include specialist care for vulnerable groups, as well as supports for people seeking to access education and the labour market.

The Irish Refugee Council advocates a model of ‘integration from day one’ as the correct approach to people seeking international protection in Ireland. This model has been successfully implemented in Scotland via ‘New Scots: refugee integration strategy 2018 to 2022’.²⁰ The current approach is to treat all money spent on the protection process as wasted money, rather than an investment in upholding our human rights obligations and providing a dignified experience for people while they wait for their application to be processed.

The policy approach should be to ensure the needs of vulnerable people are met and to support independent and autonomous living through targeted investment, in anticipation that a person will remain in Ireland at the conclusion of the protection process, instead of the current assumption that they will not.

²⁰ [New Scots Refugee Integration Strategy 2018 – 2022](#), Scottish Government, 10 January 2018

G. The International Protection Process

I. Delays

The benefits of the introduction of the single procedure under the International Protection Act 2015 have, so far, not borne fruit for a number of reasons. Most notably, this includes the decision to begin each existing application again from the beginning under the single procedure.

In addition, lack of adequate staffing and resources at the International Protection Office and the International Protection Appeals Tribunal have slowed down the process. Interviews have been cancelled at short notice due to a lack of available staff members which leaves applicants in limbo, unsure when their interview will be rescheduled.

Added to this, delays at the Ministerial Decisions Unit have led to people waiting up to one year for their refugee or subsidiary protection recommendation to be confirmed by the Minister for Justice. After receiving the letter from the Ministerial Decisions

In the event of an applicant bringing judicial review proceedings, the slow progress of court proceedings acts as a further source of delay. In addition, people seeking protection are treated differently in judicial review proceedings: separate list in High Court, higher test and shorter time limits and limited right of onward appeal (See Illegal Immigrants Act 2000). This must be addressed as the delays in processing applications hugely impact on time spent in Direct Provision and the harm caused by extended periods of time in such a

Recommendation:

- Properly staff, train and resource the International Protection Office.
- Ensure the International Protection Appeals Tribunal is properly staffed.
- Implement a six month time limit for a first instance decision as standard practice.
- Opt in to the Asylum Procedures Directive (recast) which requires decisions to be made within six months and also creates an assessment to establish if the applicant is in need of special procedural guarantees, this will complement the vulnerability assessment in the Reception Conditions Directive.

II. Early Legal Advice

The lack of investment in early legal advice²¹ for people in the international process leads to a high level of appeals. The benefit of early legal advice is that people have assistance from the beginning completing the questionnaire and preparing for their interview. They have the benefit of legal advice at an early stage which allows them to fully understand the application process, what is expected of them, what is required from them, and the proofs they must meet.

When combined with quality decision-making, the early legal advice model ensures that people have a fair opportunity to properly establish their claim for international protection. A fair, efficient process which ensures applicants have access to quality legal advice and quality decision-making will reduce the likelihood of appeals. Early legal advice prevents situations where applicants only disclose pertinent and important testimony at appeal stage when they have had the benefit of greater legal advice.

Important information about a person's experience may not be communicated due to the traumatic and private nature of the experience and an applicant not understanding that the traumatic event is key testimony for their protection application. With the early legal advice model, this is less likely to happen because there is time for a lawyer to explain to the person seeking international protection the importance of disclosing such information. There is also time to build a relationship with a lawyer or caseworker which facilitates disclosure.

The current system produces a situation where legal advice prior to submitting the questionnaire and attending interview is either not availed of (because people are unaware of their rights) or is not adequate (because legal aid is so limited).

²¹ Irish Refugee Council, [A Manual on Providing Early Legal Advice to Persons Seeking Protection](#)

This means that the applicant only gets to properly engage with the process at appeal stage. Not only is this distressing for applicants, it can lead to erroneous findings on credibility grounds at appeal stage. It also delays the amount of time a person spends in Direct Provision, entailing further expense for the State.

III. Increased Legal Aid

The need for an early legal advice model is linked to the need to invest in legal aid, particularly at pre-interview stage.

To put it in context, only 11% of the Legal Aid Board's civil legal aid budget is spent on advice for international protection applicants. For these people, their future safety and welfare turns on a legal process with which they are unfamiliar.

International protection is a fundamental international human rights obligation which the State must vindicate. Legal advice, which is reliant on the availability of legal aid, allows an applicant to make the best application they can. It is necessary for applicants to properly and fully exercise their basic human rights.

The appeal process and judicial review proceedings, which arise due to errors in the appeal process, are also costly for the State. In the long run, it does not save exchequer funds to deny sufficient access to legal advice at the early stages of the process, because the state ultimately pays to remedy errors which often result from the absence of adequate legal aid. Investment should be frontloaded with adequate legal aid provided from the beginning of the international protection process.

Recommendation:

- Invest in early legal advice as model for fair, efficient international protection application process with each applicant receiving at least 10 hours of advice and assistance.
- The Irish Refugee Council's manual on early legal advice is a template for how all protection applications should be prepared.

IV. The protection process, special procedures, and the Common European Asylum Procedure (CEAS)

Various, many small, amendments to the protection procedure would bring significant improvements. The Irish Refugee Council would encourage the Government to consider opting into the Asylum Procedures Directive (revised)²² in order to align our protection laws with minimum, common standards across the EU. This would introduce a six month limit for the processing of claims at first instance and would also introduce a requirement to adopt special procedures where needed for vulnerable clients who require accommodations in the application process.

Ireland only participates in some of the second phase CEAS measures. Opting into the full CEAS would ensure that Ireland has a voice in reforming and improving common EU laws on protection, while also ensuring that we align our laws with the rest of the EU following the exit of the UK.

Recommendation:

- The International Protection Office should phase out the use of the long questionnaire. This can be a difficult document to navigate and has to be translated which can be time consuming and cause delays.
- All interviews should be tape recorded so as to ensure the interview record can be checked and verified. This will also increase confidence in the interview process in circumstances where the legal representative cannot attend the interview.
- Give applicants a copy of the interview record at the end of the personal interview.

V. Family Reunification and Transition

²² Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection [2013] OJ L 180/60.

Family reunification rights need to be expanded to keep families together. The current definition of a family excludes children over 18. If a refugee is over 18, it excludes their parents. For LGBT refugees, it excludes their partners (many countries of origin do not recognise same-sex marriage). It excludes grandparents, older siblings, aunts and uncles, and anyone who may have acted in loco parentis. This denies the reality of many family set-ups, as well as failing to recognise family structures which may differ depending on cultural context.

The pain caused by family separation cannot be overstated. It is impossible for people to move on and begin full, new lives in Ireland in circumstances where their loved ones remain in danger.

Furthermore, the twelve month limit on family reunification applications places enormous pressure on people who have newly received their refugee status to be in a position to provide for dependent family members. For people trapped living in Direct Provision due to the unavailability of housing, they have to apply for family members to reunify despite the reality that they have nowhere to house them. The twelve month deadline forces people to apply before they have time to properly establish themselves in Ireland.

Furthermore, it's not currently possible to apply for social housing until family members have arrived in the country. As a result, a refugee can only apply for housing for themselves and family members already in Ireland. Only when their family arrive in Ireland can they then apply for larger accommodation. This creates situations of overcrowding or homelessness. It can be easily remedied by allowing a person with refugee status to apply for housing for reunifying family members, before they arrive in Ireland.

Recommendation:

- Enact the International Protection (Family Reunification)(Amendment) Bill 2017
- Reform existing process for family reunification to allow for forward planning. Currently, applying for housing and social welfare provision can only commence when the person arrives in Ireland

There are currently almost 700 people stuck in Direct Provision although they have received status to remain in Ireland. This is due to a number of factors, most pertinently difficulties accessing housing. For people with refugee and subsidiary protection status, they are in the same situation as Irish citizens seeking to access housing. However, the traumatic experiences which brought them to Ireland, as well as their experience of Direct Provision, the lack of existing support networks, language barriers, and the bureaucratic nature of accessing public services in Ireland make it enormously difficult to establish a new life in Ireland.

Recommendation:

- Provide intensive support services for people receiving status and moving out of Direct Provision to ensure they are able to access housing and other entitlements.
- Maintain availability to transition supports for a minimum period of eighteen months after receiving status where needed.

Currently, minors who arrive in Ireland unaccompanied are referred to the Separated Children Seeking Asylum Unit and placed either in foster care or residential care for minors. When they reach 18 years, those young people whose international protection applications remain under consideration are usually moved from that accommodation to Direct Provision. They then have no additional aftercare supports. This differs from other children in care who receive aftercare services including access to or support with suitable accommodation up until the age of 21, or 23 if they are in full-time education. Difficulties presented by the practice of moving aged-out minors, who are often very vulnerable, into Direct Provision accommodation are well documented.²³ Aged-out unaccompanied minors should be provided with the same aftercare supports as other young people in care at 18 and should not be accommodated in Direct Provision while they wait for their application to be processed.

Recommendation:

- Ensure that separated children seeking protection receive equity of care with other children leaving care, and that they receive aftercare services.

H. Annex 1: opening address to Justice Committee, 29 May 2019

Thank you for the invitation to present to the Committee this morning.

The Irish Refugee Council helps people seeking asylum. We give information, provide early legal advice, help people to access employment and education, help young people and accommodate more than 70 people who have left Direct Provision through our housing project. We also advocate for improvements in the asylum process. It has been a consistent call of the Refugee Council that Direct Provision should end.

Moreover, politicians across the spectrum, international bodies, other NGOs and most importantly people living in Direct Provision have called on it to end.

There are countless articles, reports and testimonies of what is wrong with this system.

The fact that Geoffrey Shannon, the special rapporteur on child protection, has called on Ireland to abolish Direct Provision and that the Ombudsman has said it is not a suitable long-term solution for those waiting on an asylum claim, should alone be enough to bring about wholesale change. Direct provision is already a chapter in Ireland's long and dark history of institutional living.

Unfortunately, we believe the system has worsened in recent months, particularly in the context of emergency centres. A grave concern we have is that the short term emergency situation becomes entrenched and the makes the implementation of change harder.

If Direct Provision ends, something has to go in its place. The bottom line of a new system should be own door accommodation, the opportunity to cook for oneself, to live in a community.

We think this new model could be agreed upon quite easily. And, from discussions with the new head of RIA, I do believe they are open to real change. However we believe the bigger challenge lies in how that new model is

delivered. It is doubtful that existing providers can deliver that model nor can the current procurement process.

The system is broken, and it's costing too much for too little – we know that it needs to change. So how do we get to a new system?

Firstly, we should consider accommodation of people seeking asylum a housing issue. Not to draw from existing funds for housing but to take a housing policy approach. The Department of Justice is not equipped to design policy like this and it should not lie with them.

Secondly, we should use the budget that exists but to do so more strategically. The government has built only three accommodation centres in 18 years. The majority of existing centres were originally designed for other purposes. The State should procure fit-for-purpose accommodation to meet particular needs. This will be a cost-saver in the long term. Aidan O'Driscoll, Director General of the Department of Justice and Equality said to this committee weeks ago that the spend on Direct Provision in 2019 will likely reach €95 to €100 million this year. In 18 years over €1.2 billion has been paid to private providers of accommodation. Spending money on providing people with asylum is a good thing, but it should be done strategically to the benefit of people and the public.

Thirdly, and linked to this is fundamental criticism of the system so far has been that it has been reliant on for profit actors. Private providers are not social workers, or public servants: they can't and aren't meeting the complex social needs of the people living in their centres – that is a public obligation on the State.

We have many housing in bodies in Ireland, that are non-profit, work to a particular mission and have different strengths and expertise. We believe that AHBs are best placed to provide accommodation.

For this to happen the procurement process has to change: longer lead in time, longer contracts, funding for capital costs and a reduction in the number of people a body should accommodate. Current procurement models require any provider to accommodate 50 or people. The feedback we have had is that this

risks replicating congregated living and it is difficult to procure buildings they may not be able to source buildings of this size.

Fourthly, direct Provision isn't just about the bricks and mortar. Reduce delays in the system by giving resources to decision makers, increase legal aid at pre-decision stage so applications are better prepared. Make the right to work broader. Allow for integration from day one.

Fifthly, there needs to be greater engagement on this issue from all Government departments. Moreover, the Department of Justice could work better within itself. Often the Department of Justice does not work in synchronicity. Six bodies: the International Protection Office (IPO), the International Protection Appeals Tribunal (IPAT), the Legal Aid Board (LAB), the Reception and Integration Agency (RIA), the Ministerial Decisions Unit (MDU) of the Irish Naturalisation and Immigration Service (INIS), are all under the ambit of the DOJ but they could work better. To give an example: the LAB isn't supported enough to ensure everyone has a well prepared applications to the IPO. This can mean more complicated appeals for the IPAT to deal with. If someone is recognised as a refugee then there are delays in the MDU which mean that people spend longer in the Direct Provision system which means the system becomes overcrowded which puts pressure on RIA. Even then there are not enough appointments so the person struggles to get an appointment to get a Residency Card. At each step, there are hurdles, requiring intensive interventions and supports. It doesn't need to be this difficult, but systemic change is key. There needs to be increased transparency and clearer channels of communication.

Our submission will go in to the above in more detail.

Thank you,

Nick Henderson, Chief Executive Officer, 27.05.2019

I. Annex 2: What are the alternatives to our broken direct provision system?, Irish Times 12.02.2019

Direct provision is broken, condemned by politicians across the political spectrum, international organisations and, most importantly, by residents themselves. Geoffrey Shannon, the special rapporteur on child protection, called for it to be abolished in his recent annual report. Its failures have been vividly demonstrated through Melatu Uche Okorie's book *Hostel People* and the TV show *Taken Down*.

So how do we end direct provision, what is the alternative and how do we get there?

Minister of State for Justice David Stanton repeatedly says he has not heard of a better system. These are some ideas.

In short, we need to shift to long-term, strategic thinking, and away from a reactive "managed emergency"-style system that relies on private operators. Even in the middle of the housing crisis solutions exist.

Housing experts should be consulted and sought for input. Philanthropy, faith groups, developers and business should also be encouraged to become involved

We then have to accept that providing asylum and accommodation is a positive and important part of being a modern democracy that respects human rights.

An average of 2,290 people per year have claimed asylum in Ireland over the last 10 years. This is an entirely manageable number, but the majority have no means to pay for accommodation or family to rely on. Around 61,100 people have been accommodated in direct provision since 2000. If direct provision ends, something has to take its place.

Responsibility should be shifted away from the Department of Justice. It does not have the knowledge of housing or sufficient power and influence in housing policy circles.

The budget and control of accommodation for people seeking asylum should be ring-fenced but mainstreamed into wider housing policy. Housing experts should be consulted and sought for input. Philanthropy, faith groups, developers and business should also be encouraged to become involved. Partnerships and consortiums that leverage the unique attributes of each will be crucial.

Bolt-on services

Non-profit housing bodies should be incentivised to become providers of accommodation, with other organisations providing bolt-on services. Social housing funding streams, such as the capital assistance scheme, should be amended to allow for asylum accommodation to be a small percentage of social housing developments.

Tenders for asylum accommodation should also be designed to attract the interest of these housing bodies. Longer contract duration, with funding for capital and conversion costs, should be introduced.

The government has built only three accommodation centres in 18 years. In those years, over €1.2 billion has been paid to private providers of accommodation

Tenders should also allow for longer lead-in time. Currently providers are required to provide accommodation at short notice, which puts off bodies that may require time to convert properties. The tenders should also be sufficiently broad to accept different types and sizes of accommodation so we move away from congregated settings.

The government has built only three accommodation centres in 18 years. The majority of existing centres were originally designed for other purposes. The State should procure fit-for-purpose accommodation to meet particular needs. This will be a cost-saver in the long term: in 18 years over €1.2 billion has been paid to private providers of accommodation. Spending money on providing

people with asylum is a good thing, but it should be done strategically to the benefit of people and the public.

Living space

Adequate living space is crucial, and will distinguish any new system from old. Own-door accommodation and self-catering facilities to ensure autonomy, privacy and dignity are a necessity. These sound like big asks but are achievable if planned.

New standards on direct provision point us in the right direction, but are based around the current system of grouping people together in centres. We should start with the vision of what we want and work backwards rather than incremental improvements to an existing system.

Accommodation should be within reach of an urban centre with transport links available. Local communities took the lead in offering welcome and support, as demonstrated in Merville and Rooky, after attacks there. But some centres are too far from the essential services that a person in the asylum process needs to access.

Some 700 people currently live in direct provision but cannot leave because of the housing crisis

A matrix that considers issues like local services and accessibility to Dublin should be developed to test whether a particular area is appropriate.

Direct provision is more than accommodation. Changes, many involving little or no spend, can improve the system. The migrant integration strategy should be extended to include people seeking asylum from their arrival. Scotland has successfully implemented this model under the New Scots strategy. The strategy should also be amended to include actions on housing.

Supports and services should be available to assist people to transition from accommodation when they have regularised their status. Some 700 people currently live in direct provision but cannot leave because of the housing crisis.

A broader right to work is also needed. Only around 6 per cent of people in direct provision are working. Through work people can become independent and move on.

Asylum procedure

Delays continue to afflict our asylum procedure. Claim asylum tomorrow and you will be waiting for at least 12 months before being called for an asylum interview, and there is a backlog of around 4,000 cases.

Delays could be reduced by streamlining the application procedure, more resources given to the International Protection Office and more legal advice at the beginning of the procedure to have people recognised as refugees quicker.

Direct provision is already a chapter in Ireland's long and dark history of institutional living. Now is the time to think big and change. More of the same fails us all.