

Opening Statement to the Joint Committee on Justice and Equality on direct provision and the international protection process

12 June 2019



Opening Statement

The Children's Rights Alliance unites over 100 members working together to make Ireland one of the best places in the world to be a child. We change the lives of all children in Ireland by making sure that their rights are respected and protected in our laws, policies and services. We welcome the opportunity to present to the Joint Oireachtas Committee on Justice and Equality. We will focus this statement on Direct Provision but we have included information on the international protection application process in our longer submission to the Committee.

Every child should be free to enjoy their rights without facing discrimination of any kind irrespective of their race, national or ethnic origin or other status.ⁱ Children outside their country of origin seeking refugee protection are entitled to appropriate protection.ⁱⁱ In 2016, the UN Committee on the Rights of the Child called on the State to bring its 'asylum policy, procedures and practices into line with its international obligations' and ensure asylum seeking and refugee children have the 'same standards and access to support services as Irish children'.ⁱⁱⁱ

There are 38 Direct Provision accommodation centres nationwide. Of the 6,000 people in Direct Provision, 1,724 are under 18.^{iv} Over the past four years, efforts have been made to improve the system and to implement the recommendations from the McMahon report.

Direct Provision Payment

In a welcome development, Budget 2019 increased the rate of the Direct Provision allowance for children from €21.60 to €29.80 per week in line with the McMahon Report recommendation.^v However, at the time of the McMahon report, the recommendation equated to the rate of Qualified Child Increase (QCI) but this has since increased to €34 for under 12s and €37 for over 12s.^{vi} Children in Direct Provision cannot access other social welfare supports like Child Benefit. The introduction of the right to work for people in the protection process after nine months means that some parents may have access to supports like the Working Family Payment to supplement a low income from employment but it is not clear how many people, if any, are receiving these types of supports. To ensure equality between children living in Direct Provision and other children living in Ireland, the Children's Rights Alliance recommends that the Government conduct a review to assess the specific social protection needs of children in the Direct Provision system and make recommendations on how to lift these children out of consistent poverty.

National Standards for Direct Provision Accommodation

Another positive development since the McMahon Report is the forthcoming publication of National standards for Direct Provision accommodation which are essential to ensure refugee and asylum seeking children receive a consistent standard of high quality care in all centres, to improve quality, challenge underperformance and provide oversight.^{vii} The draft standards contain a number of encouraging child-specific provisions including providing families with child-friendly accommodation that 'respects and promotes family life and is informed by the best interests of the child'.^{viii} Importantly the Standards refer to own door accommodation. Ideally an alternative to Direct Provision reception accommodation would involve own door accommodation in a cluster-style development with care staff onsite. The draft standards also included indicators regarding the provision of nappies, wipes and lotions^{ix} and appropriate accommodation informed by the needs of residents^x both of which are essential for new and expectant mothers. The finalised Standards are due to be published in the coming months and we look forward to seeing them in place. They should inform contractual obligations with accommodation providers so that non-observance may, if necessary, lead to sanctions.

Independent Inspectorate

For the 'National Standards' to have a real impact on families and children living in Direct Provision they must be accompanied by a robust, independent monitoring and inspection system. Without this, the standards will lack the necessary oversight to achieve meaningful change. The combination of standards and unannounced inspections will ensure a consistent quality of care across every accommodation centre. Inconsistencies can then be identified and addressed in a systematic manner. The Children's Rights Alliance believes the Health Information and Quality Authority (HIQA) is the most appropriate body to undertake the inspectorate role as it already enjoys public confidence and has the skills, knowledge and expertise necessary to effectively monitor and review the implementation of standards. It is also the most cost effective solution given its existing infrastructure and systems.

Child Protection and Welfare

Child Protection and Welfare Strategy

Families from a refugee or asylum seeking background often need support to deal with trauma, adapt to unfamiliar parenting styles, find new supports in place of their traditional community and family supports and, adjust to new family roles and the influences of a new culture.^{xi} Parents in Direct Provision accommodation have reported feeling that their ability to nurture their children's development has been undermined^{xii} and that they have felt disempowered by regulations in the centre.^{xiii}

In 2015, HIQA raised concerns about the significantly higher child protection and welfare referral rate to Tusla of children in Direct Provision compared with the general child population.^{xiv} The McMahon Working Group recommended that Tusla, the Child and Family Agency in conjunction with the Reception and Integration Agency (RIA) develop a child welfare strategy within RIA to advise on policy and practice matters and to liaise on individual cases as required.^{xv} RIA has published a Child Protection and Welfare Policy and Practice Document for Direct Provision accommodation centres which sets out the obligations under the Children First Act 2015.^{xvi} However, a more detailed strategy is needed to focus on prevention and early intervention measures to support families and children living in Direct Provision incorporating the Signs of Safety approach outlined in Tusla's own Strategy and link with local and community services including Children and Young People Services Committees and Child and Family Support Networks.

Child and Family Services Unit

The Child and Family Services Unit monitors and implements RIA's child protection policy, provides training for centre staff, monitors child protection referrals and liaises with families, social work staff and centres to ensure support services are in place. The Child and Family Services Unit usually consists of a Child and Family services unit manager seconded from Tusla and two administrative staff. However, the manager role has been vacant since November 2018.^{xvii} This means there has been no one in the Department with a social work qualification to provide vital oversight, guidance and advice to centres and staff regarding child protection and welfare. This position should be filled as a matter of urgency and the unit provided with additional resources to develop and implement a child protection and welfare strategy with a preventative focus.

Emergency Accommodation

This vacancy in the Child and Family Services Unit and the lack of a child protection and welfare strategy is of particular note as there are approximately 300 asylum seekers including 80 children, accommodated in commercial hotels outside of the Direct Provision system. The Alliance has significant concerns regarding the safety and welfare of asylum seeking children accommodated in B&Bs and hotels as an emergency measure children given that these settings do not have a mandated person or a designated liaison person (DLP) for the purposes of the Children First Act 2015.^{xviii}

Conclusion

It is clear that the current Direct Provision system needs to be radically overhauled and transformed if we are to end the institutionalisation of children and families. This requires the provision of 'own door' accommodation for families where they can cook for themselves and enjoy family life as part of the community in which they live.

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- i UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 2(1).
 - ii *ibid* Art 22(1).
 - iii UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 66
 - iv Minister of State for Immigration, Integration and Equality, David Stanton TD, Parliamentary Questions, Written Answers, 8 May 2019 [19277/19].
 - v Department of Employment Affairs and Social Protection, Budget 2019 (Welfare.ie 10 October 2018) <<http://www.welfare.ie/en/Pages/Budget-2019.aspx>> accessed 14 May 2019.
 - vi *ibid*.
 - vii Michele Clarke, *Briefing Paper on the Inspection of Direct Provision* (Department of Justice and Equality 2015) 7.
 - viii DJE, *Draft National Standards for Direct Provision Centres: Public Consultation* (DJE 2018) standard 4.4.
 - ix *ibid* 41.
 - x *ibid* 31.
 - xi K Lewig, F Arney and M Salveron, *The Working with Refugee Families Project* (University of Australia 2009) 13.
 - xii H Uchechukwu Ogbu, B Brady & L Kinlen (2014) 20:3 'Parenting in Direct Provisions: Parents' Perspectives Regarding Stresses and Supports' *Child Care in Practice* 267.
 - xiii L Moran, S Garrity, C McGregor & C Devaney (2017) 'Hoping for a better tomorrow: a qualitative study of stressors, informal social support and parental coping in a Direct Provision centre in the West of Ireland' *Journal of Family Studies* 5.
 - xiv Health and Information Quality Authority 'Report on inspection of the child protection and welfare services provided to children living in Direct Provision accommodation under the National Standards for the Protection and Welfare of Children and Section 8(1) (c) of the Health Act 2007' (25 May 2015) <<http://bit.ly/2jVdCui>>
 - xv Department of Justice and Equality, *Working Group to Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers* (2015) para 4.199.
 - xvi Department of Justice and Equality, Child Protection and Welfare Policy and Practice Document for Reception and Integration Agency (RIA), Irish Refugee Protection Programme (IRPP) and Accommodation Centres for persons in the International Protection process under contract to the Department of Justice and Equality (DJE, 2018). The policy aims to guide the Designated Liaison Person (DLP) on dealing with child welfare and protection concerns specifically arising in accommodation for refugee and asylum seekers. The policy requires two DLPs: one in RIA's Child and Family Services Unit to ensure that child protection and welfare procedures are followed and to keep appropriate records; and a DLP in the accommodation centre responsible for reporting child protection or welfare concerns to Tusla and to the DJE.
 - xvii Communication received by the Children's Rights Alliance from the DJE, 24 January 2018.
 - xviii Irish Statute Book, 'Children First Act 2015' s 15.