

THE ORGANISATION OF RECEPTION FACILITIES FOR ASYLUM SEEKERS IN IRELAND

Corona Joyce
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February 2014

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European Migration Network



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The European Migration Network

The aim of the European Migration Network (EMN) is to provide up-to-date, objective, reliable and comparable information on migration and asylum at Member State and EU-level with a view to supporting policymaking and informing the general public.

The Irish National Contact Point of the European Migration Network, EMN Ireland, is located at the Economic and Social Research Institute (ESRI).

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About this Report

This European Migration Network Study, compiled according to commonly agreed specifications, provides an overview of reception facilities in Ireland including basic material reception conditions, State practice in handling changing pressures on the system, and flows of applicants and associated costs.

The report consists of information gathered primarily for an overview, EU-level Synthesis Report on *The Organisation of Reception Facilities for Asylum Seekers in Different Member States*. The synthesis report and national reports are available at www.emn.europa.eu.

The opinions presented in this report are those of the authors and do not represent the position of the Economic and Social Research Institute, the Irish Department of Justice and Equality or the European Commission, Directorate-General Home Affairs.

Corrigendum

On page 20 of this report “one professionally qualified childcare worker for each minor” has been changed to “one professionally qualified childcare worker for each two minors in the house”.

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Abbreviations and Irish Terms

DASS	Directorate of Asylum Seeker Services
DSFA	Department of Social and Family Affairs
DSP	Department of Social Protection
EMN	European Migration Network
ENP	Exceptional Needs Payment
GP	General Practitioner
HRC	Habitual Residence Condition
HSE	Health Services Executive
INIS	Irish Naturalisation and Immigration Service
IRC	Irish Refugee Council
ORAC	Office of the Refugee Applications Commissioner
PHN	Public Health Nurse
RIA	Reception and Integration Agency
SWA	Supplementary Welfare Allowance
UAM	Unaccompanied Minors

Executive Summary

Background

This study provides an overview of the reception system for protection applicants in Ireland, including the organisation of the system, the authorities responsible, types of facilities used and basic material conditions within the centres. The strengths and weaknesses of the system are discussed. All seekers of international protection in Ireland (including asylum seekers, those awaiting decisions on their applications for subsidiary protection and those awaiting permission to remain in Ireland under Section 3 of the *Immigration Act 1999*) may access the direct provision system of accommodation, but there is no legal requirement to do so. Direct provision accommodation is the responsibility of the Reception and Integration Agency (RIA), an agency under the aegis of the Irish Naturalisation and Immigration Service (INIS). RIA provides accommodation for persons with protection applications pending. Applicants who receive a negative decision are housed until the point of return, while successful applicants may remain for a temporary period after the decision has been issued.

While RIA has financial responsibility over reception facilities, financial responsibility for education, health and social welfare for applicants is borne by the relevant Government departments. Asylum seekers living in direct provision centres in Ireland receive an allowance of €19.10 per adult and €9.60 per child per week through the Department of Social Protection (DSP). The allowance is intended to cover 'incidentals' and the amount has not been altered since the introduction of the allowance in 2000. If asylum applicants forego direct provision accommodation they have no entitlement to any social welfare payment. Asylum applicants may make an application to the Community Welfare service for an exceptional needs payment paid by the Department of Social Protection. This is an occasional, discretionary payment and may cover a wide range of possible needs, including clothing, subject to the rules and policies of the Department of Social Protection.

Ireland does not participate in either *Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers* or *Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection*. There is no legislative basis for the system of direct provision in Ireland. The current system is based on a combination of administrative decisions and Ministerial Circulars. Ireland does not currently operate a single procedure for the processing of applications for international protection, with implications for the length of stay of protection applicants within reception centres.

Dispersal

In Ireland, an applicant for international protection is generally first housed in an initial, 369-bed reception centre in Dublin. In line with Government policy the majority

of applicants will then be dispersed to one of 34 reception facilities located throughout Ireland. The applicant does not have a choice regarding location. The process for assignment of applicants to different reception facilities is not set out in law and RIA stated that this is an 'informal practice' primarily based on family composition and matched against the optimal available accommodation at the time.

Just under 4,600 persons were accommodated in the 34 reception centres at the end of 2012¹ with 244 persons accommodated in the initial reception centre in Dublin. Eight of the 34 reception centres were confined to occupancy by single males with the remainder occupied by a mix of families, single adults and couples at the end of 2012; two centres were self-catering. Some 37 per cent of total residents at end-2012 were aged under 18 years, while 18 per cent were aged under five years (RIA, 2013). No specific reception facilities have been allocated for vulnerable groups of applicants. Three short-term units with 18 beds are available for the short-term assessment of unaccompanied minors, who are then provided with care placements by the Health Service Executive (HSE).

Service Provision and Material Conditions

All reception centres in Ireland are operated by private external service providers contracted by RIA. Seven centres are owned by the Irish State with the remainder privately owned. Executive responsibility for the day-to-day management of reception centres lies with the private agencies, which provide services such as accommodation, catering, housekeeping etc. RIA retains overall responsibility for the accommodation of applicants for international protection in the direct provision system. The Minister for Justice and Equality has stated that residents are not 'in the care' of the State but rather the State has a 'duty of care' which it discharges via external contractors.

There is no specific national legislation regarding the provision of direct provision reception facilities for asylum seekers. RIA indicated that it is the responsibility of the direct provision contractor to ensure that their reception centre is in compliance with all relevant regulatory requirements. Contracts between external service providers and RIA set out what is required in terms of food, accommodation standards etc., as well as legal obligations in relation to, for example, Housing Acts, Fire Safety regulations etc. A service level agreement which details more in-depth requirements regarding the minimum quality of services provided is signed by both agencies. RIA indicated that, in practice, the contracts of unsatisfactory service providers have been allowed to expire rather than terminated.

Although a system exists for the monitoring and inspection of services provided by the external service providers, the lack of an independent appeals process for residents has been criticised by NGOs, with calls made for an extension of the remit of the Office of the Ombudsman to cover reception centres.

¹ The last full complete year of data available.

Quality of Conditions and Duration of Stay

There has been sustained public debate in recent years regarding the quality of reception facilities, and the wider direct provision system, mostly centred on the appropriateness of current facilities for long-term residents. Challenging issues include the availability of space and food, inspections and the impact of residence in the centres on residents' health; related issues such as financial exclusion and associated poverty, and the policy of allocation and relocation to facilities are also discussed. A FLAC (2009) report cites commentary by the Human Rights Commissioner in 2007, who noted reports of both 'overcrowding' and 'limited private space' for families in a reception centre where the family was required to share one room. The FLAC report further notes that in many cases a resident's bedroom is 'often their recreational space as well' with children 'in effect confined to their shared bedroom'.

The lengthy duration of stay of residents in the direct provision system is acknowledged as a critical issue both by government and NGO actors. As of the end of 2012, 59 percent of all residents had been in direct provision accommodation for longer than three years, with a median length of stay of 44 months. Some 31 percent of residents had been in the system for longer than five years, with 9 percent staying longer than seven years. The *Fifth Report of the Special Rapporteur on Child Protection* also highlights the need for research on

the potential or actual harm which is being created by the particular circumstances of their [children in direct provision] residence including the inability of parents to properly care for and protect their children and the damage that may be done by living for a lengthy period of time in an institutionalised setting which was not designed for long term residence. (Shannon, 2011).

Section 1

Introduction and Methodology

The current report presents information taken from the Irish contribution to a European Migration Network (EMN) study on *The Organisation of Reception Facilities for Asylum Seekers in the different Member States*, a synthesis report of which is available on the EMN website.² The overall aim of the EU-wide EMN study is to inform policymakers, practitioners and the interested public on the organisation of reception facilities for applicants for international protection in the EU, identifying good practices and existing mechanisms for efficient, flexible reception facilities whilst maintaining the quality of such reception facilities and controlling costs.³

This Irish report draws heavily on interviews and correspondence with officials from the Reception and Integration Agency, as well as published documents from the same Agency. Officials from the Health Service Executive were also interviewed regarding the accommodation of unaccompanied minors seeking protection in Ireland. Parliamentary questions, research papers and commentary from academics, NGOs and others were consulted and are referenced where relevant.

All seekers of international protection in Ireland (including asylum seekers, those awaiting decisions on applications for subsidiary protection and those awaiting permission to remain in Ireland under Section 3 of the *Immigration Act 1999*) may access the direct provision system of accommodation, but there is no legal requirement to do so. Direct provision accommodation is the responsibility of the Reception and Integration Agency (RIA), an agency under the aegis of the Irish Naturalisation and Immigration Service (INIS). RIA provides mainly full-board accommodation by way of externally contracted agencies in locations dispersed throughout Ireland. Asylum seekers living in direct provision centres in Ireland receive €19.10 per adult and €9.60 per child per week through the Department of Social Protection. If asylum applicants forego direct provision accommodation they have no entitlement to any social welfare payment.

The remainder of Section One outlines the legal background to the direct provision system in Ireland. Section Two outlines the reception facility types, the various actors involved and the levels of responsibility of each. Section Three provides detail on who may access direct provision services in Ireland and how individuals are assigned to different centres. The material reception conditions are examined in more detail in

² www.emn.europa.eu.

³ EMN study specifications.

Section Four and associated ongoing debates are summarised. Available data on occupancy and costs are presented in Section Five and the report concludes in Section Six.

1.1 LEGAL BACKGROUND

Ireland does not participate in either *EU Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers* or *Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast)*.⁴ There is no legislative basis for the system of direct provision in Ireland. The current system is based on a combination of administrative decisions and Ministerial/Departmental Circulars.⁵ A Government decision of November 1999 detailed a ‘central directorate’ which was to be established to deal with all matters ‘relating to the dispersal of asylum seekers throughout the country’ and to plan for a system of ‘direct provision of housing, health needs and so on’.⁶ The Directorate of Asylum Seeker Services (DASS) was established in November 1999 and replaced by the Reception and Integration Agency in April 2001.⁷

Asylum seekers are prohibited from working under Section 9 (4)(b) of the *Refugee Act 1996*. Under the *Social Welfare (Miscellaneous Provisions) Act, 2003* asylum applicants are not entitled to receive rent supplement. The *Social Welfare and Pensions (No.2) Act 2009* provides that an individual must have a ‘right to reside’ in the State in order to satisfy the Habitual Residence Condition and access to a range of social security payments; asylum applicants are not considered to have a right to reside.

Thornton (2007) notes that the ‘legal basis’ for the introduction of the system of direct provision and dispersal was Ministerial Circular (04/00) by the Department of Social and Family Affairs (DSFA), with a subsequent Circular (DSFA Circular 02/03) noting that all needs of asylum seekers ‘including those with medical or special needs’ were now catered for within the direct provision system. Thornton questions the continuance of direct provision accommodation and payments in light of amendments contained in the *Social Welfare and Pensions (No.2) Act 2009* described above.⁸ Calls continue to

⁴ In a Parliamentary Question in March 2013, the Minister for Justice and Equality noted the ‘principal reason’ for Ireland’s decision not to exercise an opt-in in relation to the Directive related to provisions in the 2003 Directive which dealt with ‘access to the labour market for asylum seekers’ if a decision at first instance has not been taken within a year of an applicant submitting an application for asylum. This provision only applies in cases whereby the delay is not attributed to the applicant. The Minister stated that this provision is ‘contrary to the existing statutory position in Ireland which provides that an asylum seeker shall not seek or enter employment’ and that such an extension of a right to work for asylum seekers would ‘almost certainly have a profoundly negative impact on application numbers, as was experienced in the aftermath of the July 1999 decision to do so’. Parliamentary Question No.236, 27 March 2013.

⁵ Liam Thornton writing in *The Irish Times* (5 August 2013). ‘Time to legislate for direct provision system for asylum seekers’. Available at www.irishtimes.com.

⁶ See O’Reilly, 2013 and Dowling 2012.

⁷ <http://www.ria.gov.ie/>.

⁸ *The Irish Times* (5 August 2013). ‘Time to legislate for direct provision system for asylum seekers’. Available at www.irishtimes.com. See also Thornton, 2013.

place the system of direct provision on a statutory footing to provide some 'clarity and certainty' for asylum seekers as well as to 'lend it a legitimacy it currently lacks' (O'Reilly, 2013). FLAC (2009) criticises the scheme of direct provision as 'not regulated by law for the most part, or even by secondary legislation, but rather by a series of directions, rules and regulations put into place by the executive which directs the scheme' and notes it is 'administered by private companies'. Thornton (2013) places the direct provision system on the limits of legality in Ireland, particularly regarding the reliance upon Ministerial Circulars. The Irish Refugee Council (2011) argues that 'ambiguous and inconsistent policy implementation' and the lack of a 'clear and transparent' system has led to regional variations in the implementation of the direct provision system and allowed 'abuses of the system for the accommodation of asylum seekers in Ireland to continue'.

Also relevant is the fact that Ireland does not currently operate a single procedure for the processing of applications for international protection. Applications are submitted to the Office of the Refugee Applications Commissioner (ORAC) for refugee status (followed by appeal to the Refugee Appeals Tribunal) and subsidiary protection status, with applications for 'leave to remain' in Ireland under Section 3 of the *Immigration Act 1999 (as amended)* submitted to the Irish Naturalisation and Immigration Service (INIS).

Section 2

Reception Facility Types and Actors Involved

2.1 TYPES OF RECEPTION FACILITIES

Table 2.1 summarises the different types of reception facilities in Ireland. There are 34 reception facilities dispersed throughout Ireland plus one initial reception centre in Dublin (Balseskin). (More information by building type is supplied in Table 5.4)

All unaccompanied minors (asylum-seeking and non-asylum seeking) are placed within the care of the Health Service Executive (HSE). After an initial period unaccompanied minors are generally accommodated in a short-term children's residential home. They are then accommodated, if appropriate, in longer term fostering or supported lodgings placement.

Asylum seekers are not obliged to use RIA accommodation and may source their own or stay with relatives or friends. In these cases they are not entitled to State social welfare supports, e.g. medical card, rent allowance, etc. No data are available on the number of asylum applicants who live outside the reception system but it is believed that a similar number of applicants live outside the direct provision system as within it.⁹

⁹ Correspondence with Reception and Integration Agency (October 2013).

Table 2.1 Different types of Reception Facilities in Ireland and Occupancy 2008-2012

Type of accommodation	Number of these facilities at end 2012	Maximum number of applicants the facilities could accommodate end 2012	Number of applicants accommodated in such facilities per year 2008-2012 ¹⁰
Collective initial/transit reception centres	1	369 beds	2008: 370 2009: 216 2010: 252 2011: 250 2012: 244
Collective open reception centres ¹¹	34 (includes 2 self-catering centres)	5,089 beds	2008: 6,637 2009: 6,278 2010: 5,855 2011: 5,173 2012: 4,597
Special separate reception centres for unaccompanied minors ¹²	3 short-term intake units (18 beds) in the Dublin area for initial assessment.	18 beds	Capacity has not been reached since new care arrangements have come in to operation in 2010.

Source: All data sourced from the Reception and Integration Agency (July, October 2013).

2.2 FINANCIAL RESPONSIBILITY FOR RECEPTION FACILITIES

Direct provision accommodation for applicants for international protection¹³ is provided by the Reception and Integration Agency (RIA), an agency under the aegis of the Irish Naturalisation and Immigration Service (INIS). RIA is responsible for coordinating the provision of services to asylum seekers and those awaiting decisions on their applications for subsidiary protection and permission to remain in Ireland under Section 3 of the *Immigration Act 1999*. Financial responsibility over reception facilities is carried by the State authorities via RIA as a functional unit and with a specific heading under the Justice Vote Group¹⁴ annual budget. RIA has stated that it retains significant flexibility in terms of budget in recognition of the fact that direct provision is an essential, non-discretionary service.¹⁵ Financial responsibility for education, health and social welfare for applicants is borne by the relevant Government departments, for example the weekly allowance (€19.10 per week per adult and €9.60 per child) paid to applicants is paid directly by the Department of Social Protection.

¹⁰ As of 31 December each year.

¹¹ Open centres means that applicants are free to enter and leave the centre whenever they want.

¹² Interview for the purpose of this study with Social Work Team for Separated Children Seeking Asylum, Dublin Area (August 2013).

¹³ RIA provides accommodation for applicants up to a point of return following a negative decision. It also continues to provide temporary accommodation for persons granted international protection or permission to remain in Ireland under Section 3 of the *Immigration Act 1999*. Persons issued with a deportation order which is not yet effected, continue to be housed in RIA accommodation.

¹⁴ The Justice Sector Vote Group comprises five Votes – Justice, Equality and Law Reform; Garda Síochána; Prisons; Courts; and Property Registration Authority.

¹⁵ Interview with RIA for the purpose of this study (July 2013).

As previously mentioned, under the *Social Welfare and Pensions (No.2) Act, 2009*, asylum applicants cannot satisfy the Habitual Residence Condition, and therefore cannot access a range of welfare payments. Asylum applicants are prohibited from working under the *Refugee Act, 1996* and under the *Social Welfare (Miscellaneous Provisions) Act, 2003* applicants may not receive a rent supplement. All asylum applicants are offered accommodation in the direct provision system and if they forego this full-board accommodation they have no entitlement to any social welfare payment.

Accommodation is provided on a full-board basis, including bed, breakfast, lunch and evening meal. RIA generally continues to provide accommodation for applicants until they: leave voluntarily; are removed, either by way of deportation or transfer under the 'Dublin Regulation'; are granted refugee status or subsidiary protection; or they are granted leave to remain, either through the process set out in the *Immigration Act, 1999* or by way of a special scheme such as the IBC/05 Scheme.¹⁶ RIA also coordinates the provision of services such as health, social services, welfare and education to asylum seekers in RIA accommodation.

Since 2004 RIA has been responsible for supporting the repatriation of nationals of the 12 new EU Member States who do not satisfy the Habitual Residency Condition (HRC) attached to social assistance payments and require assistance in returning to their country of origin. The Agency also provides accommodation to suspected victims of trafficking pending a determination of their case. Applicants for international protection are housed in a reception centre in Dublin city for an initial period for the purposes of 'orientation, information provision, voluntary health screening, needs assessment and assistance with the first stages of asylum applications',¹⁷ followed by dispersal from Dublin to accommodation centres throughout Ireland, in line with Government policy.

With regard to the provision of accommodation and services, RIA retains responsibility for sourcing centres and sites as well as coordinating the preparation of temporary accommodation sites. It is responsible for issuing contracts for the management and provision of services at State-owned buildings and coordinates the provision of services at other externally-owned accommodation centres. RIA has stated that monitoring of the implementation of all contracts with external service providers takes place with training provided to the management and proprietors of all centres.¹⁸

¹⁶ Minister for Justice and Equality, Written Answer, Parliamentary Question No.955, 18 April 2012.

¹⁷ <http://www.ria.gov.ie>.

¹⁸ Reception and Integration Agency. 'Functions and Responsibilities'. www.ria.gov.ie.

2.3 EXECUTIVE RESPONSIBILITY AND OVERALL RESPONSIBILITY FOR RECEPTION FACILITIES IN IRELAND

There are 34 reception facilities throughout Ireland, all operated by private external service providers and contracted by the Reception and Integration Agency (RIA). Seven of the buildings are owned by the Irish State.

Executive responsibility for the day-to-day management of reception centres lies with the contracted agency¹⁹ which RIA ‘contracts in’ to provide services such as accommodation, catering, housekeeping etc.²⁰ RIA monitors the implementation of all contracts with external service providers, as well as providing support and training to the management and proprietors of all centres. All external agencies are required to show to RIA evidence of public liability insurance for reception facilities.²¹

The Reception and Integration Agency (RIA) retains overall responsibility for the accommodation of applicants for international protection in the direct provision system. However, the Minister for Justice and Equality has stated that residents are not ‘in the care’ of the State but rather the State has a ‘duty of care’ which it discharges via external contractors.²²

2.4 REGULATION OF EXTERNAL SERVICE PROVIDERS AND FORMAL COORDINATION MECHANISMS

RIA has indicated that formal coordination mechanisms exist in the form of contracts for services and service level agreements. All external service providers enter into a contract with RIA for the provision of services. Contracts include specifics of service (e.g. food, accommodation standards, etc) as well as legal obligations (e.g. Housing Acts, Fire Safety regulations etc).

All RIA direct provision services are provided by commercial contractors and the contracts themselves set out what is required of the contractor. Contracts with external service providers generally run for a 12-month period (with a three-month escape clause for both parties), whereas State-owned buildings generally operate a three-year contract with service providers (with a six-month escape clause).²³ A service level agreement which details more in-depth requirements regarding the minimum quality of services provided is signed by both agencies. The agreement outlines the duties of the external service provider including requirements to keep a

¹⁹ Interview with RIA for the purpose of this study (July 2013).

²⁰ Reception and Integration Agency, 2013. When looking at contracting agencies, RIA advertises nationally on an annual basis for expressions of interest. Specific regard is given to the type of accommodation being offered (hotel, guest house, hostel etc.); location; local population and numbers of asylum seekers, if any, already residing in the area; local infrastructure (transport, schools, hospitals, shops etc.); facilities being offered by proprietor (recreation, communal rooms, en-suites, etc.); facilities for other Government agencies (HSE, Refugee Legal Services etc.). See Minister for Justice and Equality, Parliamentary Question No. 147, 21 October 2010.

²¹ Interview with RIA for the purpose of this study (July 2013).

²² Parliamentary Question No. 54503, 12 December 2012.

²³ Interview with RIA for the purpose of this study (July 2013).

daily register of residents, to maximise the usage of bedroom space etc. as well as financial requirements such as to ensure that the agreed capacity is achieved at all times. RIA will also pay the contractor if the occupancy of the centre exceeds the agreed capacity.²⁴ The provision of services by all external service providers is monitored by RIA and based on initial contract and service level agreements. In practice, the contracts of unsatisfactory service providers have been allowed to expire rather than terminated. RIA stated that it consistently prioritises continuity of service provision to residents and actively avoids sudden changes of circumstances.²⁵

Regarding monitoring of services provided by the external service providers, RIA manages an inspection mechanism which operates 2-3 times per year. Generally two such inspections (in the form of unannounced visits) are carried out by RIA,²⁶ with one inspection carried out by an external contractor, QTS. These are non-technical inspections intended to 'assess the physical condition of the centre and to ensure that the services contracted by RIA are being delivered by the contractor' (Reception and Integration Agency, 2013). Standardised reporting forms are in use for monitoring visits, and external service contractors running direct provision centres retain a right of reply in the event of arising issues. External contractors are then required to notify RIA of all works to remedy any earlier identified issues. RIA and/or QTS as appropriate, may undertake follow-up inspections and/or discussion of the issue at the next inspection. In addition, RIA undertakes occasional, unannounced 'bed audits' in which it verifies contract compliance i.e. that resident numbers match those claimed for by the external service contractors via the return of weekly registers.²⁷ As from late Summer 2013, RIA publishes inspection reports on their website and will also provide responses by external service providers.²⁸ Calls have been made to extend the remit of the Health Information and Quality Authority (HIQA) and the Ombudsman for Ireland to include the direct provision system.²⁹

Other monitoring and coordination mechanisms operated by RIA include a complaints mechanism for residents and 'clinics' in reception centres 1-2 times per year. RIA has stated that it generally encourages the resolution of all residents' complaints locally, with reporting to the manager of reception centres at first instance. The reporting of a

²⁴ Sample contract or memorandum of agreement between the Minister for Justice, Equality and Law Reform and a contractor for the reception and care of asylum seekers as detailed in FLAC (2009).

²⁵ Interview with RIA for the purpose of this study (July 2013).

²⁶ RIA has stated that it makes every effort to inspect accommodation centres approximately three times per year: twice by RIA and once by QTS. 63 inspections took place during 2012. See Reception and Integration Agency (2013).

²⁷ Interview with RIA for the purpose of this study (July 2013).

²⁸ <http://www.ria-inspections.gov.ie>

²⁹ See, for example, Senator Jillian van Turnhout in Seanad Éireann Debate *Vol. 217 No. 6*, 2 October 2012; Peadar Tóibín in Dáil Éireann Debate *Vol. 778 No. 1*, 10 October 2012. In response to a further question on the matter in April 2013, the Minister for Justice and Equality stated that 'Section 5(1)(e) of the *Ombudsman Act, 1980* and Section 11(1) (e) of the *Ombudsman for Children's Act, 2002* provide that either Ombudsman shall not investigate any action taken by or on behalf of a person in the administration of the law relating to, inter alia, asylum. Whilst there are no plans to change those legislative provisions to give either Office the power to investigate asylum related matters, INIS, including RIA, has administrative arrangements in place with both Offices to assist and provide information on matters brought to its attention' See Minister for Justice, Equality and Defence in Parliamentary Question No.919, 16 April 2013.

complaint in writing to RIA may then be provided for. In response to such complaints, RIA may contact the resident directly or discuss with the manager of the reception centre. NGOs have criticised the lack of an independent appeals process for residents, again with calls for extension of the remit of the Ombudsman to extend to direct provision (FLAC, 2009)³⁰ as well as for a 'fair and effective complaints procedure' in general (Irish Refugee Council, 2011).

Further formal coordination takes place via inter-agency meetings between RIA, centre managers and staff and statutory agencies interacting with RIA residents. The meetings are attended by reception centre managers, RIA staff, HSE staff (e.g. Public Health Nurse and social work services, Department of Social Protection Community Welfare Service, Schools and Education and Training Boards (formerly Vocational Education Committees), Garda Community Liaison Officers and others if required. These meetings seek to:

1. Be a forum to support service providers in the provision of standardised and equitable service to Asylum Seekers availing of direct provision.
2. To enhance and develop communication systems and the sharing of information between all agencies.
3. To provide a forum to further develop services for Asylum Seekers in RIA accommodation using the membership experience and local knowledge.³¹

Seventeen such meetings took place during 2012 (Reception and Integration Agency, 2013).

An NGO Forum on Direct Provision, in which fifteen NGOs participate, also meets. The Forum works with RIA and the Department of Justice and Equality to 'positively affect policy in relation to the accommodation of asylum seekers through cooperation, information sharing and dialogue.'³²

³⁰ See also calls for an independent appeals mechanism made by NASC which states that 'asylum-seekers are reluctant to complain because of the possibility of retaliation from management or that it may negatively impact their relationship with the Department of Justice'. See www.nascireland.org.

³¹ Terms of Reference as provided in Reception and Integration Agency, 2013.

³² Members are AkiDWA, Barnardos, Cultúr, Doras Luimní, Free Legal Advice Centres (FLAC), Galway Refugee Support Group, The Irish Bishops' Refugee & Migrant Project, The Integration Centre, The Irish Refugee Council, The Jesuit Refugee Service, Mayo Intercultural Action, Nasc, The Irish Immigrant Support Centre, SPIRASI, Tralee International Resource Centre and Crosscare. See 'Direct Provision NGO Forum' at 'www.irishrefugeecouncil.ie'.

Section 3

Take up of Reception Facilities in Ireland

3.1 OVERVIEW OF APPLICANTS FOR INTERNATIONAL PROTECTION ENTITLED TO RECEPTION FACILITIES

All asylum seekers and those awaiting decisions on their applications for subsidiary protection and permission to remain in Ireland under Section 3 of the *Immigration Act 1999*, may access the direct provision system but there is no legal requirement to do so.³³

All medical, educational or other state services are ‘mainstreamed’ meaning that residents access the services in the same manner as the indigenous population. RIA has stated that while reception (accommodation) facilities available within centres are deemed ‘standard’ in contractual terms, individual contractors may choose to offer some different services, including those deemed by RIA to be ‘over and above’ contracted services.³⁴

Unsuccessful applicants who have been served with a deportation order are accommodated until such time as the deportation order is enforced.

Applicants who have been granted a status or leave to remain in the State following representations under Section 3 of the *Immigration Act, 1999* are afforded time to source alternative accommodation (usually 4-6 weeks). RIA has stated that this can be extended on a short-term basis depending on the circumstances.³⁵ The Irish Refugee Council (2011) notes that adults with a recognised status (including possible and/or recognised victims of trafficking) unable to leave the direct provision system include those unable to access social welfare and those who cannot afford to leave the direct provision system, those who need to remain with families without a status and persons with a ‘Stamp 4’ status who are without a passport or birth certificate which results in an ‘administrative delay’.

All unaccompanied minors are accommodated outside the direct provision system within the care of the Health Service Executive (HSE). Ireland does not permit unaccompanied minors to be accommodated in reception and/or accommodation centres. After an initial child protection risk assessment, unaccompanied minors are generally accommodated in a short-term children’s residential home. They are then

³³ Unless an individual is required to ‘report and reside’ by the Garda National Immigration Bureau, for example a person on whom a deportation order has been served.

³⁴ Interview with RIA for the purpose of this study (July 2013).

³⁵ *Ibid.*

accommodated, if appropriate, in longer term fostering or supported lodgings placements.

Although RIA's brief extends only to those seeking international protection, the following groups may also be accommodated within the reception system from time to time:

- Overnight accommodation and a flight home may be provided by RIA to citizens of certain EU States who are destitute and who have expressed a wish to return to their own country.
- Some programme refugees on their arrival in the State until permanent accommodation has been finalised.
- Victims of trafficking who are not asylum seekers during the 60-day reflection period.

3.2 POSSIBILITY TO EXCLUDE APPLICANTS ENTITLED TO RECEPTION

RIA has stated that under *RIA House Rules and Procedures* a resident may be excluded (usually on a temporary basis) in instances of serious misconduct or where RIA deems it to be in the best interests for the safety of other residents.³⁶ RIA noted that such expulsions are usually occasions of last resort and may be preceded by a transfer to another centre, warning letter(s) or asking a resident to sign a declaration of good behaviour. RIA has indicated that permanent exclusion does not, in reality, arise. RIA will eventually need to provide accommodation to such excluded persons and this is done on the basis of undertakings through a legal representative or other group representing the individual. Some such persons choose not to return to direct provision or may be imprisoned if the matter relates to conviction of criminal offences.

Historically, no resident has been expelled because they have sufficient financial means. The Minister for Justice and Equality has stated that 'RIA itself has no function in determining whether someone should stay or not in its accommodation, except in the context of rare instances of serious and repeated misbehaviour'.³⁷ A 2008 legal challenge was brought, which aimed to obtain re-admittance to the State-managed direct provision accommodation for a 'homeless and destitute' asylum seeker. The asylum seeker was allowed to return to State-provided accommodation (with the exclusion of an accommodation centre in which he had previously resided and been barred from) after agreement that he would adhere to the rules of the accommodation. In his legal proceedings his lawyer argued that he had not been given an opportunity to respond to the claims about his behaviour; had been banned from his previous accommodation at a time when he was ill; that no other accommodation

³⁶ Interview with RIA for the purpose of this study (July 2013).

³⁷ RIA (July 2013). Parliamentary Question No. 955, 18 April 2012.

option was available to the man; and that due to restrictions on asylum seekers working while in Ireland he was unable to work.³⁸

3.3 PROCESS OF ASSIGNMENT OF APPLICANTS FOR INTERNATIONAL PROTECTION TO RECEPTION FACILITIES IN IRELAND

RIA (under the aegis of the Irish Naturalisation and Immigration Service (INIS) within the Department of Justice and Equality) is solely responsible for the accommodation of applicants for international protection including assignment to facilities. No other authority, including local authorities, is involved or has any responsibility in the matter. The process for assignment of applicants to different reception facilities is not set out in law and RIA stated that this is an ‘informal practice’ primarily based on family composition and matched against the optimal available accommodation at any time. Applicants are not offered a choice of location/reception facility.³⁹

3.3.1 Factors That May Influence Allocation Decision

New applicants for international protection who seek direct provision assistance are accommodated in an initial reception centre in Dublin city for a period of up to eight weeks in order to facilitate an interview with the Office of the Refugee Applications Commissioner, health screening and registration for Community Welfare Service assistance. The majority of asylum applicants are dispersed from their accommodation in the initial reception centre after their initial Office of the Refugee Applications Commissioner (ORAC) interview period has passed.⁴⁰

The type of asylum procedure (for example procedures under the Dublin II Regulation etc.) is not relevant to which reception facilities applicants are assigned to; any applicant engaged in the asylum process may be provided with accommodation in any reception facility. Similarly, no distinction is made based on the stage of the asylum procedure: any applicant engaged in the asylum process, including persons who have been issued with a deportation order or submitted an application for permission to remain in Ireland under Section 3 of the *Immigration Act 1999*, may be accommodated in any centre. (In addition, persons granted or declared with a status are provided with accommodation for a limited time.)

The following factors may influence the allocation of applicants to reception centres:

- **Dispersal Mechanism:** In Ireland, Government policy is to disperse asylum seekers to locations throughout the State. RIA has stated that the direct provision and dispersal policies arise from a Government Decision in 1999, which announced that asylum seekers would be dispersed throughout the country and have their needs met by direct provision.⁴¹ The stated aim of the

³⁸ As referenced in Joyce, C. (2009). *Annual Policy Report on Migration and Asylum 2008: Ireland*. Available at www.emn.ie.

³⁹ Interview with RIA for the purpose of this study (July 2013).

⁴⁰ *Ibid.*

⁴¹ 19 October 1999, Government Decision S180/20/10/0122A.

policy is to ensure that no single geographical area (but particularly Dublin) is 'overburdened in the provision of medical and educational services'. The Government policy of dispersal does not stipulate quotas for regions but RIA monitors the asylum seeker population in centres as a percentage of the Health Service Executive (HSE) area. The asylum seeker population, when expressed as a percentage of the population of the local HSE area, ranges between 0.01 percent and 0.30 percent.⁴²

- Capacity: RIA monitors occupancy and available capacity in relation to the entire RIA 'portfolio' of centres on a weekly basis.⁴³ A Value for Money (VFM) report of asylum seeker accommodation in 2010 stated that family configurations and where relevant, ages of children (children aged ten years or over should not share a bedroom with someone of the opposite gender under Section 63(a) of the *Housing Act, 1966*) means that RIA is not in a position to achieve 100 percent occupancy rates. The VFM group recommended that RIA keep vacancy rates to a maximum of 10 percent of capacity.⁴⁴
- Profile of the asylum applicant: The Minister for Justice and Equality has stated that each case is considered individually, and the allocation of residents takes account of specific medical needs, religious, cultural and ethnic backgrounds, social and family profile. Where an asylum seeker wishes to transfer from one centre to another, including due to a change in circumstances, they may write to RIA outlining the grounds for such a transfer.⁴⁵

RIA stated that all centres can accommodate any combination of nationalities. Specific consideration will be in respect of an applicant with a physical disability (e.g. motorised wheelchair), however RIA does not have access to any applicant's medical information and is reliant on the person choosing to reveal necessary information or additional needs.⁴⁶

Pregnant women and single parents with minor children form a substantial part of the asylum seeker population, with 644 lone parent family units (numbering 1,828 persons) in RIA accommodation at the end of 2012 (Reception and Integration Agency, 2013). RIA has stated that they are not considered to be a 'special needs' group.⁴⁷

- Duration of the asylum procedure: RIA has stated that no accommodation facility is time-limited. Residents may be offered a move to another reception facility when circumstances change e.g. when additional family members join

⁴² Interview with RIA for the purpose of this study (July 2013).

⁴³ *Ibid.*

⁴⁴ *Ibid.* The Minister for Justice and Equality also noted that the report 'found that there are no cheaper alternatives to the direct provision system. In fact, if we were operating a system which facilitated asylum seekers in living independent lives in individual housing with social welfare support and payments, the cost to the Exchequer would be double what is currently paid under the direct provision system.' Parliamentary Question No. 475, 25 June 2013.

⁴⁵ Minister for Justice, Equality and Justice in Parliamentary Question No.70, 13 March 2012. The *RIA House Rules and Procedures* state that applicants 'have no right to be moved to another centre of your choice. Transfer is possible, but only when we decide to allow it based on its merits and in rare and exceptional circumstances.' It proceeds to detail procedures. See www.ria.gov.ie.

⁴⁶ Interview with RIA for the purpose of this study (July 2013).

⁴⁷ *Ibid.*

the family, a new baby is born etc. There have been incidences where the family refuses such offers for various reasons (children in a critical examination cycle, family members linked into special services, family seeking another location, etc.)⁴⁸

As discussed later in this report, the lengthy duration of stay of residents in the direct provision system is acknowledged as a critical issue both by Government and NGOs. As of the end of 2012, 59 percent of all residents had been in direct provision accommodation for longer than three years, with a median length of stay of 44 months. Some 31 percent of residents had been in the system for longer than five years, with 9 percent staying longer than seven years (Reception and Integration Agency, 2013).

3.3.2 Assessment of Vulnerability Prior to Assignment to Special Reception Facilities for Vulnerable Groups of Applicants

In Ireland no specific reception facilities have been allocated for vulnerable groups of applicants.⁴⁹ Upon arrival, it is standard practice for all applicants for asylum to be offered medical screening as well as access to a General Practitioner (GP), public health nurse (PHN) and psychological services. Applicants may be assigned to certain subsequent reception facilities as a result e.g. near a particular medical facility or in the case of a disability. There has however been criticism of both the lack of a ‘fair system of dispersal and transfer between centres’ and available facilities for specific vulnerabilities. The Irish Refugee Council (2011) argues that the current system ‘does not take into consideration the needs of persons with disabilities’, as well as other vulnerabilities such as families with children and survivors of torture.

The Minister for Justice and Equality has stated that the applicant’s dispersal is

*subject to clearance by the HSE health centre in the reception centre. If there are particular health concerns, a person may be retained for a period at the reception centre or may be dispersed to specified accommodation centres with access to particular health services. Even after dispersal further health needs may present and the RIA’s internal administrative health unit and the local health services will review any particular health need. The RIA has access to an independent medical referee to assist in the assessment of particular health needs in such cases.*⁵⁰

RIA has noted that it ‘can only accommodate persons in centres where suitable vacancies exist.’⁵¹

Further relocation based on specific vulnerabilities or needs may also take place at a later date. RIA stated that it seeks to respond to the various changes in circumstance or need which arise from the ‘life changes’ which occur within any individual or family

⁴⁸ Interview with RIA for the purpose of this study (July 2013).

⁴⁹ *Ibid.*

⁵⁰ Minister for Justice, Equality and Justice in Parliamentary Question No.70, 13 March 2012.

⁵¹ Interview with RIA for the purpose of this study (July 2013).

unit. RIA operates a health unit, an education unit and a child and family support unit within the agency and reported 'constant contact' with HSE medical, psychological and social work services on individual cases. RIA has stated that it responds to any changes in particular needs on a case-by-case basis.⁵²

3.3.3 Relocation of Applicants for International Protection

A decision by RIA on relocation of applicants for international protection will take account of: capacity/bed management issues; change in family profile (e.g. birth of a child); medical or special need reasons; incidents at centres which may require transfer to alternative accommodation. Where an asylum applicant wishes to transfer from one centre to another, including due to a change in circumstances, they are requested to write to RIA outlining the grounds for such a transfer.⁵³ During 2012 RIA closed five centres and opened one, resulting in relocation of some residents (RIA, 2012).

FLAC (2009) called for the involvement of residents in decision-making as well as for RIA to take relevant factors in account before relocating residents such as health needs, cultural, religious background and potential for conflict within a facility.

In the case of 'aged out' unaccompanied minors who have turned 18 years, they may be referred by the Health Service Executive (HSE) to RIA for transfer to adult accommodation, based on an 'individually assessed need' and generally to family centres outside Dublin⁵⁴ which have 'established links to HSE services and NGO supports'. Consideration will be given to education access and RIA will take into account issues related to non-third level education, medical and/or welfare needs. In instances where it has been determined that an 'aged out' minor may be particularly vulnerable, provisions exist for their continued stay in HSE care (Reception and Integration Agency, 2011a).

⁵² Interview with RIA for the purpose of this study (July 2013).

⁵³ Minister for Justice, Equality and Justice in Parliamentary Question No.70, 13 March 2012.

⁵⁴ Unless accommodation in an all-male centre is specifically requested. Reception and Integration Agency, 2011a.

Section 4

Material Reception Conditions

4.1 NATIONAL LEGISLATION ON ENTITLEMENTS TO FOOD, CLOTHING AND FINANCIAL ALLOWANCES FOR APPLICANTS FOR INTERNATIONAL PROTECTION ACCOMMODATED IN RECEPTION FACILITIES

Much parliamentary debate has taken place in recent months regarding both the legal basis for the direct provision system and the provision of accommodation and payments in light of asylum seeker exclusion from social welfare by way of the Social Welfare and Pensions (No. 2) Act 2009. The Minister for Justice and Equality has outlined the view that the current direct provision system is ‘surrounded by legislative provisions which would otherwise specifically prohibit asylum seekers from being able to be provided with the basic necessities of life’.⁵⁵ The legislative provisions include those which mean asylum seekers are unable to work, access rent allowance, or access a range of benefits.⁵⁶ The Minister has stated he sees ‘no necessity to change either the direct provision policy itself or its administrative and legal basis’.⁵⁷

4.1.1 Food

In Ireland, the majority of asylum seekers in direct provision receive food by way of meals cooked and provided to them.⁵⁸

Criticism exists of the quality, appropriateness, and overall nutritional value of food provided in accommodation centres (including incorporation of dietary and cultural differences). FLAC (2009) notes that the ‘right to food’ as provided for by various international instruments ‘entails more than mere provision of foodstuffs’. A lack of choice for residents is reported, with residents using their weekly allowance to supplement their diet, however there are difficulties in storing additional food, specifically prohibited in the *RIA Rules and Procedures*. FLAC (2009) recommends that future preference should be given to self-catering, rather than full-board facilities when renewing contracts. The NGO also calls for the provision of resources and facilities for parents to prepare food for their children.

⁵⁵ Minister for Justice and Equality (30 May 2013). Correspondence with Senator Jillian van Turnhout.

⁵⁶ Under Section 9(4)(b) of the *Refugee Act 1996*; Section 13 of the *Social Welfare (Miscellaneous Provisions) Act 2003*; Section 246(7) of the *Social Welfare Consolidation Act 2005*, respectively. See answer provided by Deputy James Reilly in Seanad Éireann Debate (18 April 2013).

⁵⁷ Minister for Justice and Equality (30 May 2013). Correspondence with Senator Jillian van Turnhout.

⁵⁸ Interview with RIA for the purpose of this study (July 2013).

The Health Service Executive (HSE) *National Intercultural Health Strategy 2007-2012* recognised that it is ‘clearly important that the HSE work closely with the Reception and Integration Agency (RIA) to ensure the provision of quality, culturally appropriate food and associated aspects around health promotion’ (Health and Service Executive, 2008).

4.1.2 Clothing

Asylum applicants may make an application to the Community Welfare service for an exceptional needs payment (ENP) paid by the Department of Social Protection (DSP). This is an occasional, discretionary payment and may cover a wide range of possible needs, including clothing, subject to the rules and policies of the Department of Social Protection.⁵⁹

4.1.3 Financial Allowance

Asylum seekers are prohibited from working under Section 9 (4)(b) of the *Refugee Act 1996*. The *Social Welfare and Pensions (No.2) Act 2009* provides that an individual must have a ‘right to reside’ in the State in order to satisfy the Habitual Residence Condition and access to a range of social security payments; under the Act asylum applicants may not be considered to have a right to reside. Under the *Social Welfare (Miscellaneous Provisions) Act, 2003* asylum applicants are specifically excluded from receiving rent supplement.

Asylum seekers living in direct provision centres receive an allowance of €19.10 per adult and €9.60 per child per week through the Department of Social Protection (administered via a Community Welfare Officer). The allowance is intended to cover ‘incidentals’ only (Reception and Integration Agency, 2010) and has not been increased since its introduction in 2000.

Much parliamentary discussion has recently taken place regarding the calculation of, and basis for, this allowance. In a Seanad debate in July 2013, it was noted that the rate is calculated by the Department of Social Protection using the supplementary welfare allowance (SWA) of €186 and a ‘manual insertion of means amounting to €166.90’. There is however ‘no question’ of a resident having entitlement to the latter rate.⁶⁰

Sustained criticism of the rate allocated to residents in reception facilities has taken place since its introduction, with calls for the extension of more general social welfare support for applicants. Both the Irish Refugee Council (Arnold, 2012) and FLAC (2009) draw attention to asylum applicants’ limited participation in family and community life as a result of receiving the current payment alone. Arnold notes that children are

⁵⁹ Interview with RIA for the purpose of this study (July 2013).

⁶⁰ Alex White, T.D. on behalf of the Minister for Justice and Equality in Seanad Debate, 15 July 2013.

unable to 'fully participate in the Irish education system' due to limitations in purchasing uniforms, school supplies and to attend school trips.

4.2 OTHER QUALITY CRITERIA FOR RECEPTION FACILITIES

There is currently one reception centre for initial reception in Ireland, which is purpose-built. Of the other 34 reception centres in RIA's portfolio, two were purpose-built. RIA has noted that all other centres operate within the physical limitations of the premises' original use e.g. hotel, college dormitory, hostel, etc. As a result, while all centres conform to minimum contractual and legislative standards, there is variability in terms of facilities available, based on the building's original use.

4.2.1 Supervision Rate

The supervision rate (number of staff per applicant) is decided on an individual basis in the contract between RIA and the service provider and takes account of the geographical position and type of centre involved. In some cases the supervision rate can be determined by individual service level agreements (SLA).⁶¹

4.2.2 Available Surface Area per Applicant

In terms of room capacities and facilities, RIA stated that all centres operate in compliance with relevant legislation, specifically the *Housing Act, 1966* with particular reference to Section 63 which refers to a definition of overcrowding. In essence the Act provides that there must be no less than 400 cubic feet per person in each room.

Section 63(b) Housing Act 1966:

A house shall... be deemed to be overcrowded... when [the space is] such that the free air space in any room used as a sleeping apartment, for any person is less than four hundred cubic feet (the height of the room, if it exceeds eight feet, being taken to be eight feet, for the purposes of calculating free air space).....

Section 63(a) Housing Act 1966:

A house shall... be deemed to be overcrowded... when [the number of persons] are such that any two of those persons, being persons of ten years of age or more of the opposite sexes and not being persons living together as husband and wife, must sleep in the same room.

The FLAC 2009 report cites commentary by the then Council of Europe Human Rights Commissioner Thomas Hammarberg in 2007 who noted both reports of general 'overcrowding' and a specific 'limited private space' for families in a reception centre where the family was required to share one room. FLAC notes that acceptable

⁶¹ Interview with RIA for the purpose of this study (July 2013).

statutory standards are set out in Section 63 of the *Housing Act 1966*. In this context it is argued that instances in which ‘a parent may have to share a room with his/her teenager daughter(s) and/or son(s)... would appear to be a breach of this provision’. It further notes that in many cases the bedroom is ‘often their recreational space as well’ with children ‘in effect confined to their shared bedroom’.

The NGO, Irish Refugee Council (2011) has criticised the general ‘overcrowding, poor conditions and lack of privacy’ in the direct provision system. A 2012 report by the Irish Refugee Council details the impact of overcrowding on children and calls for adequate space for families and separate rooms for parents and children. Child protection concerns were also raised.

4.2.3 Leisure Facilities

RIA *House Rules and Procedures* states that information about leisure activities will be available at the reception of each facility. Applicants will be able to avail of such activities for free when they are provided by the reception facility; other activities may be organised by the reception facility which are free or may have a small fee attached. The RIA *Annual Report 2012* details the available on- and off-site activities at each reception facility. RIA indicate that the on-site activities include: summer camp, sports, outdoor playground, indoor playroom, available open space, computers, homework club/area, mother and toddler, seasonal celebrations, after school activities, while off-site activities include: crèche/ playschool, off-site pre-school, youth club, GAA (sports) club, soccer club, rugby club, other sports, local park/playground, swimming lessons and after school activities.

FLAC (2009) notes that many hostels do not have recreational facilities. Criticism of limited play area and overall suitability of the direct provision system for growing children is made in several NGO reports including FLAC (2009) and the Irish Refugee Council (2012). At the end of 2012 some 1,791 residents, or 37 per cent of the total, were aged under 18 years, while 884 or 18 per cent were aged under five years (RIA, 2013).⁶²

4.2.4 Quality Criteria as Relevant to Unaccompanied Minors

As discussed above, all unaccompanied minors (asylum-seeking and non-asylum seeking) are within the care of the Health Service Executive (HSE). Ireland does not permit unaccompanied minors to be accommodated in reception and/or accommodation centres and all unaccompanied minors are provided with care placements. After an initial child protection risk assessment, unaccompanied minors are generally accommodated in a short-term children’s residential home. They are then accommodated, if appropriate, in longer term fostering or a supported lodgings placement. All accommodation, supervision and activities are provided to

⁶² Note these percentages are based on a figure of 4,783 total residents.

unaccompanied minors in line with the Department of Health and Children *National Standards for Children in Residential Care*. All unaccompanied minors are allocated a social worker. The relevant supervision rate within special separate reception centres for unaccompanied minors is one professionally qualified childcare worker for each two minors in the house, with a minimum of two child care workers at any time.⁶³ All unaccompanied minors are provided with the possibility of leisure activities as well as activities related to specific spiritual and cultural needs.⁶⁴

4.3 GUIDELINES OR HANDBOOK RELATING TO THE RECEPTION OFFERED TO APPLICANTS FOR INTERNATIONAL PROTECTION

The RIA *House Rules and Procedures* booklet is provided to protection applicants in all RIA accommodation and to all staff. It aims to outline the services available, rules, child protection advice, fire safety and complaints procedure available to applicants.⁶⁵ RIA (October 2005) has also produced a *Child Protection Policy for Accommodation Centres* which is based on *Children First - National Guidelines for the Protection and Welfare of Children* and details procedures around detection, reporting and recognising concerns. Issues of trafficking are also included. The requirement for staff in reception facilities to be vetted by the police (An Garda Síochána) is detailed, as is the procedure for residents to follow to make a complaint. Sample record forms and notification to the Health Service Executive (HSE) in cases of neglect, lack of supervision and unrecorded children are also included as are child protection notification forms to the Gardaí.

RIA also publishes a Code of Practice for Persons Working in Accommodation Centres on its website.⁶⁶

An expected service level for the reception of asylum seekers is also contained in all contracts and service level agreements issued to external service contractors by RIA.⁶⁷

4.4 CONTROL MECHANISMS TO ENSURE RECEPTION CONDITION STANDARDS SPECIFIED IN NATIONAL LEGISLATION OR OTHER PROTOCOLS/REGULATIONS

There is no specific national legislation regarding the provision of direct provision reception facilities for asylum seekers. RIA facilities operate in compliance with relevant legislation such as the *Housing Act 1966*.⁶⁸

⁶³ Interview for the purpose of this study with Social Work Team for Separated Children Seeking Asylum, Dublin Area (August 2013). Further information is available in Ní Raghallaigh, (2013).

⁶⁴ Interview for the purpose of this study with Social Work Team for Separated Children Seeking Asylum, Dublin Area (August 2013).

⁶⁵ See Reception and Integration Agency. *House Rules and Procedures*. It is available in 12 languages: Albanian, Amharic, Arabic, Bengali, English, Farsi, French, Portuguese, Punjabi, Romanian, Russian and Urdu.

⁶⁶ Available at www.ria.gov.ie.

⁶⁷ Interview with RIA for the purpose of this study (July 2013).

The contracts between RIA and the service providers make reference to the following relevant legislation:

- European Communities (Hygiene of Foodstuffs) Regulations 2000 and 2005.
- European Communities (Official Control of Foodstuffs) Regulations 1998 (as amended)
- *Fire Services Acts 1981 and 2003*
- Food Hygiene Regulations 1950 – 1989
- *Safety, Health & Welfare at Work Act 2005*
- *Housing Acts 1966 – 2004*
- *Planning and Development Acts 2000 – 2002*
- *European Communities (Drinking Water) Regulations 2000*
- *Tourist Traffic Acts 1939 – 2003*
- *Employment Permit Acts 1981 and 2003*
- *National Minimum Wage Act 2000 – 2005*
- Any statutory modification or re-enactment of same
- Any other relevant Act or Regulations as may be notified by the Minister to the Contractor.

RIA has stated that it coordinates the allocation of residents to reception centres in line with determination of persons per square footage. As outlined earlier, 2-3 inspections of reception facilities take place each year by RIA and by external contractors. RIA inspections and those conducted by QTS are non-technical. RIA stated that compliance with standards such as environmental health, building standards etc. is checked by relevant agencies, for example compliance with environmental health standards falls under the remit of the Environmental Health Officer service of the HSE. This includes compliance with hygiene and food safety. Local Fire Officers may inspect premises to check compliance with fire regulations and local authorities may also check matters which fall under their remit. RIA indicated that it is the responsibility of the direct provision contractor to ensure that their reception centre is in compliance with all relevant regulatory requirements.

RIA does not take responsibility for ensuring such standards are met and does not consult with local authorities, noting that they deem this to fall under the remit of the contractor.⁶⁹

⁶⁸ Interview with RIA for the purpose of this study (July 2013).

⁶⁹ *Ibid.*

4.5 PUBLIC DEBATE ABOUT THE QUALITY OF RECEPTION FACILITIES

There has been sustained public debate in recent years regarding the quality of reception facilities, and the wider direct provision system, mostly centred on the appropriateness of current facilities for long-term residents. Challenging issues include the availability of sufficient space and appropriate food, inspections and the impact of residence in the centres on residents' health. Related issues such as financial exclusion and associated poverty, and the policy of allocation and relocation to facilities are also discussed.⁷⁰

In a report issued by the Irish Refugee Council (IRC) in December 2010, on the compulsory transfer of residents from Mosney Accommodation Centre by RIA, the organisation highlighted findings of a Joint Oireachtas Committee on Health and Children visit to Mosney on 22 July 2010. During the visit, Committee members noted that the gap in service quality between Mosney and other accommodation centres (in this case, a specific comparison with St. Patrick's in Co. Monaghan) was 'gaping'. The IRC report concluded by stating that it hoped that 'lessons will be learnt by all parties which, in future, will lead to more humane treatment and a better system for the reception of those seeking international protection' (Irish Refugee Council, 2010).

The policies of dispersal and relocation have attracted much debate. A planned large dispersal from a centre in July 2010, of which residents were informed shortly before the planned implementation, saw a number of protests taking place and much media discussion. Criticism focussed on a lack of consideration of the circumstances of individuals. At the time, NGOs such as the IRC stated that it was 'disappointed' at the decision to proceed with the transfers and that the 'letters from RIA do not take people's individual circumstances into account, for example whether they have family living nearby or their medical situation'. The IRC stated that 'RIA has not adequately addressed all the humanitarian issues raised by the residents'.⁷¹ By year end, the majority of the affected residents had transferred accommodation. The closure of several direct provision accommodation centres during 2012 also attracted much media attention. Criticism of the closure of the largest direct provision centre in the West of Ireland, Lisbrook House in Galway, related to the alleged short notice provided to residents and the timing, falling near the beginning of a new school year for children living there.⁷²

The debate over overall suitability of direct provision accommodation for both families and those living there for longer periods of time is sustained. A national newspaper,

⁷⁰ A recent decision of the Northern Ireland High Court rejected the contention that Ireland's asylum or reception procedures presented a real risk of being subjected to inhuman or degrading treatment under Article 4 of the Charter of Fundamental Rights, but quashed a decision to return a Sudanese family to direct provision in Ireland, on the basis that the UK Border Agency showed insufficient regard to the need to safeguard and promote the welfare of the children. See *ALJ and A, B and C [2013] NIQB 88* (14 August 2013). Judgment available at: http://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/PublishedByYear/Documents/2013/%5B2013%5D%20NIQB%2088/j_j_STE8712Final.htm

⁷¹ *The Irish Times* (12 August 2010). 'Officials invited to discuss welfare of asylum seekers'. Available at www.irishtimes.com.

⁷² *The Irish Times* (11 September 2012). 'Anti-racism body in appeal over closure'. Available at www.irishtimes.com.

The Irish Times, has published several articles on the direct provision system, one of which stated that the system ‘demeans asylum seekers’.⁷³ In April 2013 an opinion piece stated that treating refugees as ‘social problems and condemning them to long-stay holding centres is demeaning and destructive of human dignity’. It noted that a ‘first step in a reform agenda should involve abolition of the direct provision and dispersal system.’⁷⁴ A retired Supreme Court Judge was reported as saying that the Government will have to apologise in the future for the damage done to children living in centres for asylum seekers.⁷⁵ The 2012 Irish Refugee Council report, *State Sanctioned Child Poverty and Exclusion: The case of children in state accommodation for asylum seekers*, alleges that the direct provision system has not only ‘bred discrimination, social exclusion, enforced poverty and neglect, but has placed children at a real risk’. A campaign to end direct provision has been run by the Irish Refugee Council and of mid-August 2013, some 1,853 signatures had been collected.⁷⁶ The *Fifth Report of the Special Rapporteur on Child Protection* also highlights the need for research on

the potential or actual harm which is being created by the particular circumstances of their [children in direct provision] residence including the inability of parents to properly care for and protect their children and the damage that may be done by living for a lengthy period of time in an institutionalised setting which was not designed for long term residence. (Shannon, 2011).

The Minister for Justice and Equality recently commented that he accepts ‘that the length of time spent in direct provision and the complexity of the asylum process itself is an issue which needs to be addressed’.⁷⁷ Efforts to introduce a single protection procedure have been underway for several years.⁷⁸

The long-term health impact of the reception system on asylum seekers has also been debated. During 2011 the system of direct provision accommodation continued to prompt much media and parliamentary debate. A coalition of NGOs, the NGO Alliance Against Racism, provided a shadow report to the United Nations Committee on the Elimination of Racial Discrimination (UNCERD) on areas where it believed the State is failing to meet its commitments under the Convention. Regarding the practice of direct provision it called for a ‘radical review’ of the direct provision system and noted that there was no evidence that the State had taken

⁷³ *The Irish Times* (22 March 2012). ‘Speaking up about racism’. Available at www.irishtimes.com.

⁷⁴ *The Irish Times* (25 April 2013). ‘Inhumane and discriminatory’. Available at www.irishtimes.com. See also *The Irish Times* (23 March 2013). ‘Inhumane asylum seeker system needs radical reform’. Available at www.irishtimes.com.

⁷⁵ *The Irish Times* (23 April 2013). ‘Next apology will be to asylum seeker children, warns former judge’. Available at www.irishtimes.com.

⁷⁶ See www.irishrefugeecouncil.ie.

⁷⁷ Minister for Justice and Equality in Parliamentary Question No.475, 25 June 2013.

⁷⁸ The Immigration, Residence and Protection Bill, 2007 was the first iteration of the relevant legislation. Delays in enactment have been due in part to the complex nature of the Bill which resulted in a large number of amendments; changing priorities at a time of economic crisis; and a change in government in March 2011. It is expected that a revised Bill will be published during 2014.

the requisite measures to ensure that its policy of direct provision and dispersal of asylum seekers and others seeking protection does not have negative consequences for those involved.

It added that the current policy had shown to have ‘a number of negative mental and physical impacts on those who reside under the regime’. The Shadow Report also stated that the policy of dispersal of persons seeking international protection had ‘isolated’ asylum seekers from both their own community and the wider community.

In the UNCERD concluding remarks in 2011, the Committee expressed concern at the

negative impact that the policy of ‘direct provision’ has had on the welfare of asylum-seekers who, due to the inordinate delay in the processing of their applications, and the final outcomes of their appeals and reviews, as well as poor living conditions, can suffer health and psychological problems that in certain cases lead to serious mental illness.

It recommended that the State should take

all necessary measures to improve the living conditions of asylum-seekers by providing them with adequate food, medical care and other social amenities, including also a review of the direct provision system (UNCERD, 2011).

The fourth European Commission Against Racism and Intolerance (ECRI) report on Ireland states that an in-depth, systematic review of the policy of direct provision is needed, in particular with a view to allowing asylum seekers greater control of their everyday life (ECRI, 2013).

4.6 PRIMARY RESEARCH EVALUATING THE QUALITY OF RECEPTION FACILITIES

Primary research evaluating the quality of reception facilities has been conducted by both RIA and a number of NGOs.

A Value for Money Review (Reception and Integration Agency, 2010) regarding expenditure on provision of full-board (direct provision) accommodation services for asylum seekers by the Reception and Integration Agency (RIA) was published in 2010. The Review covered the period 2005-2008 and focussed on the provision of direct provision services according to aims, efficiency, cost and alternatives. The Review noted that as of the end of 2008, RIA had ‘60 accommodation centres accommodating almost 7,000 asylum seekers and the total cost of the services provided by RIA was over €91m’. The effectiveness of the programme was reiterated, with a recommendation to reduce excess capacity by five per cent to less than ten per cent on present figures and at an estimated saving of €3.9m per year.

Recognising a decrease in overall asylum figures, the Review noted that the current direct provision system was ‘not suitable for volatile demand situations... it is difficult to shed excess capacity after a spike and therefore difficult to minimise costs’. A three-month notice clause in contracts with providers was recommended. Regular

invitations to tender were also recommended. A variance in daily charge rate was found according to accommodation centre, with the cost of State-owned centres approximately €6 per person per day cheaper than commercial centres.

Three types of alternative accommodation were examined: to allow asylum seekers to claim social welfare payments and rent supplement; to provide self-catering accommodation; and to provide local authority housing. Upon examination of these alternatives, the Review concluded that 'these options would be significantly more expensive than direct provision and concluded that using direct provision has proven to be the correct choice in providing for the accommodation needs of asylum seekers'. The Review stated that the quality of all accommodation was monitored, with standards maintained; however recommendations for improvements were made.

A number of NGOs have carried out research on the quality of reception facilities in Ireland. Findings from the Irish Refugee Council (IRC), the Free Legal Advice Centre (FLAC) and the Irish Immigrant Support Centre (NASC) are considered below. Overcrowding, inadequate dietary provision, child safety and protection concerns and lack of privacy are recurrent themes in all the reports.

The 2012 Irish Refugee Council report, *State Sanctioned Child Poverty and Exclusion: The case of children in state accommodation for asylum seekers*, looked at the quality of life for children living in the direct provision system. The majority of research was carried out using secondary sources. Research was supported by conducting one-on-one interviews with six service providers working at direct provision centres or with children in a youth club setting, two managers of accommodation centres and three parents of children living in direct provision. Two focus groups⁷⁹ with resident families were also held. Overcrowding was stated to be one of the main problems, with families often living in one room or single-parent families required to share a room with another family. It was stated that this could lead to familial disputes and increased incidents of abuse, as well as the spreading of childhood illnesses. Parents often had no control of the physical conditions of the room, with inadequate heating, poor insulation and general lack of cleanliness and safety reported. The report noted that children often had no privacy and had no access to a safe space for play; the spaces allocated were often dirty or not appropriate with insufficient toys for the number of children using the area. Inadequate provision of food was also reported with reports of non-nutritional food being served. Children with specific dietary needs were especially vulnerable. The IRC called for safe and adequate accommodation for children, with recreational and homework spaces provided. Recommendations for families to be able to choose, prepare and cook healthy food at times appropriate to their needs were also made. The report concluded that direct provision accommodation is not appropriate for children and that changes must be made.

⁷⁹ These focus groups were held in two separate accommodation centres and took the form of open ended discussion. One focus group consisted of four participants and the other of five.

The FLAC *One Size Doesn't Fit All* 2009 report highlighted a number of concerns in relation to the quality of reception facilities. The report stated that a lack of transparency exists within the direct provision and dispersal system, with a specified number of inspections (by the RIA) not undertaken for the fifth year in a row (2004-2008). The report noted that a full register of complaints made by either staff or residents is not retained. Overcrowding was common and some centres had unsuitable living conditions. Centres for single women only were recommended, as was a greater level of care to be provided to persons with specific vulnerabilities, whether by age, gender, disability, health, sexual orientation or other reason. Many residents had no personal space and lack of privacy was noted.

Residents had little autonomy in relation to the choice of food or the timing of meals and food that was provided was not always adequate or appropriate; the report did note difficulties in catering to each nationality grouping given the large numbers. Parents reported frustration in having little choice in the food given to their children. Often their wishes and cultural traditions were not taken into consideration and many cited the lack of childcare facilities as a concern. Children often had limited or no recreational facilities. FLAC called for an abolition of the direct provision centres and a provision of self-catering facilities in the meantime was recommended. The report also stated that as direct provision was 'always intended as a short-term solution... those who still do not have a decision after one year should be treated as any other destitute person and given access to Supplementary Welfare Allowance'. It was highlighted that the weekly allowance to persons in direct provision (€19.10 per week per adult) had not risen since its introduction ten years previously, while those in receipt had 'not been included as a target group in anti-poverty and social inclusion strategies'.

A 2008 report by NGO NASC, *Hidden Cork: The Perspectives of Asylum Seekers on Direct Provision and the Asylum Legal System*, found that facilities, resources and management styles differed greatly between different reception facilities, with the location of the accommodation centre greatly impacting the quality of life of residents. This research focused on in-depth interviews with 23 persons of 15 different nationalities⁸⁰. A focus group with asylum seekers from different reception centres was also held. Overcrowding was stated as the main concern, with persons of different religious faiths often accommodated in the same room. Large families also were often required to share a single room. It acknowledged that efforts were made by management to place people of similar cultures together, but this was not always possible due to lack of resources. Quality and variety of food provided was deemed to be poor, but some residents reported that the management made an effort to cater for different requirements of each ethnic group. However limited resources meant that food prepared catered for one specific group comprising a majority within the centre. Residents often had to plan their day according to set meal times. NASC

⁸⁰ One participant requested not to disclose their country of origin due to concerns of being easily identified.

recommended replacement of the direct provision system with one 'which delivers a greater degree of dignity and autonomy to asylum seekers'. However noting that this is an unlikely eventuality, NASC recommended a reduction of occupancy levels in the centres, ensuring that each centre is approximately equivalent, provision of study space, provision of greater privacy for residents and provision of childcare services and facilities.

Section 5

Occupancy, Flexibility and Cost of Reception System

5.1 PRESSURE ON THE RECEPTION SYSTEM IN IRELAND

Ireland experienced a lessening of pressures on its reception system between 2008 and 2012 due to steadily decreasing numbers of applicants for asylum.

Table 5.1 Number of Applicants for Asylum 2008-2012

Year	Number of Applicants for Asylum
2008	3,866
2009	2,689
2010	1,939
2011	1,290
2012	956

Source: Office of the Refugee Applications Commissioner. Available at www.orac.ie.

Overall spending on direct provision costs, excluding staff costs within the Department, have fallen steadily, line with decreased numbers of asylum applicants (see Section 5.2 below).

Table 5.2 gives an overview of persons entitled to reception accommodation, persons who availed of that option in the course of the reference year and occupancy rates between 2008 and 2012. Table 5.3 provides data on the occupancy and capacity of reception centres by the category of resident at end-2012. It can be seen that eight centres are occupied solely by single males while two centres are occupied by families only. There are no female-only reception centres. Other centres are occupied by a mix of single people, couples and families. A range of building types are used as reception centres as shown in Table 5.4. The majority of single male centres take the form of hostels.

Table 5.2 National Statistics on Occupancy Across All Centres⁸¹

	2008	2009	2010	2011	2012
Total number of applicants entitled to reception ⁸²	3,784	2,638	1,550	1,267	933
Total number of applicants who entered reception facilities during course of reference year ⁸³	3,389	2,069	1,406	917	715
Year-end total persons accommodated	7,007	6,494	6,107	5,423	4,841
Maximum number of applicants that could be accommodated in reception facilities ⁸⁴	7,668	7,779	7,040	5,984	5,458
Occupancy rate in reception facilities at year-end	87.6%**	83.48%**	86.75%**	90.6%**	88.7% **
Median ⁸⁵ range of an applicant's stay	NA	NA	NA	NA	44 months (end 2012) ⁸⁶

Source: Reception and Integration Agency.

Table 5.3 Occupancy and Capacity of Reception Centres By Resident Type, End 2012

Resident Type	Number of centres	Current Contracted Capacity	Current Occupancy
Families	2	390	373
Singles	1	118	104
Single Males	8	606	504
Families/Singles	8	1,023	898
Families/Single Males	3	315	296
Families/Single Females	2	475	462
Couples/Singles	1	107	103
Families/Couples/Singles	10	2,424	2,101
Total	35	5,458	4,841

Source: Reception and Integration Agency.

⁸¹ RIA (July 2013).

⁸² Total number of new asylum applicants minus the total number of unaccompanied minors presenting each year. A significant number of persons applying for asylum in Ireland choose not to enter direct provision. Some may initially use the service and subsequently choose to leave; such persons may return again at a later date.

⁸³ Total numbers of new asylum applicants who availed of direct provision accommodation plus the total number of persons, who were not new asylum applicants, but who were entitled to direct provision accommodation and chose to avail of the service during the year. For example, persons who applied for asylum the previous year but only availed of direct provision in the current year.

⁸⁴ Capacity under contract to RIA at year-end. RIA has indicated that new accommodation would be acquired should the levels of entitled applicants rise.

⁸⁵ The median is the numerical value separating the higher half of the distribution from the lower half (middle value).

⁸⁶ RIA (2013).

Table 5.4 Occupancy and Capacity of Reception Centres by Building Type, End 2012

Accommodation Type	Number of centres	Current Contracted Capacity	Current Occupancy
System Built	2	525	428
Hotel	9	1,117	1,098
Former College/Nursing Home	6	1,087	1,016
Guest House	4	343	295
Hostel	9	1,029	845
Holiday Centre	1	600	556
Mobile Home Site	1	300	285
Self-Catering Apartment	2	88	74
Reception Centre (Pre-fab structure)	1	369	244
Total	35	5,458	4,841

Source: Reception and Integration Agency.

5.2 COSTS OF THE RECEPTION SYSTEM

Available data on the costs of the reception system in Ireland are contained in Table 5.5 which shows that a history of overspend was reversed in 2012.⁸⁷ These costs include all costs relating to direct provision accommodation and associated services such as: utilities, transport costs of dispersal, running of pre-schools and QTS inspections. Data on indirect costs, for example in relation to the provision of the weekly allowance, health and education services were not available. Furthermore RIA has stated that further breakdown of their costs (for example excluding Dublin II applicants) would be commercially sensitive and may compromise RIA's ability to negotiate with potential service providers. RIA has stated that it pays for 100 percent contracted capacity, even if occupancy is lower.

Table 5.5 Costs of Reception System⁸⁸

	2008	2009	2010	2011	2012
National budget allocated to the reception of applicants for international protection	€74.31m*	€67.392m*	€77.492m*	€67.492m*	€63.5m*
Total costs of reception ⁸⁹	€91.472m	€86.509m	€79.073m	€69.459m	€62.329m

(*) The figures shown for the national budget represent the entire expenditure on asylum seeker accommodation. RIA has stated that no further breakdown in respect of any of the above categories is kept or is available.

Note: These figures refer to accommodation costs only and do not include additional costs e.g. related to education, medical cards, direct provision allowance payment etc.

RIA has attributed the falling costs to centre closures as well as 'continued positive cooperation with our contractors in relation to contract rates, capacity numbers and, in the case of State owned properties, savings in energy and operating costs'

⁸⁷ Overall budget allocation for 2013 is €57.5 million, see presentation by Noel Dowling, RIA (17 December 2012), 'Overview of Direct Provision System' at EMN Ireland Conference Available at www.emn.ie.

⁸⁸ All figures sourced from the Reception and Integration Agency (July 2013).

⁸⁹ Excludes social welfare, health and education costs and cost of running of the Reception and Integration Agency (information received from Reception and Integration Agency, September 2013).

(Reception and Integration Agency, 2013). While the overall number of new applicants has fallen steadily in recent years, a persisting and acknowledged pressure has been the overall length of time which applicants have spent in the direct provision system, discussed further in Section 4.5.⁹⁰

5.3 'FLEXIBILITY MECHANISMS' WITHIN THE RECEPTION SYSTEM IN IRELAND

Weekly statistics regarding occupancy versus capacity are provided by all reception facilities to RIA and serve as an 'early warning mechanism' of sudden increases in demand for accommodation. Staff members of RIA situated in the Office of the Refugee Applications Commission (ORAC) advise regarding emerging trends in numbers of asylum applicants. RIA coordinates regular management meetings with other relevant Departments.⁹¹

In terms of buffer capacity, RIA stated that as most facilities operate at a 90 percent occupancy rate,⁹² additional capacity is deemed to be available in existing reception centres. Additional reception capacity can be added as required. Several contracts with external service providers contain a 'full' and 'holding' rate providing for capacity for an extra inflow. Future tendering processes are expected to include these two capacities in all contracts.⁹³

Budget flexibility exists to an extent: RIA stated that shortfalls must be justified, with any additional unspent monies returned to the Exchequer. A reallocation of funds can take place within the Justice Vote or in supplementary estimates. It was noted that the nature of the accommodation provision, as well as its role as a non-discretionary service, requires flexibility with regard to additional budgetary measures. The mechanism of Supplementary Budget submissions exists should such a need arise.

Furthermore, RIA stated that if deemed necessary, more case-workers could be reassigned by INIS to areas where processing improvements need to be made.

The use of excess space in reception centres for other purposes does not happen in Ireland. Instead, contracts with external service providers are reduced or terminated to keep in line with the current need as far as practicable.⁹⁴

5.4 IDENTIFIED 'BEST PRACTICES' IN RELATION TO FLEXIBILITY

RIA has indicated that, overall, a fast and flexible response to changing needs has been found to be necessary.

⁹⁰ Interview with RIA for the purpose of this study (July 2013).

⁹¹ In terms of software used, RIA uses the Asylum and Immigration Strategic Integration Programme (AISIP) case management software, which covers INIS Headquarters, the Office of the Refugee Applications Commissioner (ORAC), the Refugee Appeals Tribunal and the Reception and Integration Agency (RIA). Monitoring software is also in use within individual reception centres. Interview with RIA for the purpose of this study (July 2013).

⁹² As of the end of 2012, RIA reception facilities saw an overall occupancy rate of 88.7 percent. See RIA (2013).

⁹³ Interview with RIA for the purpose of this study (July 2013).

⁹⁴ *Ibid.*

RIA highlighted the built-in responsiveness of the current system which allows for the quick addition or removal of reception capacity. For example, three-month 'escape clauses' are contained in external service provider contracts⁹⁵ and occupancy levels are kept around 90 percent. However the 10 per cent spare capacity is often made up of bed spaces which have restricted use or which cannot be used (e.g. a family of 3 in a room of 4 has a bed space which cannot feasibly be used by anyone else). RIA stated that most centres have additional capacity which is not under contract and for which arrangements could be expanded if demand rises. A periodic review of rates for external service contractors is undertaken by RIA and allows for a certain flexibility, for example if a lower rate has been seen to affect the quality of services, it may be increased. This renewal of rates with external service providers usually takes place via individual negotiations between RIA and the external service provider at contract renewal stage; there are however provisions for emergency renegotiation.⁹⁶

There was a downward trend in demand over the years in question. The levels of current capacity reflect current and forecasted demand levels for each year and RIA stated that the use of commercial contractors allows for this flexibility for example to reduce capacity at short notice.

In addition, it was noted that a staggered renewal of contract dates with external service providers allows for RIA to opt out of or into contracts depending on demand for services.⁹⁷

⁹⁵ Interview with RIA for the purpose of this study (July 2013).

⁹⁶ *Ibid.*

⁹⁷ See correspondence between Steve Magner, Assistant Secretary, Department of Justice, Equality and Law Reform and John Hynes, Secretary General, Department of Social and Family Affairs (30 May 2006).

Chapter 6

Conclusions

Government and NGOs, as well as international human rights bodies, agree that the direct provision system is not suited to long-term residence and that longer-term residents' needs differ from those of short-term residents. As of the end of 2012, the median length of stay of residents was 44 months.⁹⁸ Efforts to introduce a single protection procedure and to speed up processing of applications for subsidiary protection have been underway for some time, and should result in less time spent in the asylum process and therefore in direct provision.⁹⁹

No formal identification of specific long-term residents' needs has taken place. RIA has stated that local centre managers make efforts to assist longer-term residents in direct provision, for example by providing them with better rooms. RIA also acknowledged the difficulty with relocating people who have been settled in an area for several years.¹⁰⁰

In terms of efficiency RIA has commented that the main strength of the current system relates to its in-built flexibility, allowing the organisation to respond quickly to fluctuations in flows of residents. This is primarily achieved by way of staggering contracts with externally contracted service providers and inclusion of an 'escape clause' in all contracts.¹⁰¹

RIA noted the need to balance continuity for residents versus a reduction in capacity, and a duty of care to residents versus commercial and financial pressures. Between 2011 and 2012 there was decrease of 11 per cent in the number of persons accommodated in centres under contract to RIA and a decline in contracted capacity (beds) of 9 per cent. In 2012, RIA spent 10 per cent less than in 2011. The average length of time spent by persons in the reception system has not fallen in the period (Reception and Integration Agency, 2013).

RIA stated that there is a limit to how far costs can be reduced and that quality should not be compromised. As discussed, NGOs and other commentators dispute the extent to which such a balance has been achieved. The quality of accommodation, and its varied nature, has been highlighted in various reports. The nature of accommodation

⁹⁸ Average stay was 45 months. See RIA (2013). *Annual Report 2012*. Available at www.ria.gov.ie.

⁹⁹ The *European Union (Subsidiary Protection) Regulations 2013 (S.I. No. 426 of 2013)*, have the effect that responsibility for investigation and determination of subsidiary protection applications at first instance now lies with the Office of the Refugee Applications Commissioner (ORAC). See also Dowling, N. (2012).

¹⁰⁰ Interview with RIA for the purpose of this study (July 2013).

¹⁰¹ *Ibid.*

is largely determined by the original use of the accommodation (often hotels/guest houses, with limited facilities such as play areas). Safety concerns and calls for more single-sex accommodation and non-sharing of rooms by adults and children have also been made by various NGOs.¹⁰² The direct provision system has been described as resulting in social exclusion and poverty, particularly in the case of children.¹⁰³ The creation of an independent appeals mechanism has been called for. Calls for a transparent system of reception based upon a solid legislative basis also continue to be made.

¹⁰² See FLAC (2009) and Irish Refugee Council (2012).

¹⁰³ *Ibid*

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