

The Ombudsman & Direct Provision: Update for 2019



Ombudsman

A commentary by the Ombudsman

Department Standards
School access Living space
Transport people
Access Cooking facilities
staff Emergency Direct provision
Accommodation
IPAS IRPP Right to work
case Transfers
complaints protection
engage services
status local food HSE
visit



Ombudsman

2020 Office of the Ombudsman

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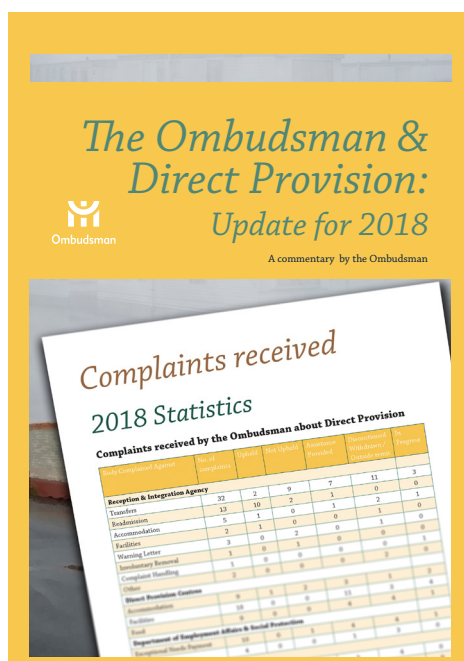
The Ombudsman & Direct Provision:

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April 2020

Previous publications



Contents

Foreword.....	6
Chapter One: Developments in the sector	8
Chapter Two: Sources of complaints.....	15
<i>Emergency Accommodation</i>	<i>16</i>
<i>Direct Provision centres</i>	<i>19</i>
<i>International Protection Accommodation Service</i>	<i>22</i>
<i>Irish Refugee Protection Programme</i>	<i>23</i>
<i>Dept. of Employment Affairs and Social Protection</i>	<i>24</i>
<i>Health Sector.....</i>	<i>26</i>
Chapter Three: Oireachtas Committee on Justice and Equality ..	27
Chapter Four: What we will do next	29
Appendices:	31
1. <i>Definitions.....</i>	<i>32</i>
2. <i>Complaint statistics.....</i>	<i>33</i>
3. <i>Case summaries.....</i>	<i>34</i>
4. <i>Oireachtas Committee on Justice and Equality.....</i>	<i>40</i>

Foreword

This is my third commentary since my remit over the Direct Provision system was confirmed in April 2017 and it covers the calendar year 2019. In it, I look at the changes in the sector since my previous commentary which we published in March 2018.

While this commentary is about the work of my Office during 2019, given the circumstances I think it is appropriate that I should refer to the Covid-19 crisis. In my view the crisis, and in particular the highly contagious nature of the virus, brings into sharp relief just how unsuitable and unsustainable it is to have three or more people in the same room as is the case in many Direct Provision centres, particularly those being used on an emergency basis. I acknowledge how quickly the International Protection Accommodation Service (IPAS, formerly RIA) of the Department of Justice and Equality has moved to address the practical difficulties the onset of Covid-19 has presented. I also appreciate how hard IPAS staff have been working to keep the residents of centres as safe as they can be within the physical constraints of the accommodation portfolio that IPAS currently provides.

It is those physical constraints of the current accommodation centres, rather than how IPAS acts towards residents, that cause me most concern about how applicants for international protection in the Direct Provision sector are treated. I deal with this point in more detail later in the commentary.

The most significant change by far is the increase in the number of applicants for international protection being temporarily placed on an emergency basis in hotels, guesthouses and bed & breakfast accommodation. I have commented before that I consider emergency Direct Provision facilities to be unsuitable for anything other than short-stay accommodation. In my view having people in hotels or smaller facilities, which by definition are not designed to meet the needs of international protection applicants, is even more unsuitable and is just not a sustainable way to accommodate people seeking protection from often dangerous situations in their countries of origin. In this context I highlight what I see as the risk of a two-tiered system becoming embedded within the Direct Provision sector. I comment on what my staff have seen themselves and heard from residents on their visits to emergency centres, how they have interacted on the sector with IPAS, and what progress has been achieved. I also highlight the benefits in IPAS moving towards a capital investment approach to procurement of accommodation rather than continued exclusive reliance on sourcing privately owned premises for additional accommodation spaces.

I also comment on my Office's continued programme of visits to permanent Direct Provision centres. As well as the IPAS centres, these include the Emergency, Reception and Orientation Centres (EROCs) run by the Department's Irish Refugee Protection Programme (IRPP) who accommodate people seeking protection under the EU Relocation Programme and the UNHCR-led Resettlement Programme. I look at progress on the issues I committed in my previous commentary to revisit, and on the rollout of formalised standards across the sector following sign-off on those standards by the Minister for Justice and Equality in July 2019.

For ease of comparison with my previous commentaries, I have followed the same structure of complaint and subject sources used in them to present my comments on what we observed and dealt with during 2019.

I hope this commentary provides a useful update on the work of my Office in providing access to independent redress for residents of the wider Direct Provision system.



A handwritten signature in black ink, which appears to read 'Peter Tyndall'.

Peter Tyndall
Ombudsman
April 2020

Chapter One

Developments in the sector

Introduction

In my previous commentary I highlighted developments regarding the right of applicants for international protection to work while awaiting a decision on their application, on IPAS's proposal to start charging people living in the accommodation centres who are in paid employment, and on the increase in the number of people seeking international protection in Ireland. I provide an update on those matters below, along with comment on new developments in the Direct Provision sector. These include the increasing use of emergency accommodation and implementation of the Department's National Standards for the sector. .

The use of emergency accommodation

Due to the increase in the number of people seeking protection over the latter part of 2018 and into 2019 (see more on this below), and the number of people with status who have not yet found housing, the demand for places in the Direct Provision centres has far outstripped the capacity of those centres. IPAS has sought and continues to seek additional capacity through its tendering programme for new centres, but this process by its nature takes time to deliver places and cannot keep up with the demand arising from the increased number of people presenting for protection. This has resulted in IPAS being unable to provide many new arrivals with places at centres following their initial screening at the Baleskin reception centre in Dublin. Faced with these immediate and ongoing problems, IPAS has, since September 2018 entered into agreements with hotels, guesthouses, and bed and breakfast providers to accommodate the newer arrivals on an emergency basis. At the start of this year there were 1,524 people in 37 different establishments across the country.

I fully understand the dilemma IPAS is in as it is simply impossible to predict accurately the demand for international protection. I also understand that provision of new medium to long-term accommodation unavoidably takes time to deliver. Furthermore, I acknowledge the great work done by IPAS staff in responding to the threats posed by Covid-19 by moving over 300 people out of emergency centres shared with other people to locations occupied exclusively by applicants for international protection. However, while I have sympathy for the position IPAS finds itself in, it is simply unacceptable that people who have sought refuge in this country can find themselves in accommodation that is entirely unsuitable for their needs for a prolonged length of time, up to sixteen months and counting in some cases.

With people staying in emergency accommodation for this length of time, there is a real risk of a two-tiered system becoming entrenched. I recognise that IPAS is working hard to reduce the number of people in the emergency sector, but the facts on the ground remain that there are 1,372 people currently in unsuitable settings.

The EU Receptions and Recast Directive sets out the legal framework on how the international protection process is to work, including the steps host countries have to take to ensure that people who seek protection are treated in a reasonable and humane manner while their applications are being processed. The Government needs to ensure that IPAS is adequately resourced to fulfil its obligations under the Directive, so that the current practice of accommodating people in entirely unsuitable settings quickly becomes a thing of the past.

At a practical level, accommodating people in the hospitality sector has presented a number of issues on which my staff continue to engage with IPAS. These issues have led to complaints from the residents concerned on a number of grounds, more detail on which I set out in Chapter 2.

The National Standards for accommodation offered to people in the protection process

Over the course of 2019 the Standards were finalised and were published on the Department of Justice and Equality's website, www.justice.ie, in August 2019. IPAS is obliged to provide a specified level of service under ten particular Standards, each broken down into a number of subheadings. Each subheading in turn has a number of Indicators which set out how a service provider (normally the contractor engaged by IPAS to operate an accommodation centre) may be judged to have met the standard. I welcome this finalisation of the Standards as they effectively commit IPAS to delivering a specific quality of service to the people it accommodates under the direct provision system. I also welcome their publication which adds accountability to this de facto quality commitment on service delivery.

Living space in centres

However, there is one particular aspect of the Standards that is of concern to me. Currently, Indicator 4.2.2 provides that "A minimum space of 4.65m² for each resident per bedroom is provided", which IPAS confirms comes from the minimum space requirements of 400 cubic feet as provided for in the Housing Act 1966. In real terms, 4.65m² is little more than the floor space taken up by a double bed and it includes any storage units a person might have. Justice McMahon, who chaired the Working Group on the Protection Process and Direct Provision, dealt specifically with living space in paragraph 4.53 of the Working Group's report where he says:

"The use of this definition [Sec 63(b) of the Housing Act 1966] is of concern as it relates to bedrooms only and fails to take into account the multipurpose nature of the room allocated to residents. In many instances the occupants have no other space beyond the bedroom - no private living space".

The McMahon report is generally the benchmark for the provision of services within the Direct Provision system.

I share Justice McMahon's concern and asked the Department why the dimensions of a minimum of 7.1 m² for single bedrooms and 11.4 m² for double bedrooms as set out in the McMahon report are not used in the Standards. Indeed, point (8) in the Introduction section of the Standards states:

"At all times, the original aims of the McMahon Working Group were borne in mind, in particular, to show respect for the dignity of persons in the system and improve the quality of their lives".

The Department replied that the Standards seek compliance with the Housing Act as the minimum requirement, and that living space is not confined to bedroom and includes other spaces such as study rooms, children's play areas, adult gyms and games rooms, sitting rooms, kitchens and dining rooms. The Department's view is that increasing the bedroom space per person in non-family settings would present significant challenges to their ongoing efforts to improve the overall quality of living for residents. This is because increasing room sizes would decrease the space available for the other strands of living space listed above. The Department argued that its current approach to reducing the numbers in emergency accommodation by sourcing a range of suitable premises for conversion into permanent centres itself presents a number of challenges. These include attempting to adapt buildings not owned by the State for uses they were not designed for, while also ensuring the new uses best meet the particular needs of a cohort of vulnerable people. All of this is in the context of the ongoing pressure to move people out of emergency settings.

Specifically, the Department feels that increasing bedroom space per person would either reduce the amount of space available for communal areas in centres or reduce the number of people that could be accommodated in each new centre. This in turn would reduce the number that could be moved out of emergency settings.

I understand the Department's position on this point. I also understand, and have said elsewhere, that the increase in the number of applicants for international protection has left IPAS with no choice other than to have recourse to emergency accommodation. My concerns are the length of time people have to stay in such settings, and the fact that rooms are frequently shared by three or more people. I believe that at the very least rooms housing more than two people should not be used, and that unrelated people should not be expected to share rooms for an extended time. In response to this, the Department has confirmed that it intends, post Covid-19, to move toward having no more than three persons sharing accommodation, when such persons are not family members. It also confirmed that it has already started taking this approach in the course of its work in responding to Covid-19. I warmly welcome this commitment by the Department which marks a significant change for the better to its previous approach on this point. However, while moving towards a maximum of three unrelated people sharing a room is much better than where we are now, it remains my view that nobody should have to share a room with more than one stranger for anything other than a short period of time. Given just how fundamental this point is, my staff will engage with IPAS on it over the remainder of this year and I will set out my views on that engagement in my commentary for 2020.

I am also concerned that, up to now, there did not seem to be any medium or longer term proposals to address the issue, other than the continued search for available premises that would be suitable for conversion into permanent centres. My staff raised this point with IPAS and asked if adopting a different strategy towards procurement of accommodation spaces might present a way forward.

Procurement of accommodation

I am pleased to report that IPAS confirmed it is seriously examining the feasibility of moving towards a capital investment based approach to providing accommodation for international protection applicants. This would involve building customised facilities, most likely on State-owned land. Such facilities should be consistent from the outset with the key principles of independent living and reasonable living space set out in both the McMahon report and in the Department's National Standards. IPAS also reported that they have had positive, though still early, engagement with the Department of Public Expenditure and Reform on the proposal to move towards this different approach to procurement.

I fully welcome this change in approach. Accommodating people in Direct Provision centres has been a feature of our national administration for over twenty years but it is only much more recently that we have seen a strategic and joined-up approach to provision of the service. Moving towards a capital investment approach to provide appropriate accommodation is another example of this integrated strategy. This approach would also reduce the ongoing reliance on conversion of existing buildings which has presented, and continues to present, significant challenges to IPAS in delivering appropriate accommodation. Foremost, in my view, among these challenges is the difficulty the adaptation of often-old buildings presents to the provision of reasonable living space for residents. This has frequently resulted in three or more people sharing rooms. As I said in the Foreword, the Covid-19 crisis has put into sharp relief just how unsuitable, from a health as well as living experience perspective, this model of three or more people sharing rooms is. In saying that, I acknowledge again the Department's commitment to phase out having more than three unrelated people in one room, and accept that moving towards a different procurement model is a medium-term project that will take time, and resources, to deliver.

With regard to resources, IPAS has also confirmed that the average cost of accommodating people in the seven State-owned direct provision centres is just under €22 per person per day. While this figure does not include capital costs, it does include operating costs such as catering, utility bills, insurance, supply of bedding materials and maintenance. If the 1,524 people in emergency accommodation at the start of this year costing roughly €100 per person per day were to be accommodated in State-owned centres, operational costs of providing that accommodation would be over €45 million per year less than IPAS are currently paying. While providing such State-owned centres would incur significant initial capital costs, these would be offset very quickly by the scale of savings on operational costs. Therefore, there is a financial as well as a service case for moving towards a capital investment based approach.

That being said, I accept that, in the meantime, IPAS will have to continue to seek out suitable and available premises to convert into centres, with the space and time challenges this presents. However, the fact that the limitations of the current approach to procurement have been recognised and are being acted upon is a hugely welcome development. I commend IPAS on this and look forward to seeing how it progresses in the time ahead.

Value of the standards in complaint handling

I anticipate the Standards in general will be of great practical assistance to my Office in complaint handling as they give us an objective benchmark against which we can assess how centre residents have been treated. On the basis of the complaints made to my Office since my remit in the sector was confirmed from April 2017, the Standards on which I anticipate we are most likely to engage with IPAS on most often are those on Accommodation (No.4) and Food, Catering and Cooking Facilities (No.5).

The reports of the independent inspectorate referred to in the Standards will also be a valuable tool in that regard. IPAS is working towards formal rollout of the Standards from 1 January 2021, so progress made in advance of that date is something my Outreach team will pay particular attention to during their 2020 programme of centre visits.

Increase in the number of people seeking protection

There was a significant increase in the number of people seeking international protection during 2018, with the number of new applicants growing from 2,926 in 2017 to 3,673 in 2018, an increase of 25.5%. The number grew by a further 30.2% in 2019 to a provisional end of year figure of 4,782. This led to the number of people in Direct Provision growing from 5,687 on 1 January 2018 to 6,592 on 1 January 2019 (up 15.9%), and to 7,667 at the beginning of 2020 (a year on year increase of 16.3%). This has put further capacity pressure on the system.

I acknowledge that IPAS is working hard to cope with this increase in applicant numbers. During 2019, an additional 735 bed spaces were added to the IPAS portfolio. This figure includes both the opening of three new centres and work in increasing the capacity within existing centres. IPAS also had to manage the closure of the centre at Hatch Hall in Dublin which saw a loss of 220 spaces, therefore the net gain for 2019 was 515 bed spaces.

Despite these efforts, the increase in applicant numbers led to the temporary placement of 1,524 people in emergency accommodation at the start of 2020.

With this increasing capacity pressure, centres have found it virtually impossible to facilitate residents' requests to move accommodation within centres, and IPAS has little opportunity to facilitate transfers from one centre to another. I will return to this topic in discussing sources of complaints in the next chapter.

People in centres with approved applications for protection

We are all aware of the difficulties many people currently face in attempting to source accommodation, particularly in the private rented sector. This is no different for people in Direct Provision whose applications for international protection are successful and can therefore legally live here. People in centres with approved applications for protection are then faced with the challenge of attempting to source accommodation in the community.

Lack of availability has proved challenging and has contributed to 972 people with status still being in Direct Provision at the end of 2019. IPAS, along with a cross departmental team and two NGOs engaged with transitional housing support, are working with the residents and during 2019 were able to support 832 people with status to move into the community. While this matter has not given rise to complaints to my Office, I appreciate that it is a live issue in the sector that impacts both on the residents concerned and on IPAS and others who are working to address it.

The right to work

I said in my previous commentary that I would return to this topic, in particular how rollout of the right to work has impacted on the day to day living experiences of residents in the centres. I noted that 817 out of 2,662 applications for permission to access the labour market were refused, but that my Office did not get any complaints about such refusals. In 2019 there were 765 refusals out of a total of 2,561 applications which is broadly in line with the figures for 2018. I understand that most refusals were for the following reasons:

- the applicant had received their first instance recommendation from the IPO within 9 months (the right to work applies to applicants who have not got this first instance recommendation within 9 months);
- the applicant had not been in the system for 8 months (the Department accepts applications after 8 months with a view to giving the applicant their decision within the 9 month timeframe);
- the applicant had got the final decision on their protection application from the IPO (i.e. all appeals etc. had been finalised); or
- the documentation in the application was incomplete.

The only complaint my Office received was from an applicant whose refusal pre-dated the coming into force of the Directive and who had been granted the right to remain (which automatically triggers the right to work) before coming to my Office.

Charges for accommodation

In my previous commentary I explained the background to international protection applicants being granted the right to work which was set out in the EU Receptions and Recast Directive. That Directive also allows for protection applicants in State-provided accommodation to be charged for the provision of that accommodation according to their means. IPAS proposed to do this through a charging mechanism which would impose incrementally increasing charges based on a person's earnings, the details of which are available on the Irish Naturalisation and Immigration Service's website. This was another matter I said I would revisit in this commentary.

IPAS has told my Office that the proposal to roll out the charges presented a legal issue which is currently being considered by the Office of the Attorney General. As a result of this issue charges were not rolled out during 2019. My interest in this matter is whether the imposition of any charges by IPAS would be done in a fair and reasonable manner – I said in my previous commentary that I have no difficulty in principle with the people within the Direct Provision system being asked to make a

contribution towards the cost of their accommodation according to their means. Therefore, I see the policy matter of whether or not charges should be applied, including dealing with any legal issues such application presents, as something for IPAS to decide.

Self-Cooking

My staff reported that, for all the centres they visited where self-cooking facilities and residents' shops were installed, both residents and staff reported on the overall positive impact installation has had on the day-to-day atmosphere of the centres. This mirrors what my staff reported for 2018, and demonstrates the positive effect that giving people more independence in how they conduct their daily living can have.

I also said I would return in this commentary to my staff's comments from 2018 that they noticed a more positive overall atmosphere at some of the more established centres from their Autumn visits compared to previous visits to those same centres, with fewer complaints from residents than before. I do this when I discuss sources of complaints in the next chapter.

Chapter Two

Sources of complaints

In this Chapter, I comment on the sources of complaints received from residents during 2019. As my staff have engaged extensively with the issues presented by the placement of people in emergency accommodation, complaints arising from those people are categorised separately within the sections on complaints against the different public service providers. Overall, my Office received 168 complaints during 2019, which compares to a total of 152 for 2018, giving a year on year increase of 10.5%. I am not surprised to see an increase at that level, given the 16.3% increase in the number of applicants for protection over the same time period.

I commented previously on the informal approach my staff take on their visits to centres where they talk to the residents about any issues they may have, then meet centre management to discuss those issues relating directly to the centre in question. The team has continued to find that this discussion on the day with centre management presents an opportunity to explore possible solutions on the spot with the centre manager, which has led to specific actions being taken at the time of or shortly after our visits. We have continued the practice begun in 2017 of following up on our visits with an open letter to residents. These letters specify which centre-specific issues had been raised and detail actions that had been agreed or implemented by centre management following the visit. This approach ensures residents are aware of what my staff discussed with centre management following the meeting with residents.

Complaints about emergency accommodation centres

Due to the large increase in the number of people seeking international protection, new arrivals continued to be placed in emergency accommodation in the hospitality sector during 2019. Given the scale of this placement, my Office expanded the scope of our Outreach programme for the Direct Provision sector to include those living in emergency accommodation. We did this by engaging with IPAS who agreed to facilitate my staff in visiting those centres (mainly commercial or formerly disused hotels) catering exclusively for applicants for protection.

We further expanded our Outreach programme by hosting a clinic in my Office for those people in emergency accommodation in the Dublin region. This was workable as my Office is located in central Dublin and is relatively easy to access by public transport. My staff liaised with IPAS in inviting people to the clinic, which was well attended with some forty people visiting us. At the national level, over the course of the year the team visited eight emergency centres, all in commercial or former hotels.

IPAS provided transport to those centres for other people in local emergency centres in smaller guesthouses and houses providing bed and breakfast. IPAS also provided transport for people in emergency accommodation to attend the regular visits by my staff to nearby Direct Provision centres. I would like to thank IPAS for its co-operation with my staff for these visits.

At the visits, my staff spoke to the residents in groups first, mostly to explain the role of my Office and to inform the residents on any developments in my Office's engagement with IPAS on emergency accommodation generally. This was followed by one-to-one meetings with any residents who wished to make individual complaints, which in turn was followed by discussion with local centre management on any issues specific to each local centre we visited. We found, unsurprisingly, that people raised the same core concerns at almost every emergency centre we visited. One advantage of this from the complaint handling perspective is that repeated raising of the same issues gives my staff a basis for engaging on them with the relevant public service providers on a systemic basis, rather than dealing with the complaints as non-recurring individual issues. This allows for the issues giving rise to the repeated complaints to be dealt with systemically, which has the further advantage of providing an agreed framework within which any future difficulties on those issues can be resolved.

As I have stated above, emergency accommodation is not suitable for the purpose for which it is being used and this is reflected in the nature of complaints we got from residents of emergency centres. As the team dealt with many of the issues raised in batches and on a systemic basis, we did not record every issue raised by each resident as a separate complaint. I would ask readers to bear that in mind when reading our analysis below of our most common complaint categories about emergency accommodation. Complaints against other public service providers are dealt with separately in the sections on those providers.

Difficulty in raising issues

Many residents in emergency centres complained that they did not know who they should contact to raise any issues they had that were not specific to their centre, such as access to health and social welfare services and access to education for their children. Over the course of the year we engaged with IPAS on how best relevant information could be provided to residents, in particular those who did not go through the reception centre in Baleskin before being assigned to an emergency centre. IPAS has confirmed that all applicants are now going through Baleskin before being dispersed to centres so all residents are now linked into relevant services from the outset.

I am pleased to note this, and to report that, from August 2019, IPAS engaged the Jesuit Refugee Service (JRS) to assist residents directly. JRS provide weekly orientation classes and advice in Baleskin which all protection applicants who pass through that centre can attend. Separately, JRS is also providing a cultural liaison service to approximately half the applicants currently in emergency accommodation. JRS assist those applicants in their interactions with other public service providers and engages with IPAS on specific cases as necessary. At the time of writing, IPAS is in discussion with JRS about increasing the number of locations where they are providing the service. I welcome this initiative from IPAS, and availability of the JRS service to residents is a matter the Outreach team will pay particular attention to in their visits to emergency centres over the course of 2020.

Time spent in emergency accommodation

People are assigned to emergency accommodation pending suitable space becoming available in a permanent centre. The length of time this takes can vary due to family size and composition and, where

relevant, the need to be close to appropriate services, most commonly health services. Therefore, some people are moved out of emergency centres quicker than others. This can cause huge frustration for those people who see others who have not been in emergency accommodation as long as they have being moved before them. Residents frequently expressed such frustration to the team during visits.

I fully appreciate the residents' frustration on this point, but equally I understand the reasons why some people get moved before others and that some variation in the length of time people stay in emergency accommodation is often unavoidable. In such cases, often the best that can be realistically done to address the frustration at being overtaken by others is to explain the position at the outset in as much detail as possible. To this end, the team engaged with IPAS over the course of the year on the provision of the clearest information possible to residents at the point of transfer from Baleskin to an emergency centre. This is so the residents have at least been made aware of the position before they move so they may better understand the situation when they subsequently see other people being moved to a permanent centre before they are. At the time of writing a response on this point from IPAS is awaited. IPAS has clarified that JRS have been asked to assist in managing residents' expectations on this point through their support service for residents in emergency accommodation, both before people leave Baleskin and after they arrive in their emergency centre.

Access to schools for children in emergency accommodation

When people with children of school-going age are assigned to Direct Provision centres, the children are enrolled into local schools. Initially there was no such process in place for the people in emergency accommodation as it was not expected anyone would be there long enough for access to school to become an issue. However, as the families of eight schoolchildren have now been in emergency accommodation for over a year, access to school became a very real issue indeed. IPAS agreed with a proposal from my staff that the residents should be encouraged to enrol their children in local schools.

While it is far from ideal that a child would be enrolled in school only to be relocated elsewhere during a school year, we took the view that this was a less unpalatable option than having a child miss out on school altogether while his or her family waited an unpredictable length of time for relocation. As a child's access to education is a matter for the Office of the Ombudsman for Children, my staff advised any residents who had any difficulties regarding access by their children to local schools to contact that Office on the matter.

Laundries in emergency accommodation

Being able to wash your clothes, either directly or through a laundry service, is a fundamental component of everyday independent living and it is not acceptable for anyone living in this country not to have access to that facility. Many people in emergency accommodation, particularly those housed in commercial hotels, did not have access to either washing machines or a laundry service. As time went on some of the hotels providing emergency accommodation agreed to install domestic washing machines for their international protection residents to use. I am pleased to report that, from late 2019, IPAS has taken steps to ensure that applicants in all emergency centres now have access to laundry facilities, either on site or via an external laundry company providing a collection and delivery service. I am further pleased to report that we have not had any complaints about laundry since that service has been rolled out.

Food in emergency accommodation

We received complaints about Halal food not being available in a number of different emergency accommodation centres. My staff engaged with both IPAS and emergency centre management on this and it turned out that in two centres from where we got complaints the food was fully Halal certified but the residents were not aware of this. Centre management agreed to display the certification in food serving areas to reassure the residents on the matter. In another centre residents were concerned that the cooking oil used to prepare their meals was also used for non-Halal food. In that case centre management were able to demonstrate that the cooking oil used in that food preparation area was used exclusively for Halal dishes. In the same centre residents complained that they had nowhere to store food temporarily, typically snacks or baby food for their children. Management took the point on board and addressed it by installing fridges in communal areas in the centre.

We also received a complaint about a voucher system being introduced in one centre which residents were concerned would mean their food was to be rationed. The team visited the centre and established that, as so often has been the case, the difficulty was with the communication around the issue rather than with the issue itself. The vouchers were introduced so that the centre would have an accurate picture from a resource management perspective of the number of residents having meals. Residents were given meal vouchers, one of which they give to staff at mealtimes. The residents can then eat whatever they choose with no limits being applied. While the residents were told the voucher system was being introduced, they were not aware that limits were not being placed on what they were offered to eat. This lack of awareness led to their concern that rationing was being introduced.

The team visited the centre at lunchtime so saw for themselves how the system operated. It was an unannounced visit (the matter of unannounced visits is dealt with in Chapter 3) so I am satisfied no special arrangements had been made to present the matter in any particular way to the team.

Transport for those in emergency accommodation

The issue of transport was raised by residents of three centres. When I raised the issue with the Department, the response was that the contracts for operators of centres in more remote locations have a clause compelling the operators to provide transport to meet the reasonable needs of residents. There is no such clause, however, in the contracts for centres in towns, particularly those with good public transport links. I have two key concerns about this response.

Firstly, in my view the reasonable transport needs of residents should be met in all cases, irrespective of type or location of the centre they happen to have been assigned to. Secondly, it is not in my view reasonable to expect a protection applicant who gets €38.80 a week to be able to fund public transport fare costs to access key services, including but not confined to language classes. Therefore, in my view the clause compelling centre operators to provide transport to meet the reasonable needs of residents should be included in the contracts of all centres, irrespective of type or physical location.

In reality, of course, what constitutes reasonable transport needs will vary by location – for example, a resident in a centre in a town will have easy access to any services in that town, and transport would be needed only to access key services not available locally. Also, international protection applicants who are in employment would have the means to meet their own travel needs, so I do not see the issue of providing transport for that cohort of people arising.

In my view there is a straightforward solution to this issue, which is that any resident whose request for transport is refused can complain to IPAS about such refusal. As IPAS decisions can be taken on to my Office, the resident concerned has a mechanism through which they can pursue any difficulties they have in accessing transport. The points above on location having an impact on what constitutes reasonable transport needs, and whether or not the resident was in employment, would be relevant to my Office's consideration of any complaints we may get regarding transport. I am pleased to report that IPAS has confirmed its agreement to work with my Office on this basis on any complaints as we may get about transport from centres.

Complaints about Direct Provision Centres

My staff visited 26 centres over the course of 2019, and I comment on the different issues giving rise to complaints below. In 2018 my staff reported a higher level of complaints from residents at the newer centres than at the more established ones, the possible reasons for which I discussed in my commentary for that year. The team revisited all those newer centres in 2019, and I am pleased to report that they did not see evidence of the same issues at them that they had noticed in 2018. This would tend to support the view I stated in 2018 that the higher complaint numbers from the newer centres could have been at least partially due to people initially struggling to settle in and adapt to a new and unfamiliar environment.

Food in Direct Provision centres

During 2019 my Office received six complaints (some of which also involved other matters) about the permanent centres concerning food, down from nine in 2018. This reduction is not surprising given that self-cooking and residents' shops have been established at 18 centres by the end of 2019, compared to eight at the end of 2018. My staff found that often where issues on food arose it was because local management were not aware of the particular issues residents at their centres were having. This repeats a communication issue I highlighted in previous commentaries that in our experience is best resolved through regular dialogue between residents and local management, most commonly through a residents' committee. In such cases my staff seek to ensure that such dialogue takes place, and we invite residents to come back to us if they engage in communication with local management but the issues they complained of recur. I am pleased to report that, in the complaints that related to food quality, local management undertook to engage with their residents. We have not had any further complaints from the residents concerned.

At the centres where the shops are provided, residents can get food through a system which allocates points based on family composition, number and age of children etc. In one case a resident complained that her family was not getting the correct amount of points. The team established that the points were calculated correctly and properly gave credit to the resident for herself and each member of her family.

In another case the team took a complaint that a resident was not getting enough food and was refused when he asked for second helpings. It turned out that the man was not aware that the centre was completely happy to serve him seconds but wanted to ensure that there were enough meat portions for other residents before it did so. Management agreed to explain this approach to the man.

The team took complaints about water quality at two centres in the same region. Mains water in that region is flavoured by the local rock which caused concern among the residents that the water was

unsafe to drink. One centre had arranged for the local Council to test the water which confirmed it was perfectly safe to drink, but the residents were not aware this had been done. Following the team's visit, local management agreed to put the Council's letter confirming the water quality on the centre notice board so residents could see there was evidence to support management's position that the water was safe to drink. Also following our visit, the other centre confirmed that the water was safe to drink but to assure the residents it agreed to engage an engineer to test the water and put the report confirming the water quality on the centre notice board..

Cooking facilities in Direct Provision centres

During 2019 IPAS rolled out self-cooking facilities and residents' shops to ten further centres through implementing changes in its approach to contracting. Through these changes, no contracts for new permanent centres will be awarded, or existing contracts renewed, unless the centres are fully compliant with the McMahon recommendations that centres provide self-cooking facilities and residents' shops. As IPAS is rolling out its contract programme on a regional basis, centres in some regions are getting the facilities before those in other places. Also, some centres had done some work in preparing to install the facilities but, at the time of our visits, had stalled this work pending confirmation of renewal of their contract with IPAS. This caused huge frustration among the residents, who saw work starting on giving them the self-cooking facilities that are so valued only for that work to stop abruptly.

Following our visit to two such centres, management agreed to explain the situation to the residents and to confirm the position to them as soon as the centre heard back from IPAS. I am pleased to report that, following confirmation of renewal of their contracts, one centre has installed the facilities and rolled out independent living, with this process currently underway at the other centre.

Facilities for children in Direct Provision centres

This is another issue I said my staff would follow up on during 2019. On the basis of what the team has seen, centres who have installed self-cooking facilities and residents' shops have also fulfilled their contractual obligations regarding separate family rooms and teenage areas, as well as dedicated play areas for younger children.

Concerns raised by residents previously included the opening hours of, and equipment in, play areas in particular. This was countered by comments from centre management that access to facilities had to be restricted in some cases as toys were either damaged or removed from play areas, and that children had been left unsupervised thereby making it unsafe for the facilities to be left open. My staff reported a much reduced level of contact by residents on this issue than has been the case in previous years. This could be linked to the contracting point where centres now have to provide specified child and teenage facilities in order for contracts to be awarded or renewed.

At one centre where residents raised the scarcity of toys in the play area, previous patterns were repeated with management reporting that access to the facility had to be restricted as children had been left unsupervised and that toys had been damaged or removed from the room. In this type of case, my staff try to explain to residents that operation of facilities like play areas works best when residents and management co-operate on the practical issues. Foremost among these are management being responsible for provision of equipment and general maintenance of the facility, with parents accepting responsibility for managed use of it and, in particular, for supervision of the children while they are there.

Transport to and from Direct Provision centres

As well as for people in emergency centres, this has been an ongoing issue for those permanent centres in rural settings or in smaller towns or villages. Residents have reported feeling isolated when compared to their peers in centres in the bigger towns and cities. As with other issues, the team found that gaps in communication in some cases, rather than a lack of transport per se, contributed to these feelings of isolation. For example, at the time my staff visited, the owners of one centre were actively looking into providing a dedicated bus for the centre which would remove the prior dependence of the residents on the local bus service. The people concerned also owned another centre in a nearby small town and they planned that the bus would run to and from both centres as part of trips to the local bigger town, and other destinations as the need arose. This would give the residents of both centres regular access to both towns as well as to the end destination of each bus journey. While the owners' actions were at an advanced stage when my staff visited, the residents were not aware of what was happening. Following the visit, centre management agreed to ensure that residents were kept updated on developments. I am pleased to confirm that the bus service is now up and running, which means that residents have regular access to both towns in which the centres are located as well as to the local large town.

In another case, residents complained that there was no transport to towns that was suitable for people with children at school; that local bus services are not frequent enough; that there was funding for the cost of Summer camps for the children but not for the cost of transport to them; and that the bus service taking the children to the local GAA club had been stopped. In conversation with management, it transpired that trips to other towns had been organised either fortnightly or monthly, depending on the number of people interested, but that on most days buses were provided very few people turned up. Some Summer camps were very close to the centre and therefore within easy walking distance for parents to bring the children. When a bus was organised to take the children to the GAA club, over time the number of children taking part dropped to one which meant the continued provision of a bus was no longer viable. Also some parents were leaving their children unaccompanied on the bus.

This is a pattern my staff have seen before, where interest is expressed in trips or events but turnout is very low when those trips or events actually take place. I fully appreciate the desire for residents to have access to events outside their centres, either for their children or for themselves. However, I can also understand the frustration for management when resources, including financial, are put into organising transport only for people who had asked for it not to use it when it is provided. In the above case management committed to consult further with the residents on the provision of transport to places and for events outside the centre, and my staff stressed to the residents the importance of their committing to attend trips and events they had asked management to provide for them. I am satisfied that this process of dialogue on both sides is the best way to ensure that the reasonable transport needs of residents continues to be met generally.

Provision of shops for residents at Direct Provision centres

This issue was raised by residents at a number of centres. As it is a matter for IPAS rather than the centres, I deal with it under the section on IPAS following.

Complaints about the International Protection Accommodation Service (IPAS)

Transfers

In previous commentaries I highlighted the frequency of complaints we got about refusal of requests from residents to transfer from one centre to another. With the pressure on capacity arising from the increased volume of applications for protection, IPAS has adopted a policy of refusing such requests unless exceptional circumstances apply. Access to appropriate healthcare is accepted as such an exceptional circumstance. I have no problem in principle with this policy, and I have not upheld complaints from a number of residents where I accepted that their circumstances were not exceptional. For example, I did not uphold two complaints from residents who wished to transfer centre to take up an employment opportunity. This is because I accepted the IPAS position that any vacancy arising in a centre should be made available to a person currently in emergency accommodation ahead of another person who has access to employment and therefore is in a better position to provide their own accommodation.

While I accepted the IPAS position on those cases, I have not accepted refusal of transfer requests from people who wish to avail of educational opportunities that are not available from their assigned centre. In my view denying someone the opportunity to better themselves by availing of a place on a further education course is unreasonable. For that reason the team pursued a complaint from a woman whose request to transfer to a centre in a different part of the country so she could access further education had been refused. The course the woman wished to pursue is not available from her current centre. I am pleased to report that, following this engagement, IPAS agreed to accommodate the woman and her family in a centre much nearer her course as soon as a suitable vacancy becomes available.

Overall, there were 36 complaints in 2019 about refusal of transfer requests compared to 32 for 2018. Following contact from my Office, IPAS agreed to transfer residents in two cases once suitable places become available, to arrange for self-cooking facilities in their own centre for a resident who has dietary issues, and to move a vulnerable resident to a single room in their own centre. IPAS also offered a family who were in emergency accommodation a place in a permanent centre. Although the family declined the offer as the permanent centre was not in Dublin, I was satisfied the offer was reasonable so I did not pursue that case any further. IPAS also agreed to my request to it to reconsider its refusal of transfer requests in five cases, and my staff got further information for residents on how the transfer process works in three others.

Warning letters/involuntary removal from centres

I dealt with this issue in my 2018 commentary where I explained the process IPAS follows in dealing with allegations of continued breach of its House Rules by particular residents, which can ultimately lead to involuntary removal from centres in cases of repeated unacceptable behaviour. I also outlined that, following intervention by my staff, IPAS revised the content of the initial letters it sends to people where allegations of breach of the House Rules have been made but where the allegation made has yet to be investigated. These letters had previously given the impression that the person had actually breached the Rules without the allegation being investigated, whereas now people are initially told simply that an allegation of breach has been made against them.

My Office received five complaints about such letters from centres in 2019. In four of these cases my staff either confirmed to the residents concerned that they had the option of engaging further with IPAS before any decision to remove them would be taken, or got them further information on how the process of involuntary removal from centres works. At the time of writing none of the four residents have contacted my Office further. In the fifth case the issue complained of had been overtaken by events before the complaint reached my Office.

Delays in rollout of food-halls (shops) in centres

In my commentary for 2018 I commented on the IPAS programme of installing food-halls in centres in which residents can buy food of their own choice through a points system which they can then prepare in self-cooking facilities. My staff reported that residents greatly value this service, but were frustrated by delays in provision of the service and the lack of communication around timelines. The programme was extended over the course of 2019, with the facilities now installed at 18 centres at year's end compared to eight at the end of 2018. Residents continued to give positive feedback on the facilities in those centres that have them which were visited by the team. Provision of a residents' shop and self-cooking facilities is now a mandatory component of any new contracts awarded to centre operators, and I am pleased to report the facilities were installed from the outset at the two most recently opened centres, the Clare Lodge Hostel in Ennis, Co. Clare, and the Marian Hostel Centre in Tullamore, Co. Offaly. IPAS has also committed to engaging with those centres where the facilities are being installed to ensure that residents are kept up to date with developments.

Complaints about the Irish Refugee Protection Programme (IRPP)

During 2018 my staff visited the three Emergency Reception and Orientation centres for which the IRPP is responsible. As the residents in these centres were accepted through the Relocation and Resettlement Programmes, they have a pre-approved right to reside in Ireland and stay at the centres pending provision of housing. Some Programme refugees are accommodated at the Mosney centre so had the opportunity to engage with my staff at our visit there.

During 2018 the IRPP changed its process for allocating housing which was designed to reduce the length of time people had previously been waiting for housing. Progress on this was borne out in the team's 2019 visits to the EROCs where most residents are now housed within six months.

My staff dealt with a complaint at one of the centres from a man who complained that the food was too salty for his pregnant wife, and another resident complained about the fatty content in the food. Local management told my staff that a nutritionist had been engaged and was to start work the week after the team's visit. The team also took complaints from residents who were not satisfied with their interaction with the centre's translator. As with many other complaints in centres, these arose from gaps in communication. On the food cases, management were aware the residents had issues with the food and had engaged the nutritionist to deal with the matter but residents were not aware of what was happening. Residents has assumed that the translator was to act as an advocate on their behalf, and they were not aware that the translator was an employee of the centre whose role was to ensure that any communication from residents was clearly understood by management and, in turn, that any messages from management were understood by the residents. I was satisfied that the centre's actions on all these complaints were reasonable.

Complaints about the Department of Employment Affairs and Social Protection

Complaints from people in emergency accommodation

At times, the number of people arriving was too high to be accommodated in the Baleskin reception centre, leading to 1,573 people being assigned directly to emergency accommodation without staying initially at the reception centre from May 2019 to the end of January 2020. This meant these people did not get access to the co-ordinated services provided in Baleskin, including the health screening process. During this initial period, protection applicants attend for interview at the International Protection Office and then can register for a Personal Public Service Number (PPSN), which in turn provides access to other State services. Being placed directly into emergency accommodation led to delays in accessing these services in some cases and resulted in complaints which I comment on below.

Delays in getting Personal Public Service Numbers

PPSNs for international protection applicants are provided through a registration process provided in PPSN allocation centres of the Department and are needed to access the Daily Expenses Allowance and to apply for a medical card. The normal process when an applicant arrives at a centre without a PPSN is that the centre manager would act as the point of contact with the Department in getting the service. However, managers of emergency centres did not always have the necessary contacts or knowledge to engage with the Department. Newly arrived protection applicants were therefore engaging directly with the Department's INTREO Centres to apply for their PPSNs which created two issues. The first was that there was a higher threshold of proof of identification being requested of them as individual applicants than there would be for groups applying for the PPSNs through Baleskin or other permanent centres. The second was that group applicants were given priority so there were delays in issuing the PPSNs to individual applicants.

Over the course of 2019 my Office engaged with the Client Identity Services of the Department which agreed to issue a notice to all offices that were involved in the issuing of PPSNs informing them of the levels of proof required from this vulnerable sector and also to arrange for such applications to be dealt with urgently. We also brought the issue to the attention of the Supplementary Welfare Allowance (SWA) policy unit who regularly engaged with other agencies to ensure streamlined provision of services to this sector.

IPAS gives letters to centre residents as formal proof of address which is needed to apply for various welfare and other benefits. My Office dealt with a complaint from a resident of an emergency centre who said that staff in the Department's office in the local large town told him that the Department did not accept letters from IPAS as proof of address for residents applying for PPSNs and that a letter from a resident's centre was needed for that purpose. The team engaged with the SWA policy unit, following which I am pleased to report that the matter was raised with local managers and the office in question now accepts IPAS letters to residents as proof of address.

Access to the Community Welfare Service

When protection applicants are placed initially in Baleskin, they are assisted to engage with relevant services, including the Department's Asylum Seekers and New Communities unit. As the people assigned directly to emergency accommodation did not go through this process, they did not have access to the service. Due to where some of the emergency centres are, some residents were arriving in places where the Department's Community Welfare Officers (CWOs) did not have prior experience in dealing with the specific needs of protection applicants. My Office engaged with the SWA policy unit, which resulted in all CWOs who had emergency centres in their area of operation being informed of the arrival of residents so that they could make contact with them immediately on arrival. We also engaged with the SWA policy unit for confirmation that there was consistency in the level of service being provided to residents irrespective of location and also to ensure that CWOs were available to meet with the residents regularly. This often took the form of setting up weekly CWO clinics onsite at centres or the introduction of a freepost system through which residents could easily submit requests for payments or queries to their assigned CWO.

Other complaints

Of the 25 complaints against the Department in 2019 (14 in 2018), ten were about refusals of applications for the Daily Expense Allowance (DEA) for residents of Direct Provision, five related to access to PPSNs, and three concerned refusal payments under the Exceptional Needs Payments (ENP) Scheme. Among other things, ENPs can be paid to cover necessary travel costs that a resident cannot afford in order to attend, for example, medical or legal appointments. The remaining seven complaints were about various other social welfare schemes.

While there was increase of 11 over the number of complaints received in 2018, this increase is largely due to the ten complaints the team received at one particular centre about refusal of DEA and ENP applications. It transpired that there had been significant staff changes in the local CWO section which resulted in refusal of many applications that had previously been routinely approved. Following engagement with my Office, the Department's area manager proactively engaged with the residents to resolve their issues, and we established appropriate contact with the Department to deal with any future similar issues.

I would like to put on record my appreciation of the proactive action taken by the Department's staff when we brought the above issues to their attention.

Complaints about the Health sector

Complaints from people in emergency accommodation

As a result of being assigned directly to emergency accommodation without the initial screening, many people were not linked into their local health services. This led to 12 complaints which I comment on below with a further two similar complaints from people in permanent centres.

Access to GP services

One issue was people being told that local GP practices were full. In those circumstances the person who cannot get a GP acceptance must supply the names of three GPs in the area that refused them. This is because the PCRS has the power under central contract to compel a GMS practice to accept specified patients who have had refusals on capacity grounds from three local practices. As per the GMS contract a GP will be assigned within a seven mile radius unless there is none available in the area, and the PCRS will always try to ensure a GP is assigned within walking distance where possible. If this is not possible then other arrangements can be made on a case by case basis. In one region, residents and local centre management told my staff that some practices were refusing to issue the letters refusing service on capacity grounds, leaving the people concerned without access to the service. My staff engaged with Social Inclusion Unit of the HSE who succeeded in sourcing capacity in another practice some 55km away, which was the nearest GP practice that had capacity at that time. We also engaged with IPAS who agreed to fund transport to that practice in cases where local management were unable to do so.

Access to medical cards

Access to medical cards is another issue faced by the people who were not screened in Baleskin. The Social Inclusion Unit of the HSE has the discretion to award medical cards when people who qualify for them cannot for different reasons get access to them. My staff engaged with the Social Inclusion Unit and agreed a mechanism through which my Office would refer people directly to the Unit, thereby ensuring quicker approval of applications.

Other complaints

My staff dealt with one other complaint against the HSE which was about a resident's medical card not covering orthodontic work that she wanted for her child. The HSE confirmed that access to orthodontic services is based on severity of orthodontic need as set out in National Guidelines rather than through a medical card and that all applicants are treated equally under the Guidelines in that respect. In the resident's case her child's treatment need was not considered severe enough to qualify for treatment under the Guidelines.

Chapter Three

Oireachtas Committee on Justice and Equality

I was very pleased to receive an invitation from the Committee for me and my officials to attend its hearing of 25 September, 2019. The Committee wanted to engage with my Office as a key actor in the Direct Provision sector in the context of the Committee's work in preparing its "Report on Direct Provision and the International Protection Application Process". In advance of the meeting I took the opportunity to provide the Committee with a briefing (Appendix 4) on the work of my Office in the sector.

The meeting turned out to be a lengthy and very fruitful exercise. Committee Members showed great knowledge of the sector and equally great interest in the work of my Office, in particular on how we operate our Outreach programme in practice and also how we engage with IPAS. The Members relayed concerns that had been expressed to them by residents in Direct Provision centres, who feared reprisals should they raise concerns about their treatment within the system to stakeholders, including my Office. Expression of similar fears is something my staff have frequently heard from residents at Outreach visits. However, as I have said in previous commentaries, while these fears are genuinely held, my staff have not yet seen evidence of residents actually being persecuted in any way for having raised concerns about their treatment at centres to stakeholders engaged with the system. Nevertheless, I recognise that those fears remain for residents, and I acknowledge the Members' concern about them. In light of this I agreed to the Committee's suggestion that we might refine our Outreach programme to include a number of unannounced visits to centres. This is so my staff could form a view on how things were for residents in relevant centres without any risk of any special arrangements having been made in advance of my staff's arrival.

Unannounced visits to centres

I think it would be useful at this point to make a distinction between our Outreach visits to the centres on the one hand, and inspection of them on the other, as we do not inspect the centres we visit. When my staff visit centres, quite often they are invited for a tour of the facility by management so they can see how services are provided to residents, including dining and self-cooking facilities, laundry areas, playrooms/crèche facilities for the children etc. Sometimes residents have invited my staff into their living areas so we can see first-hand anything the residents are concerned about.

If my staff are concerned about anything they see during visits, as well as anything raised by the residents, we raise our concerns with management on the day or subsequently with IPAS if relevant. For example, IPAS is responsible for room allocation so we engage with them rather than the centres on any issues raised about accommodation. While it happens regularly, this contact is in the context of follow-up on complaints or on return visits so my staff do not, for example, compile checklists on which services are provided or record details on how often communal areas are cleaned, etc.

The primary purpose of our Outreach programme is to talk to the residents about any issues they may have experienced with public service providers, including IPAS and the centre they live in. For this reason we announce our visits in advance so the residents are aware we are coming, and we schedule them for the time of day at which residents are most likely to be present. If our visits are unannounced the residents will obviously not know we are coming so it is likely that fewer would get to talk to us than would be the case for announced visits. On the other hand, the small number of unannounced visits undertaken by the team following the Committee meeting have turned out to be very useful in the context of following up on complaints which were not resolved following initial contact between my Office and the relevant service provider.

We received a complaint about overcrowding in an emergency centre where we got conflicting information on the number of people accommodated in a particular room, with the same conflicting information being aired in the media. Allegations were made that the arrangement of beds in the room was being manipulated so that it appeared from photographs that there were more beds in the room than was actually the case. Given these allegations, we felt it would be prudent to visit the centre rather than rely solely on photographic evidence the authenticity of which had been questioned publicly. The team made an unannounced visit to the centre and were shown the room in question. As the visit was unannounced, I am satisfied that nobody would have had the opportunity to manipulate the arrangement of the beds in advance of the visit so the team saw the beds arranged as they normally were. The number of beds tallied with what the resident had told us. My staff then engaged with IPAS on the matter which confirmed that, while there were 10 beds in the room, there were six residents. I am pleased to report that the number of residents in the room has been reduced which has helped to address the overcrowding that led to the complaint. IPAS has more recently told my Office that, since the onset of the Covid-19 crisis, the measures it has taken to reduce the number of unrelated residents to a maximum of three per room has further addressed this issue.

A resident from a different centre complained that centre staff had lost his property and were improperly denying him access to other items he owned. The centre sent us email correspondence between it and the resident which it said explained where the property was and how he could access it, but this was disputed by the resident. As these conflicting positions could not be resolved by a desktop examination, the team made an unannounced visit to the centre. Centre staff showed the team where the disputed property was, and an email chain which demonstrated that the resident was told this and how to collect it, but he did not make any effort to do so. Similar to the overcrowding complaint, as the visit was unannounced I am satisfied the team saw things as they were and as a result could correctly conclude that the centre had dealt with the matter reasonably.

Undertaking some unannounced visits was just one of a number of issues I discussed with the Committee on the day. I am grateful to the Committee for the level of its engagement in the sector, and look forward to further positive engagement with its successor going forward.

Chapter Four

What we will do next

During 2019 my staff continued the Outreach programme we began in 2017 with the different stakeholders involved in the provision of public services to residents of Direct Provision centres, including IPAS and the IRPP. We continued to focus our programme on visiting the centres which we again have found to be of great benefit, both in hearing directly from the residents about their issues and to see first-hand how the accommodation centres are run on the ground. I hope you share my view that the analysis in the previous pages of the outcomes of the complaints my Office dealt with shows that our input continues to contribute towards improvement in the standard of public services delivered to residents of the centres.

You will have seen from my comments in previous chapters that the continued use of emergency accommodation is the issue of greatest concern to me. For that reason, the Outreach work we are currently planning to roll out in the remainder of 2020 will focus primarily on that section of the Direct Provision sector.

I look forward to reporting back to you on our continued engagement with the sector.

Appendices

Appendix One

Definitions

Refugee

A refugee is someone who, according to the 1951 United Nations Convention Relating to the Status of Refugees, has had to leave their country of origin because of “a well-founded fear of persecution because of reasons including their race, religion, nationality, membership of a particular social group or political opinion”. Under the Convention, an officially recognised refugee must be afforded protection, access to services and the right to work in another convention country.

International protection applicant

An international protection applicant is a person seeking to be granted protection as a refugee outside their country of origin, and is awaiting the determination of his/her status. While their application is being processed, they have a right to protection but not to the freedoms that refugees have. If granted this status, the person is recognised as a refugee and is no longer an international protection applicant. In Ireland, the international protection process is a legal system which decides who qualifies as a refugee and is then entitled to remain in Ireland and under its protection. Those judged not to be refugees can be deported back to their home countries. Others may be granted permission to remain or subsidiary protection.

The terms asylum-seeker and refugee are often confused: an asylum-seeker is someone who claims he or she is a refugee, but whose claim has not yet been definitively determined.

Appendix Two

2019: Complaints received from residents in Direct Provision

Body Complained Against	No. of complaints	Upheld	Not Upheld	Assistance Provided	Discontinued or Withdrawn	Outside Remit	In Progress
International Protection Accommodation Service							
Transfers	33	2	6	12	7	1	5
Accommodation	14	0	0	4	10	0	0
Involuntary Removal	5	0	0	0	5	0	0
Food	5	0	2	2	1	0	0
Facilities	4	0	0	2	1	0	1
Transportation	2	0	1	1	0	0	0
Complaint Handling	2	0	1	1	0	0	0
Other	17	0	1	8	6	0	2
Direct Provision Centres							
Accommodation	4	0	0	1	3	0	0
Facilities	4	0	0	2	2	0	0
Transfer	3	1	1	0	1	0	0
Complaint Against Staff Member	2	0	0	0	2	0	0
Food	2	0	0	1	1	0	0
Other	10	0	2	2	2	2	2
Irish Refugee Protection Programme							
Accommodation	2	0	0	1	1	0	0
Emergency Reception & Orientation Centres							
Other	3	1	0	2	0	0	0
Department of Employment Affairs & Social Protection							
Daily Expenses Allowance	10	0	3	4	3	0	0
PRSI/PPSN	5	0	1	3	1	0	0
SWA - Other Payments	5	1	1	1	2	0	0
SWA - Exceptional Needs Payment	3	0	1	2	0	0	0
Other	2	0	0	1	1	0	0
HSE							
Medical Cards	12	0	1	7	3	0	1
GP/Dental Services	3	0	0	3	0	0	0
Other Bodies							
Dept of Justice and Equality	5	0	0	1	0	4	0
Hospitals	2	0	1	0	1	0	0
Office of the Registrar General	2	0	0	1	1	0	0
Other	7	0	1	2	2	2	0
Total	168	5	23	64	56	9	11

Appendix Three

Case Studies

Department of Employment Affairs and Social Protection

Exceptional Needs Payment Scheme

Ref: OMB-44389-H6Y7F4

Assistance Provided

Background

A woman complained about delays in payments to her which needed to be approved by her local Community Welfare Officer. The woman applied for assistance to cover travel costs to attend medical appointments and could not contact the CWO to get a response to her application.

Examination

The Ombudsman contacted the Manager of the appropriate regional office of the Department and was assured that the woman would be contacted about her applications. He asked the woman to contact him again if this did not happen.

Outcome

The woman was contacted and her outstanding applications were paid. This was one of a number of similar complaints from the same accommodation centre taken on an Outreach visit. The Department explained that there had been significant staff changes in the local CWO section which resulted in refusal of many applications that had previously been routinely approved. Following engagement with the Ombudsman, the Department's area manager proactively engaged with the residents to resolve their issues, and we established appropriate contact with the Department to deal with any future similar issues.

Health Service Executive

Medical Card

Ref: OMB-56589-C9S2T0

Assistance Provided

Background

A man complained about the Health Service Executive (HSE) and the delay in processing his Medical Card application. He said that he had been waiting a number of weeks and that he needed the card as soon as possible as his child required dental treatment.

Examination

The HSE confirmed that it had received the man's application. However, it said that it had been unable to progress the application as his General Practitioner's signature and stamp was missing. It said that it had written to him requesting this information, but had not received his response. It could not finalise the application without this information. The Ombudsman contacted the man to clarify what he needed to do to progress his application.

Outcome

The HSE informed the Ombudsman that the man's Medical Card had issued. This complaint was one of a number of complaints the Ombudsman received from people living in 'emergency' direct provision accommodation who were experiencing problems when applying for Medical Cards. Often issues arose where applicants were not familiar with the processes for applying for benefits and did not have access to guidance on navigating those processes. The Ombudsman engaged with HSE's Primary Care Reimbursement Service and Social Inclusion Office which led to a large number of these issues being resolved. The Ombudsman would like to thank the HSE for its assistance in resolving these cases.

International Protection Accommodation Service (IPAS)

Transfer

Ref: OMB-58501-L1B8B1

Not Upheld

Background

A man complained about a number of issues, including that he was transferred from his centre because he had associated with a particular group who represent applicants for international protection. He also alleged there was racism against the residents of his current centre as they were not seated with other diners when they attended a local restaurant for meals.

Examination

The Ombudsman contacted IPAS who explained that the man was among a number of people transferred when the resident configuration of his original centre was changed from single people (of which the man was one) to families with children. Due to the numbers involved, it was not possible to transfer all the people at once and the man was one of a small number of people who were transferred a short time after most other people were. IPAS emphasised that there was no connection between the fact the man was not among the first group of people transferred and his association with the representative group.

Regarding the seating arrangements in the local restaurant, IPAS confirmed that there was no restriction whatever on where the residents sat when they attended for meals, and that any congregation of the residents was simply because they chose to sit together to take their food.

Outcome

The Ombudsman considered that the explanation from IPAS was reasonable. While the man was very firm in his view on the matters he complained of, the Ombudsman did not consider that the man provided any evidence to substantiate those views. In the absence of such evidence, and in light of his view on the IPAS explanation, the Ombudsman did not consider it would be reasonable to pursue the case further.

International Protection Accommodation Service (IPAS)

Transfer

Ref: OMB-58502-Q7X5B3

Assistance Provided

Background

A woman complained about her and her husband being socially ostracised in their centre due to their being a mixed religion couple who were raising their child in the minority religion of residents in that centre. Although the couple had moved to a different centre by the time Ombudsman staff spoke to them at an Outreach visit, they said they still felt socially isolated and wanted a transfer to a third centre in another city where they had a social support network.

Examination

The Ombudsman contacted IPAS who agreed to place the couple on a transfer list for their preferred centre. However, as the couple were at the time of their complaint in an emergency centre, IPAS said they may be moved to a different permanent centre before a vacancy in their preferred centre (also a permanent one) arose.

Outcome

While he accepted that this position was reasonable, the Ombudsman asked IPAS to confirm that any move to a different centre would not affect the couple's request to transfer to their preferred centre. IPAS confirmed the couple could re-apply for the transfer in the event they were moved to a different centre before a place in their preferred centre became available.

International Protection Accommodation Service (IPAS)

Transfer

Ref: OMB-57120-K4X6X2

Assistance Provided

Background

A man complained about a delay by the International Protection Accommodation Service (IPAS) in moving his family from emergency accommodation to permanent accommodation. He said that he and his wife were separated from his two (adult) daughters on arrival in the State and that he was told by IPAS that this was temporary. However, when he contacted this Office they were still separated several months later.

Examination

IPAS informed the Ombudsman that the family were due to be transferred to permanent accommodation. However, it said that due to the man's medical issue it had to postpone the transfer. The man was subsequently cleared by the medical team for transfer. However, IPAS advised that it was having a difficulty placing the family in suitable accommodation. It was trying to locate a centre that could best handle the man's medical needs. It stated that it planned to open new centres in the near future and hoped to accommodate the family then.

Outcome

IPAS confirmed that the man and his family had been reunited and moved to a permanent centre.

International Protection Accommodation Service (IPAS)

Access to schools

Ref: OMB-44428-N2J0Q0

Assistance provided

Background

A woman in an emergency centre complained that her children did not have access to school and she did not have access to English classes.

Examination

The Ombudsman contacted IPAS who explained that it had initially not made arrangements for children in emergency centres to enrol in school as it was originally anticipated that people would be in emergency settings only for a very short time. Increases in the numbers seeking international protection meant it was not possible to move people out of emergency centres as quickly as had been planned. This meant IPAS was now advising parents to enrol their children in local schools and to contact IPAS if they had any difficulty in doing so. IPAS staff were in the process of visiting centres to discuss directly with residents issues such as accessing English classes.

Outcome

The Ombudsman advised the woman to act on the advice from IPAS and enrol her children in a local school and to engage with IPAS staff on getting English language classes. If people in general have any issues about getting access to education for their children, they can complain to the Ombudsman for Children about the matter.

Appendix Four

Briefing for the Oireachtas Committee on Justice and Equality

Oireachtas Committee on Justice and Equality, 25 September 2019

Dear Members,

I welcome this opportunity to talk to you about the work of my Office in the Direct Provision sector.

As you will be aware, my remit over the Direct Provision system was confirmed in April 2017. Since then, my Office has proactively engaged with the stakeholders involved in the sector. A core part of our engagement has been through our Outreach programme where we visit the Direct Provision centres to talk directly to the residents about the issues that affect them. I published commentaries which set out what we saw in the sector, and what we did in response, for the years 2017 called “The Ombudsman and Direct Provision: The Story so Far” and for 2018 titled “The Ombudsman and Direct Provision: Update for 2018”. I should say that I have experienced excellent co-operation from the Department in undertaking my role and in responding to the issues my Office has raised.

My team has noticed significant improvements in the sector since we started the Outreach programme in the summer of 2017. Residents consistently reported that the rollout of shops and self-cooking facilities in the centres, though not yet complete, has greatly improved the quality of day-to-day living. Despite these significant improvements to the system, significant issues remain. These include the length of time people have to wait for a substantive decision on their asylum application and the use of emergency accommodation due to a lack of capacity in the customised Direct Provision centres. I set out my views on both of these issues below.

The fundamental issue faced by residents is that the Direct Provision accommodation was only ever intended for short stays, while their applications for asylum were processed. They were not designed for long-term or semi-permanent residence. Despite the welcome improvements, the majority of centres are quasi-institutional settings where in many cases access to kitchen, bathroom and living room facilities are shared amenities which cannot be enjoyed in private.

People are sharing rooms as a family, or as unrelated adults. Whereas this might be acceptable in the very short term, the length of stay makes it entirely unsuitable. The problem currently is being exacerbated by the shortage of affordable rented housing, which of course is also affecting other people in housing need in our communities. This means that even those with leave to remain are unable to find accommodation, thus reducing supply for new entrants.

The length of time people wait on decisions:

The streamlining of the asylum assessment process introduced on 1 January 2018 has reduced the time taken to make substantive decisions on applications, which are now taking a median of 16 months to complete, with more recent applications completed in an average of 11 months. However, it remains the case that many asylum seekers whose cases are being assessed under the previous process have been waiting three years or more for a substantive decision.

While my remit over the administration of the Direct Provision system was confirmed in April 2017, it remains the case that I am precluded from examining complaints about the asylum process itself. The core decisions on asylum applications are made by or on behalf of the Minister for Justice and Equality and are properly outside of my jurisdiction. However, I do not see the same case for the exclusion of the administrative process through which asylum applications are assessed. I believe that my remit should be extended to include that process, and I respectfully ask for the Committee's support for this extension.

Placement of people in emergency accommodation:

Due to an upsurge in applicants, which increased by 25% for 2018 over 2017 and a further 26% pro rata for the first eight months of 2019, the capacity of the current Direct Provision centres to accommodate asylum seekers was exceeded, including the initial reception facility at Baleskin in north Co. Dublin operated by the Reception and Integration Agency (RIA) of the Department. This upsurge in numbers has resulted in many people being placed directly in emergency accommodation in hotels, guesthouses and bed & breakfast accommodation without first going through the normal screening process. This meant that, among other issues, they were not provided with Personal Public Service Numbers or medical cards.

My Outreach team has engaged directly with residents in emergency accommodation through a programme of visits to their places of residence. As a response to the issues raised by residents through that programme, the team facilitated arrangements with the relevant units within the HSE and the Department of Employment Affairs and Social Protection through which the residents were linked into the services they are entitled to. I am pleased with the progress that is being made in ensuring that people in emergency accommodation get access to such services. I also understand that it is simply impossible to accurately predict the demand for asylum.

However, while I do have sympathy for the position RIA finds itself in, it is simply unacceptable that people who have sought refuge in this country can find themselves in accommodation that is entirely unsuitable for their needs for a prolonged length of time, beyond eight months and counting in a small number of cases. The obligations of EU Member States in the sector are set out in the EU Recast Receptions Conditions Directive, which requires Member States to provide asylum seekers with a specified standard of care and living conditions. In line with those obligations, I would call on the Minister for Justice and Equality to ensure that RIA is adequately resourced to fulfil its obligations under the Directive, so that the current practice of accommodating people in entirely unsuitable emergency settings quickly becomes a thing of the past. Again, I would welcome the Committee's support on this issue.

Thank you for your attention,

Peter Tyndall

Ombudsman

Information Factsheets



Our Information Factsheets on the Ombudsman and direct provision are available on our website www.ombudsman.ie in the following languages:

- Arabic
- English
- French
- Russian
- Urdu



Ombudsman

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