



**ombudsman  
do leanaí  
for children**

**Oireachtas Committee on Justice and Equality:  
Examination of Direct Provision  
and the International Protection Application Process**

**Submission by the Ombudsman for Children's Office**

**May 2019**

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## 1. Introduction

The Oireachtas Committee on Justice and Equality (Committee) recently published an invitation to stakeholders and interested parties to make written submissions to the Committee on Direct Provision and the international protection application process. The Committee has clarified that the focus of its deliberations is on what can be done in the short to medium term to improve:

- the welfare and conditions of people living in the Direct Provision system
- the efficiency of the current system of processing international protection claims, in order to bring policies, practices and laws into line with international best practice and standards.

With regard to the Direct Provision system, the Committee has indicated that it wishes to look beyond the current system and to consider whether there are better models or alternatives that could be pursued in Ireland.<sup>1</sup>

The Ombudsman for Children's Office (OCO) welcomes the Committee's decision to examine these important issues. With regard to Direct Provision, the OCO welcomes in particular the Committee's decision to examine not only what measures could be taken to improve conditions for and the welfare of people living in Direct Provision, but also whether there are better models than Direct Provision that could be pursued.

The OCO is an independent statutory body which was established in 2004 under the Ombudsman for Children Act 2002 (2002 Act). Under the 2002 Act (as amended), the Ombudsman for Children has two core statutory functions. These functions are:

- to promote the rights and welfare of children under the age of 18 years living in Ireland
- to examine and investigate complaints made by or on behalf of children in relation to the administrative actions of public bodies, schools and voluntary hospitals, which have or may have adversely affected a child.

Following clarification of the OCO's complaints remit in 2017, the OCO has been in a position to accept complaints made by or on behalf of children living in Direct Provision since April 2017.<sup>2</sup>

The OCO is cognizant of the diverse experience and expertise of stakeholders and interested parties who may make submissions to the Committee. Accordingly, the main aim of this brief submission is to highlight to the Committee a range of issues affecting children and young people under 18 living in Direct Provision that have been brought to the OCO's attention since April 2017.

The issues and concerns outlined in this submission have been raised with the OCO by children and young people living in Direct Provision and/or by their parents/guardians in the context of:

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<sup>1</sup> See <https://www.oireachtas.ie/en/committees/submissions/20190424-committee-on-justice-and-equality-calls-for-submissions-on-direct-provision-and-the-international-protection-application-process/>.

<sup>2</sup> Ombudsman for Children's Office, 'Ombudsman for Children can now investigate complaints from those in Direct Provision' (3 April 2017). Available at <https://www.oco.ie/ga/news/ombudsman-children-can-now-investigate-complaints-direct-provision/>.

- direct engagement by the OCO’s Complaints and Investigations Unit with people living in Direct Provision for the purposes of raising awareness of and discharging the OCO’s statutory complaints function
- direct engagement by the OCO’s Participation and Rights Education Unit with children and young people under 18 living in Direct Provision for the purposes of raising awareness of children’s rights, in accordance with the OCO’s statutory duty under section 7(1)(d) of the 2002 Act.

This submission also includes two case studies regarding complaints to the OCO about Direct Provision.

The OCO hopes that the issues and concerns of children, young people and parents/guardians living in Direct Provision that are outlined in this submission will usefully inform the Committee’s deliberations.

As the Committee is aware, Direct Provision was established by the Government in 2000 in light of a very significant increase in the number of protection applications and a serious shortage of accommodation in the Dublin area to house protection applicants, including families. Direct Provision was introduced as a scheme to meet the main needs of protection applicants and it was accompanied by a policy of dispersal that saw protection applicants being dispersed to different parts of the country. When Direct Provision was introduced, it was anticipated that protection applicants would live in Direct Provision accommodation for no more than six months while their applications were being processed.

Since its introduction almost twenty years ago, Direct Provision has evolved from a scheme into an embedded system. The OCO is aware that measures have been taken to try to improve conditions for and the welfare of people, including children, living in Direct Provision. However, as the Ombudsman for Children highlighted recently, it is the OCO’s view that Direct Provision is not a suitable arrangement for anyone, in particular for children who are spending a significant proportion of their childhoods living in circumstances that are not optimal for their development or for family life and functioning.<sup>3</sup>

Taking into account relevant international standards, including the UN Convention on the Rights of the Child (UNCRC) that Ireland ratified in 1992,<sup>4</sup> it is clear that a wide range of children’s rights are engaged in and by the Direct Provision system. Among these rights are:

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<sup>3</sup> Ombudsman for Children’s Office, ‘20 years later Direct Provision, a temporary solution, continues’ (13 March 2019). Available at <https://www.oco.ie/news/20-years-later-direct-provision-a-temporary-solution-continues-ombudsman-for-children/>. The OCO has previously expressed concerns about the length of time that families with children are spending living in Direct Provision, including in our alternative report to the UN Committee on the Rights of the Child in 2015. See Ombudsman for Children’s Office, *Report of the Ombudsman for Children to the UN Committee on the Rights of the Child on the occasion of the examination of Ireland’s consolidated Third and Fourth Report to the Committee* (April 2015), at p.45. Available at <https://www.oco.ie/library/report-un-committee-rights-child-examination-irelands-consolidated-third-fourth-report-committee/>.

<sup>4</sup> United Nations, *Convention on the Rights of the Child* (1989). Available at <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

- children's right to non-discrimination
- children's right to have their best interests treated as a primary consideration in all actions concerning them
- children's right to life, survival and development
- children's right to be heard in all decisions affecting them and to have due weight given to their views in accordance with their age and maturity
- children's right to know and be cared for by their parent(s) unless this is contrary to their best interests
- children's right to identity, including family relations
- children's right to privacy
- children's right to be protected from all forms of harm, abuse and exploitation
- children's right to an adequate standard of living, including adequate nutrition, clothing and housing
- children's right to the highest attainable standard of health
- children's right to education
- children's right to practice their own language, culture and religion
- children's right to play and rest.

The OCO strongly encourages the Committee to maintain a clear focus on children and the realisation of their rights in the context of a) seeking to identify measures that could improve conditions for and the welfare of people living in Direct Provision and b) examining whether there are better models to Direct Provision that could be pursued in Ireland.

## **2. OCO's engagement with children and their families living in Direct Provision**

Since April 2017, the OCO has sought to engage with children and families living in Direct Provision through our statutory complaints function by visiting Direct Provision accommodation centres and conducting outreach complaint clinics. In accordance with the Ombudsman for Children's remit under section 7(1)(d) of the 2002 Act, the OCO has also conducted children's rights awareness workshops on an outreach basis with children living in Direct Provision accommodation.

The OCO has conducted complaint outreach visits to 27 Direct Provision accommodation centres since April 2017. Outreach complaint clinics involve OCO staff communicating with accommodation centre management to plan for a given visit and to provide advance notice to centre residents of the visit. On the day of the visit OCO staff provide an overview of the OCO's role to centre residents and conduct a complaint clinic for individual centre residents to raise any complaints that they may have.

Where a complaint is made, OCO staff take the details of the complaint and follow up with complainants remotely by telephone or in writing. The OCO engages interpretation services where necessary. Between April 2017 and December 2018, the OCO received approximately 40 complaints made on behalf of children living in Direct Provision accommodation centres. To date, the number of official complaints received by the OCO about the administration of the Direct Provision system is low. However, the OCO does not believe that this is an indicator of an effective complaints handling

culture or of fair and effective administration for children living in Direct Provision. Rather, we are of the view that the low number of complaints that the OCO has received is due to a perception among residents that making complaints could impact negatively on their living conditions or lead to an undesirable transfer within the system.

Since 2017, the OCO's Participation and Rights Education Unit has conducted a programme of outreach workshops with children and young people living in Direct Provision. These workshops aim to raise awareness of children's rights and the OCO among children and young people as well as to provide an opportunity for children and young people to speak about their experiences of living in Direct Provision accommodation. Since October 2017, the OCO's Participation and Rights Education Unit has visited 22 Direct Provision accommodation centres, engaging with 350 children and young people as well as 30 parents/guardians.

### **3. Issues and concerns raised by children and their families living in Direct Provision**

This section offers a brief overview of key issues affecting children living in Direct Provision that have been raised in complaints made to the OCO and/or that have been communicated by children and families to the OCO in the context of our delivery of children's rights awareness workshops in Direct Provision centres.

#### **Accommodation centre transfers**

A number of complaints made to the OCO on behalf of children living in Direct Provision accommodation centres relate to transfers between Direct Provision accommodation centres. These complaints relate both to where a decision to transfer residents has been made by the Reception and Integration Agency (RIA) or where a resident has made a request to RIA for a transfer to another accommodation centre. A key concern raised regards a lack of clarity in relation to RIA's transfer policy. Residents have told the OCO that they felt no clear reasons were given to them by RIA about a proposed transfer to another accommodation centre or about why a request by them for a transfer to another accommodation centre was refused by RIA.

#### **Complaint handling in Direct Provision accommodation centres**

Residents living in Direct Provision have told the OCO that they do not have confidence in local complaint handling procedures in Direct Provision accommodation centres. In this regard, residents have told the OCO that they believe that if they made a complaint to centre management this might have a negative impact on their living conditions within their accommodation centre. Residents have also told the OCO that, if they want to make a complaint against accommodation centre management to RIA, it is not clear to them how the complaint will be dealt with by RIA and who within RIA is responsible for following up on their complaint.

During OCO's rights awareness workshops, children told the OCO that they did not feel that they were being listened to when they lodged complaints with centre managers. In this regard, several children said that repairs would be made when centre inspections were expected, but not until then. Also, children in some centres told the OCO that facilities, for example playrooms, were locked and unavailable except when inspections or visits were taking place. Some parents/guardians also said

that they were worried about making a complaint to the OCO because they thought that doing so could have negative repercussions for them and their children.

### **Quality of accommodation services**

The OCO has received a number of complaints about the quality of facilities and services in Direct Provision accommodation centres. Complaints have related to poor heating, the unsuitable size of rooms, the unsuitable size and quality of beds and mattresses, the quality and availability of food, the availability of local transport services and the absence of appropriate recreation spaces and services for children.

In the context of the OCO's delivery of children's rights awareness workshops, a number of parents/guardians with babies explained that their children were learning to crawl, but that they did not want to put them on the ground because the carpets were old and dirty. In this regard, one parent/guardian explained that they put clean clothes on the ground so that their baby could crawl. Children frequently spoke about their rooms being very small and cramped.

Nearly all of the children who the OCO engaged with through our rights awareness workshops spoke about their frustration with a lack of privacy. Some spoke about having to share beds with siblings and the frustration of having to share a small room with their entire family. Children explained that they could hear people in the rooms next to them. Parents/guardians said that it was much easier to share a room when their children were younger and that it was increasingly difficult to share a room with their children as they become teenagers. Both children and parents/guardians felt that the rooms are not adequate for families. A small number of children talked about not having privacy from the centre managers as they had keys to their rooms.

In many centres where the OCO has held rights awareness workshops, older children said that there was a lack of resources and facilities and that, where there were facilities, they were in a state of disrepair. Concerns in this regard included references to football pitches with no nets and to broken and unsecured play areas. Teenagers frequently raised the issue that there was no designated space for them. Older children often told us that they were bored and felt isolated. Some children told us that boredom led to fighting between the children. In some centres, both parents/guardians and children communicated that the playrooms and homework rooms were frequently locked. While residents understood that the younger children needed to be supervised in the playrooms, older children were frustrated that they could not access homework rooms on their own.

### **Financial supports**

Residents in Direct Provision accommodation have expressed concerns about the adequacy of the financial support available through the Direct Provision allowance in meeting the needs of children. Direct Provision residents have told the OCO that the limited financial supports available add to pressures on families and, in particular, restrict the ability of children living in Direct Provision accommodation to participate in social, sporting and educational activities. For example, residents have told the OCO that they have had difficulties securing school books for their children and supporting their children to go on school tours as these require payments and engagement with schools or DEASP representatives (formerly Community Welfare Officers) to seek supports.

In the context of the OCO children's rights awareness workshops, young people approaching their Leaving Certificate often raised concerns regarding access to and the costs associated with third level education. Some families described delays in receiving a medical card, which put families under financial pressure. In several rural Direct Provision centres, parents said that there was no public transport to travel to see their GP. They explained that in some instances their taxi costs may be covered by the centre. Where this is not the case taxi costs made it difficult to attend medical appointments.

#### **Inclusion and integration into Irish society**

Through the OCO's rights awareness workshops, some older children identified racism, bullying and discrimination as issues that they faced. Many of the children kept their accommodation a secret from school friends due to embarrassment and stigma. Some children felt that they were easily recognisable as living in Direct Provision due to their race and/or ethnicity and a number of children expressed frustration with the racism that they faced. In one centre in particular, both parents and children expressed concern that they were not integrated into or accepted by the community.

#### **4. Complaints to OCO about Direct Provision: Case Studies**

The following case studies were first published in the OCO's 2017 Annual Report.<sup>5</sup>

##### **Case Study 1:**

##### **John: Sleep disturbances, difficulties cooking meals, and transfer application procedures**

John is a 10 year old child living in a Direct Provision centre with his siblings. His mother made a complaint to us and raised concerns about the following:

- Difficulties John's family were experiencing in the Direct Provision centre included sleep disturbances due to noise and difficulties with cooking meals for the children
- Lack of general family support
- John's mother applied for a transfer to another centre to alleviate these issues
- She was offered a transfer to a different centre to the one she had requested
- John's mother was unsure if she had the option of refusing this transfer location.

##### **What we did**

We contacted RIA and requested clarification on the above points. We were particularly concerned about how the transfer offer was communicated by letter to John's mother. She was offered a transfer to an unrequested centre and advised that she should make arrangements to move in a week's time. The letter did not indicate why a different centre was offered than the one requested and whether the offer could be declined.

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<sup>5</sup> Ombudsman for Children's Office, *Annual Report 2017* (June 2018), pp.41-45. Available at: <https://www.oco.ie/library/annual-report-2017/>.



RIA responded and explained the reasons that John's family were offered a different location than the one that had been requested. RIA felt the sleeping arrangement and cooking facilities in the new location might better suit John's family's needs. RIA accepted that the letter did not make clear why the new centre was being offered or why RIA considered it might suit the family. It was also accepted that the letter did not explain whether there was an option to refuse the transfer offer.

We also enquired as to whether John's family transfer application to the original chosen location remained open as this was not communicated to the family. We also looked for clarification on what steps could be taken locally to alleviate the family's concerns while they remained in the centre.

### **Outcome**

RIA acknowledged it should have outlined its reasons for offering John's family an alternative transfer. This letter should also have made John's mother aware of her right to refuse this transfer. RIA has advised it will insert this information into future transfer letters.

RIA also advised us that it contacted the management of the centre in which John's family is currently residing to arrange changes locally to support John's family. These changes included advising John's family that when an appropriate room became available at a quieter side of the building, they would be given the opportunity to move. The family were given the option of having catered meals put aside for a time that's more convenient for them.

On foot of our examination, RIA agreed to assess if an exception could be made to arrange a transfer to their chosen location, provided there was space available.

We were in a position to conclude the case at this point based on the commitments given by RIA regarding improved communication to transfer applicants. We also recommended that RIA continue to seek supports for the family from the appropriate agencies.

### **Case Study 2:**

#### **Fatima: Shared a room with her mother in accommodation centre**

A mother raised concerns on behalf of her daughter Fatima, aged eight. She was worried about the impact her own ill health was having on her daughter who shared a room with her in a Direct Provision centre. The mother advocated that her child needed her own room in terms of her ability to play, to rest, for privacy and to minimise the child's concerns arising from the mother's health.

The mother made a request for a transfer to larger accommodation within the centre. The centre management could not advise of the timeframe that larger accommodation would become available and the only suggestion made to the family was to seek a transfer to a different centre. The mother explained to us that she wished to stay in the same centre as her children had settled well in the area with friends and schools.

The mother contacted RIA through its website about this situation but did not receive a response. In addition, a number of medical professionals contacted the centre to advocate on behalf of this family in light of their complex needs.

**What we did**

We contacted RIA outlining the complaint and exploring the possibility of local resolution. RIA responded that the centre management resolved the issue by providing the family with larger accommodation within the facility.

**Outcome**

We closed the case as redress was offered to the family. Notwithstanding this, we were concerned that RIA did not respond to the mother's online contact. In addition, RIA was copied to correspondence between the centre management and a medical professional where the sleeping arrangements were confirmed and the complex needs referred to. While the centre management and RIA stated that they were not informed of the specific needs of the family, they did not seek any clarifications from the mother about her concerns. We encouraged RIA to ensure that it responds directly to all contact it receives and to provide appropriate information in a timely manner.