



Protection with Dignity:
Roadmap to System Change

June 2020

About JRS Ireland

JRS Ireland is an NGO with a mission to accompany, advocate, and serve the causes of asylum seekers, refugees and forced migrants in Ireland. It is the national office of the Jesuit Refugee Service, an international NGO founded in 1980 and present in more than 50 countries worldwide assisting forcibly displaced persons in refugee camps, urban settings, reception centres and places of detention. In 2019 JRS provided support to 675,000 forcibly displaced persons globally.

JRS Ireland works principally in the areas of:

- *Asylum Seeker Support*: providing support to persons seeking asylum through direct outreach, language classes, educational and psychosocial support.
- *Integration*: supporting education, training, employment and access to housing.
- *Detention*: visiting immigration detainees and advocating for more just detention policies.
- *Advocacy*: lobbying for fairer immigration and asylum systems through lobbying.

Since 2007 JRS has provided outreach and support to persons residing in Direct Provision. JRS deliver services and supports to residents in 12 Direct Provision centres and 20 Emergency Accommodation locations. Flagship projects delivered include the Fáilte project in Baleskin, the transition housing support project PATHS run in partnership with the Peter McVerry Trust and the JRS Europe Change project. JRS Ireland assists 50 asylum seekers annually to access further education and training at FETAC Level 5 and 6 through its Education Fund. Recently, a confidential National Freephone Helpline, run by JRS Ireland, was established to support residents in 85 IPAS accommodation centres.

In 2014, JRS Ireland was appointed to the McMahon Working Group and chaired the Finance Sub Group. JRS Ireland was part of the Advisory Group that developed the National Standards.¹ It is a member of the Oversight Committee for Persons with Status. Also, JRS has made regular submissions on issues, including: Length of Time; Right to Work; Living Conditions; IPAS Accommodation Crisis; and Emergency Accommodation. Finally, JRS Ireland, as chair of the Limerick Integration Working Group, has drafted three migrant integration strategies for Limerick city and county, including the most recent: *Belonging to Limerick: Limerick City and County Integration Plan 2018-22*.²

Acknowledgements

A special acknowledgement of the huge contribution that Dr Bryan McMahon has made to driving positive change and improvements in the Irish asylum system and the living conditions in Direct Provision over the past five years. Since chairing the Working Group on the Protection Process in 2014-15, Dr McMahon has remained a staunch advocate for system change. JRS Ireland express our deep appreciation to him for his sustained personal commitment on these issues and his generosity in providing insights and a foreword to this paper.

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¹ Department of Justice and Equality (2019) 'National Standards for Accommodation Offered to People in the Protection Process', Dublin: Department of Justice and Equality.

² Quinn, E., (2018), 'Belonging to Limerick: Limerick City and County Integration Plan 2018-22', Limerick: Limerick Integration Working Group.

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There seems to be a new consensus in Ireland that Direct Provision, as we know it, is no longer fit for purpose. A new model is needed. An accommodation model that envisaged stays of no more than 6 months initially, was hopelessly exposed as the decision-making process lengthened, and as the stay in direct provision stretched to 5 years plus in the majority of cases. The plight of the residents became intolerable and unacceptable. Crowded living conditions, uncertainty as to the future and mandated idleness for such long periods clamoured for reform.

The *Working Group on the Protection Process, including Direct Provision*, which I was privileged to chair, was established by the Government and reported in June 2015. Although its terms of reference were limited, the Working Group condemned the shortcomings of the Irish protection system and the living conditions for asylum seekers and made 173 recommendations for reforms on many fronts.

Although the government accepted the Final Report, it failed to implement the recommendations in a timely fashion. The political will was patently absent. The misery of those who resided in direct provision ground on.

While eventually many of the Working Group recommendations were implemented, sometimes reluctantly, an opportunity to shore up the model was lost. Had the Government embraced the need for change and shown some urgency in implementing the report, direct provision might have been repaired. By the time some of the major recommendations had finally been implemented, many of the stakeholders had lost faith in the Government and had concluded, rightly or wrongly, that the existing Direct Provision model was beyond salvation and called for its abolition.

Even though the Direct Provision model in 2020 is very different and much better than what it was in 2015, and many improvements have finally been implemented, the opportunity to structurally reform the model was lost. The delay in implementation contributed to an irrevocably tarnished reputation.

The question now is what will replace it. And as the Taoiseach said recently, it is not going to be easy.

Since the Working Group report was published in 2015 there have been significant changes which make the task more difficult. In particular, one might mention the following: Brexit; the housing crisis and the consequent resort to expensive emergency accommodation; the election of Mr Trump in the USA; the emergence of an emboldened racism in social and political discourse at home and abroad; and the rise of right-wing politics in Austria, Hungary and other European countries to the east. Finally, the adverse impact of Covid-19 on the unemployment figures and on the economy in general, will only become clearer over the coming months and years.

The landscape continues to change and the Irish response to forcibly displaced persons worldwide (69.5 million according to the most recent figures from UNHCR) who seek protection in this country, must be continuously sensitive to all these geopolitical trends and developments.

I wish the Expert Group on Direct Provision under Dr Catherine Day every success in its labours.

I am confident that this study by the Jesuit Refugee Service (JRS) Ireland will be of great assistance to the group as it grapples with the problem today. JRS Ireland has long laboured in this field and this paper is the result of deep analysis and keen appreciation of historical and international contexts. It advances innovative and pragmatic suggestions worthy of serious consideration.

Dr Bryan McMahon

Former Chairperson of the Working Group on the Protection Process

Momentum for System Change

1. After years of national and international critique of Direct Provision by a range of actors, there is an unquestionable momentum for system change, especially in how protection applicants are accommodated. Recently, there has been sustained opposition and protests to opening new Direct Provision centres in rural locations, alongside growing public and political disquiet about the system as a whole that deepened during the Covid-19 crisis.
2. The Taoiseach, Leo Varadkar, in a Dáil Debate stated: *“I do not believe that any member of this house is of the view that direct provision is a good system,”* adding *“I absolutely believe it should be one of the objectives of the next government to put an end to it. However, that is easier said than done.”* This system change needs to be achieved in the context of an ongoing national housing crisis while achieving compliance with National Standards coming into force at the start of 2021.
3. The Irish Times reported on 14 June, 2020, that the Direct Provision system will be ended within the lifetime of the next government. The draft programme for government says: *“We are committed to ending the Direct Provision system and will replace it with a new international protection accommodation policy centred on a not for profit approach.”*

McMahon to Day: Lessons Learnt

4. Five years after the publication of the McMahon Report, implementation of the 173 recommendations has been piecemeal and incomplete. The inconsistency in living conditions between centres remains and was exacerbated during 2019 by recourse to unsuitable and costly emergency accommodation. There remains a lingering sense of frustration that the Department of Justice and Equality missed an opportunity to fully implement recommendations and seize potential for change in a timely manner.
5. Undoubtedly the McMahon Report has informed policy since publication. There have been notable improvements to the system, in particular, the resolution of an estimated 2,000 long stay, five year plus cases, the commencement of the Single Procedure, the introduction of a right to work, increases to the Direct Provision allowance, development of National Accommodation Standards and the extension of the remit of the Ombudsman’s Office to Direct Provision.
6. Part of the reason the system is not “fit for purpose” is that many of the key recommendations still await full implementation and resourcing, including:
 - a. *Protection Process:* ongoing review and proactive resolution of long stay cases; elimination of backlogs and bureaucratic delays; access to early legal advice; improved communication with applicants at all stages of the process.
 - b. *Living Conditions:* Failure to provide additional living space for families and individuals; communal catering only available to 50% of residents.
 - c. *Asylum Seeker Supports:* Practical barriers to the right to work; access to further education denied; absence of adequate transition supports for persons with status.
7. Within its narrow terms of reference, the McMahon Report was focused on reform and policy. While the Government accepted the report and its recommendations, it never appointed an implementation body and never adopted a clear implementation plan. Overall, the implementation process was uneven, delayed and at times enforced e.g. the Supreme Court judgement regarding a right to work. Implementation failures left a system not “fit for purpose” to meet post-McMahon Report challenges, never mind a national housing crisis and the Covid-19 outbreak.
8. Goodwill with residents, NGO and civil society partners is needlessly squandered if negotiated transformative change agreed under joint initiatives, like McMahon or the National Standards Advisory Group, are not fully followed through as agreed.

Mechanisms for System Change

9. That international protection applicants must be treated with dignity from the moment of arrival until their claim is fully determined is at the heart of the McMahon Report and the National Standard processes. This requires a comprehensive model of supports that vindicates asylum seeker rights, enables them to live and work with dignity and supports their long term integration.
10. Time and space need to be created in the system to enable fundamental change. The challenge is to achieve systemic change in the context of a national housing crisis, while still honouring obligations to accommodate and support 7,700 persons in the process.
11. The key principles to underpin a holistic person-centred approach to receiving, accommodating and processing claims of protection applicants should be:
 - a. Issuance of a full and final determination of protection claims in a fair and transparent manner within 12 months.
 - b. Provision of an independent living and accommodation model to enable residents to live with dignity.
 - c. Offering comprehensive asylum seeker supports from the moment of arrival.
12. JRS Ireland identifies three mechanisms as necessary for system change:
 1. Expedited Long Stayer Scheme and Enhanced Processing Capacity.
 2. Distribution Key Based Model of Accommodation Provision.
 3. Holistic Person-Centred Range of Supports at All Stages of the Protection Process.

Mechanism I: Expedited Long Stayer Scheme and Enhanced Processing Capacity

13. JRS Ireland contends there is a strong case for a new expedited Long Stayer scheme using McMahon mechanisms to eliminate historic backlogs that have hampered the Single Procedure since inception, into which 4,000 existing cases were transferred. This scheme would create space to focus case processing resources to speed up the process and deliver final determinations in 12 months.
14. Direct Provision was designed for short stays of no more than 6 months. The stated Government goal now is to deliver final decisions in twelve months. The McMahon Report and National Standards recommend progressive rights for persons who spend eighteen months in Direct Provision. In this context JRS deems long stayers as persons two years plus in the process.
15. At the end of 2019 around 2,750 cases were two years plus in the process. A new McMahon type scheme would aim to resolve these cases in a 6-month period. In addition, beneficiaries of the scheme should be enabled to access an accelerated Garda National Immigration Bureau (GNIB) registration process in order to reduce delays accessing housing supports and benefit from dedicated integration supports.
16. The most important benefit of a Longer Stayer scheme is to resolve the status of 2,750 persons in the system. When added to the existing 1,000 persons with status and 250 awaiting Ministerial Decisions Unit (MDU) letters, a total of 4,000 persons would be in a position to exit direct provision. This would free up resources to accelerate the processing and determination of applications so that the twelve-month target can be met. A secondary benefit would arise since space created in the accommodation system can further facilitate fundamental change.
17. Other measures to achieve a twelve-month processing target include enhanced access to early legal advice, extra resources to case processing bodies to reduce average decision times, enhanced IT systems to improve administration and eliminate bureaucratic delays and better communication with applicants regarding timeframes for interviews, decisions and case issues to reduce uncertainty and 'not knowing' where they are in the process.

Mechanism II: Distribution Key Based Model of Accommodation Provision

18. The current market-led procurement model of accommodation provision is unsustainable. The availability of accommodation has been the key driver in the location of new centres in rural communities over recent years, despite well-founded concerns regarding the suitability of these locations and their capacity to support residents. Any alternative model must instead be guided primarily by the suitability and capacity of the location to host protection applicants with dignity.
19. In addition, a longer term and holistic view of the needs of protection applicants and the integration needs of potential host communities should be taken to ensure appropriate resources and supports (in terms of accommodation, employment, health, education and welfare) are available.
20. A new model of dispersal derived from the EU Resettlement Programmes should be developed. This would be led by local authorities, based around an agreed distribution key and underpinned by designated hub locations with sufficient population, economic strength and support services. Smaller towns surrounding hubs could act as spokes taking smaller populations of protection applicants but linked to services centrally provided in hubs.
21. This approach would allow local authorities to manage community expectations and lead to a more equitable sharing of accommodation responsibility for applicants across the State.
22. State accommodation centres could act as a safety valve on the system at times of large and unanticipated demand. Essentially capacity could be built on State accommodation immediately to act as a backstop for the long term or to facilitate transition in the shorter term to the new local authority distribution model.
23. The new accommodation model would be underpinned by an independent living model enabling protection applicants to have autonomy and effective control over their lives. In line with National Standards it would envisage:
 - a. Accommodation that ensures the privacy, dignity and safety of residents and prioritises own-door living.
 - b. Adequate and appropriate private living space.
 - c. Self-catering food preparation and dining facilities.
 - d. Provision of appropriate non-food materials to promote health and wellbeing.
 - e. Effective access to local recreational, educational, medical, health, social care and other public services.
 - f. Supports to integrate and engage with the wider community.

Mechanism III: Holistic Person-Centred Range of Supports at All Stages in the Protection Process

On Arrival: Comprehensive Reception and Orientation Services

24. The international resettlement experience has demonstrated the benefits for protection applicants being welcomed and received in a communal setting for durations of up to three months after arrival. In Baleskin Reception centre, newly arrived applicants should receive:
 - a. Orientation Services: A programme of enhanced reception and orientation supports which offer protection applicants a one-stop-shop information and referral service through dedicated clinics. This should also include facilitated access to a Personal Public Service Number (PPSN) and welfare services, support to complete social protection documentation and referrals to legal aid prior to dispersal.
 - b. Medical Screening and Vulnerability Assessments: Applicants should be medically screened shortly after arrival in the State. The differentiated needs of applicants should be recognised through a consistent and comprehensive vulnerability assessment process, which will enable the State to identify and respond to the specialised needs of vulnerable applicants.
25. Large Inflows: Contingency plans should be in place for large unanticipated inflow of arrivals or if new applications significantly exceed reception capacity.

Awaiting Decision: Education, Employment and Financial Support

26. The right to work should be provided as early as possible to improve long-term integration outcomes for persons granted status. JRS Ireland advocate for access to the labour market after six months, or earlier, if possible, in line with international best practice and research. Practical barriers such as the prohibition on applications for driver licenses and access to bank accounts should also be removed.
27. Education is vital for the health and wellbeing of protection applicants. JRS Ireland would advocate allowing access to further education courses, at QQI Level 5 and 6, where there is available capacity on courses in line with the McMahon recommendation.
28. Finally, there needs to be adequate financial support to enable applicants live with dignity and to participate as fully as possible in their local communities. Families seeking asylum should be permitted to claim the Child Benefit payment.

Grant of Status: Transition and Integration Supports

29. The key challenges when exiting the international protection process are accommodation, welfare, education, employment and links to the community. The most pressing priority is finding suitable accommodation. Mainstreaming of transition supports from specialist agencies, as delivered by the Peter McVerry Trust and Depaul Ireland at present, will be important to enable successful protection applicants to move into the community in a timely manner.

Implementation Challenges and Considerations

30. *Significant Existing Accommodation Obligations:* There is a legal obligation under the Reception Directive to accommodate and to provide material supports to 7,700 people in the system residing in 85 locations throughout any system change. It would be easier to implement radical system change if there was a *tabula rasa*, which strengthens the case for a Long Stayer scheme as soon as practicable to create space for change.
31. *Housing Context:* There is an ongoing national housing crisis. In April 2020, there was 9,355 people homeless. Furthermore, in December 2019, there were a reported 69,000 households in Ireland that are qualified for social housing support but whose social housing need is not currently being met. The capacity to move to a new model is predicated on the availability of secure and affordable accommodation.
32. *Competition for Scarce Housing Resource:* The need for asylum seeker accommodation is demand led. A significant structural barrier to change is the lack of supply, which risks putting different qualifying groups, local and migrant, in competition for scarce housing resources. The draft programme for government has annual social housing build targets, but these will take time to come on stream, and it is uncertain if they will significantly meet growing demand.
33. *Impact of Legally Binding National Standards:* The National Standards will come into effect from the start of 2021. This requires the existing accommodation stock and any future procurement to be compliant with the Standards. The sanction for non-compliance should be determined by an independent and yet to be appointed monitoring body. This may result in further complications and place constraints on the transition process.
34. *Communication Strategy:* System change takes time. The commitments in the draft programme for government will understandably have raised expectations of imminent system change among asylum seekers. Communication around progress in the change process and implementation timelines needs to be clear and regular.
35. *Shorter Term Improvements:* Transition to a long-term approach will, by definition, take time. Thus, there will need to be interim measures put in place to improve case processing, living conditions and accommodation and asylum seeker supports in the short-term. For example, the immediate phasing out of emergency accommodation will require more suitable alternative accommodation to be secured in its place.

36. *Securing and Retaining Required Case Processing Resources:* The effectiveness of the proposed expedited Long Stayer scheme is that it is delivered quickly but not be at the expense of creating delays elsewhere in the process. The allocation, recruitment and retention of required case processing resources is vital.
37. *Local Authorities Housing Role:* A vital component of the new distribution key model advocated is the role of the local authority in implementation. This new housing responsibility for protection applicants will have to be balanced by local authorities with existing responsibilities for vulnerable households and social housing needs locally. Clear communication of housing priorities will be very important to avoid frustration between groups with competing housing needs.
38. *Accommodation Backstop:* If local authorities are unable to meet the housing need of protection applicants allocated to them under a distribution key, consideration must be given to where the responsibility for providing accommodation lies.
39. *Post Covid-19 Economic Cost:* It is unclear how quickly the economy might recover and how many businesses may never restart. The long-term economic implications of Covid-19 are unknown, but it is clear that there will be a significant negative budgetary impact for years to come, which may constrain system change and also create a more challenging political environment.
40. *Implementation Planning:* The process of system change will be delivered over the lifetime of the next Government. Learning the key lessons from the McMahon Working Group and National Standard processes, a detailed implementation plan needs to be agreed and necessary resources secured. The Government must appoint and clarify the role, responsibilities and membership of a body overseeing the implementation of system change.

1. Introduction

1.1 Context: Momentum for System Change

After years of both national and international critique of Direct Provision by a range of actors, there is an unquestionable momentum for system change, especially in how protection applicants are accommodated. There has been recent sustained opposition and protests to opening new Direct Provision centres in rural locations, alongside growing public and political disquiet about the system as a whole, concerns that deepened during the Covid-19 crisis.

A series of reports in recent months from the Oireachtas Joint Committee on Justice and Equality³, the Faculty of Paediatrics of the Royal College of Physicians of Ireland⁴, the Ombudsman⁵ and the United Nations Committee on the Elimination of Racial Discrimination (CERD) have all raised serious concerns about the present system for accommodating international protection applicants, calling for its end and replacement with a fit for purpose rights-based alternative.⁶

The Taoiseach, Leo Varadkar, in a Dáil debate on the 7 May 2020 stated: *“I do not believe that any member of this house is of the view that direct provision is a good system,”* adding *“I absolutely believe it should be one of the objectives of the next government to put an end to it. However, that is easier said than done.”*⁷

This proposed system change, however, must be achieved in the context of an ongoing national housing crisis, where more than 1,600 persons are already residing in unsuitable Emergency Accommodation, and must achieve compliance with National Accommodation Standards which are coming into force at the start of 2021.

Under a commitment in the draft Programme for Government between Fianna Fáil, Fine Gael and the Greens, the Direct Provision system will be ended within the lifetime of the next government. The programme for government states: *“We are committed to ending the Direct Provision system and will replace it with a new International Protection accommodation policy, centred on a not for profit approach.”*⁸

This proposed system change will be made over the lifetime of the next Government. The intention is to publish a White Paper on the potential reform of the international protection process by the end of the year, informed by a review of the current system being carried out by an Expert Group on Direct Provision, under Dr Catherine Day. The Expert Group was appointed in December 2019, *“to advise on the development of a long-term approach to the provision of support including accommodation to persons in the International Protection Process.”*⁹

³ Joint Committee on Justice and Equality (2019) ‘Report on Direct Provision and the International Protection Application Process’, Dublin: Houses of the Oireachtas.

⁴ The Faculty of Paediatrics of the Royal College of Physicians of Ireland (2019) ‘Children in Direct Provision’, Dublin: Royal College of Physicians of Ireland.

⁵ Office of the Ombudsman (2020) ‘The Ombudsman & Direct Provision – Update for 2019’, Dublin: Office of the Ombudsman.

⁶ Committee on the Elimination of Racial Discrimination (2020) ‘Concluding observations on the combined fifth to ninth reports of Ireland’, CERD/C/IRL/CO/5-9.

⁷ Taoiseach Leo Varadkar T.D. (2020) Thursday 7 May 2020, Dáil Éireann Debate, Vol 992 No. 10.

⁸ Programme for Government – Our Shared Future, available at

<https://static.rasset.ie/documents/news/2020/06/programmeforgovernment-june2020-final.pdf>

⁹ Merrion Street (2019) ‘Ministers Flanagan and Stanton announce establishment of Expert Group on Direct Provision’, available at

[https://merrionstreet.ie/en/News-](https://merrionstreet.ie/en/News-Room/Releases/Ministers_Flanagan_and_Stanton_announce_establishment_of_Expert_Group_on_Direct_Provision.html)

[Room/Releases/Ministers_Flanagan_and_Stanton_announce_establishment_of_Expert_Group_on_Direct_Provision.html](https://merrionstreet.ie/en/News-Room/Releases/Ministers_Flanagan_and_Stanton_announce_establishment_of_Expert_Group_on_Direct_Provision.html) [accessed 10 June 2020].

This process for transformation follows five years after the first fundamental review was undertaken by the McMahon Working Group in 2015.¹⁰ The McMahon terms of reference were narrow and specifically directed towards the identification of improvements to the system of Direct Provision rather than a consideration of alternatives. Recommendations were constrained by a requirement that the overall costs the protection system would remain within, or close to, current levels. Acknowledging the dignity of all persons seeking protection, McMahon first sought to address the biggest single issue facing protection applicants, namely the length of time taken to process applications. The second issue addressed in the McMahon Report related to the improvement of living conditions in Direct Provision centres, and finally supports for asylum seekers.

As we embark on the next stage of radical system change, it is worthwhile to reflect on, and learn from, the experience in implementing the 173 recommendations contained in the McMahon Report.

1.2 Aims of JRS Ireland Submission

JRS Ireland seeks in this paper to offer a roadmap to system change and to reconfigure how Ireland receives and processes applications for international protection in a way that:

1. Respects the rights of protection applicants and ensures they can live with dignity while their claims are being processed.
2. Fully implements the recommendations contained in the 2015 McMahon Report.
3. Ensures International Protection Accommodation Service (IPAS) accommodation is compliant with National Accommodation Standards published in 2019.
4. Meets Ireland's obligations under the European Communities (Reception Conditions) Regulations 2018.
5. Future-proof the system against the risks identified during the Covid-19 pandemic.

The paper follows the same frames of analysis that underpinned the 2015 McMahon Report, namely, the Protection Process, Living Conditions, and Asylum Seeker Supports. The protection process is the cornerstone of the system as reception services and asylum seeker supports are functions of it. This paper is an expanded and more in-depth version of the presentation made to the Day Expert Group on 28 February 2020.

¹⁰ Working Group to Report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers (2015) 'Final Report', Dublin: Department of Justice and Equality.

2. From McMahon to Day: Implementation and Lessons Learnt

2.1 The Protection Process - “As we kill time so time kills us”¹¹

The biggest single issue facing asylum seekers is the length of time which they have to spend within Direct Provision. When the McMahon Working Group started, 50% of persons in Direct Provision were more than five years in the system and the average duration of stay was 48 months (see Table 2). In the McMahon Report, Long Stayers were defined as persons who were in the system for more than five years. Following publication, around 2,000 long stayers had their status resolved within 18 months.

	2015	2016	2017	2018	2019
New Applications	3,276	2,224	2,926	3,673	4,873
MDU Protection Decisions Issued	2,531	2,456	1,151	1,574	2,815
MDU Protection Status Grants	562	727	768	1,034	1,362
MDU Recognition	22%	30%	67%	66%	40%
Duration to First Interview	-	-	-	-	15 months

The Single Procedure, introduced to speed up processing, was hamstrung by a failure to fully resolve the legacy cases as recommended in the McMahon Report. As a result, 4,000 old cases were transferred to the International Protection Office (IPO) at inception in January 2017. The carry-forward of this number of old cases clogged up the new process from the outset and delayed the achievements that reasonably had been anticipated. Any new recommendation to speed up processing must learn this lesson: to have a fair chance of success, such reforms must not be weighed down with unresolved legacy cases carried forward.

Key drivers of demand for IPAS accommodation are the number of new applications and the case processing rate. Delays in the decision-making process lead to greater time spent living in IPAS accommodation. A key finding of the McMahon Report was that it costs significantly less in both human and financial terms to process decisions in a timely manner than to accommodate people long term.

	McMahon Report 2015	Q1 2019	End of 2019
Less than 1 Year	23%	44%	43%
1 – 2 Years	9%	23%	22%
2 – 3 Years	7%	13%	13%
3 – 4 Years	8%	13%	10%
4 – 5 Years	9.5%	4%	7%
5 Years or More	43.5%	2%	5%
Average Duration	48 months	24 months	22 months

In the experience of JRS Ireland, the most adverse effects of living long term in Direct Provision are functions of time and exacerbated by the duration spent in the system. Since publication of the McMahon Report, a number of the key recommendations improving the protection process have been implemented, resulting in double the number of cases processed annually (although this has been offset by increased applicant numbers). The average length of time residents spend in the system halved, to under two years. The MDU protection status grant rate has increased from 22% in 2015 to 40% in 2020. This improved recognition rate has been accompanied by a substantial decrease in judicial reviews.

Notwithstanding these improvements, JRS Ireland agrees with the unanimous, expert opinion outlined in Section 1.1 that protection applicants still spend too long in the system with all the associated human costs.

¹¹ Direct Provision Resident Quote from Working Group Consultation Process contained in 2015 Final Report.

2.2 Living Conditions and Accommodation

“Children born in this system do not know the difference between a house and a room.”¹²

2.2.1 Accommodation Crisis

Significant increases in new applicant numbers, coupled with the challenges faced by persons with status seeking to exit Direct Provision and secure suitable accommodation in the community, led to a situation where IPAS accommodation reached capacity in 2018 and became seriously over-crowded the following year. Unsuccessful efforts to open additional centres resulted in the number of new applicants being placed in Emergency Accommodation growing exponentially.

	2015	2016	2017	2018	2019
Capacity in DP	5,449	5,230	5,503	6,148	6,015
Living in Direct Provision	4,696	4,425	5,096	6,106	7,596
Occupancy %	86.2	84.6	92.6	99.3	124.2
Living in Emergency Accommodation	-	-	-	140 (Est.)	1,633

By end of 2019, more than 1,600 persons were in Emergency Accommodation.

Ireland’s wider housing crisis and the failure to implement key McMahon Report recommendations related to living conditions has had a number of negative consequences for accommodating protection applicants in recent years:

- a. It has resulted in recourse to Emergency Accommodation, which is an unsuitable alternative to Direct Provision and is vastly more expensive.
- b. Emergency Accommodation runs counter to implementing McMahon recommendations for the provision of additional living space for families and more single rooms for people who are long term in the process. In reality, these recommendations, aimed at improving the quality of life and privacy of applicants, remain unimplemented. Overcrowding in centres has, in fact, worsened.
- c. The shortage of housing in urban areas has forced the authorities to seek suitable accommodation in remote locations where it has attracted strong public opposition in a number of areas (Oughterard, Achill, Ballinamore and Rooskey). These protests have been inflamed on occasion by poor communication, a failure to address local concerns and also, regrettably, some anti-immigrant sentiment.
- d. The urgency to provide accommodation at any cost has resulted in a failure to adhere to the National Accommodation Standards, developed over a two-year period from 2017-19. For instance, the recently opened Clare Lodge centre has men sleeping in bunk beds in shared rooms. This contravenes Standard 4.2.10 of the standards and is a regression from the own-door accommodation offered in Borrisokane.

Furthermore, the rollout of communal/self-catering in the centres has been piecemeal and inconsistent. While half of the residents in centres (not emergency locations) can now cater for themselves in some form, implementation is too slow. Significantly, on publication of this report, none of the State-owned Direct Provision centres has self-catering installed as yet.

¹² Direct Provision Resident Quote from Working Group Consultation Process contained in 2015 Final Report.

2.3 Asylum Seeker Supports

“If someone spends 3–5 years in direct provision without proper education, work training, what do you think that person will become even after he or she is given permission to stay in the country?”¹³

2.3.1 Reception

Balseskin Reception Centre provides dedicated specialist services and supports to protection applicants on arrival. The impact and response to the IPAS accommodation crisis resulted in newly arrived protection applicants bypassing Balseskin for periods during 2019. Emergency accommodation may be a preferable short-term solution to new asylum applicants being homeless, but it falls far short of adequate reception conditions. Adding capacity (circa 150 beds) to Balseskin during 2019 and allocating funding to enhance on-site information and orientation services in 2020 were positive and welcome developments in response.

However, the continued absence of a vulnerability assessment is a significant gap in the reception infrastructure. A framework to identify and respond to the specialised health and other needs of individual asylum applicants, prior to the Covid-19 outbreak, would likely have enhanced the capacity to respond to the situation of the most vulnerable persons in IPAS accommodation.

2.3.2 Integration Supports

The biggest single improvement to asylum seeker supports, since the publication of the McMahon Report, is a right to work after nine months. However, it is important to highlight that best practice and integration research continues to suggest that the earlier the access to the labour market, the better the outcomes for long term integration of protection applicants. Also, an effective right to work is being undermined by practical barriers, including a denial of access by protection applicants to driving licenses and the difficulties in opening bank accounts.

Meanwhile, the recommendation of the McMahon Report to restore the value of the Daily Expenses Allowance was realised in Budget 2019 (although children seeking asylum continue to be excluded from the universal Child Benefit payment), recommendations to improve access to education for adult asylum seekers have not been progressed. Accessing Post-Leaving Certificate courses is particularly problematic as protection applicants are required to pay prohibitive non-EU student fees.

2.3.3 Transition Supports

The McMahon Working Group had recommended a cross-departmental Transition Taskforce be convened to enact a consistent integration plan for all successful protection applicants moving into the community. While a Government Task Force was created, it was not established as recommended. The Task Force published a guide to living independently, but failed to progress efforts to provide the necessary targeted supports to people with status exiting Direct Provision.

The JRS Ireland PATHS Project provided an evidence-base for directing specialised supports to assist persons with status/Permission to Remain exit Direct Provision in a timely manner. The subsequent 2019 extension of supports from Depaul Ireland and the Peter McVerry Trust was a positive development. Also, the establishment of the IPAS *People with Status/PTR Oversight Committee*, particularly the involvement of representation from local authorities, is welcome. However, the failure to also systematise integration supports post-transition could jeopardise the sustainability of progressions.

¹³ Direct Provision Resident Quote from Working Group Consultation Process contained in 2015 Final Report.

2.4 Key Findings and Lessons Learnt

Table 4: Learning the Lessons of McMahon Implementation after 5 Years		
Category	Current State of Play	Lessons
Living Conditions	<ul style="list-style-type: none"> - Absence of adequate private living space for the majority of families for study and recreation. - Increased recourse to shared rooms and a failure to progressively offer private rooms for single persons living long term in Direct Provision. - Reliance on costly and unsuitable Emergency accommodation. - 50% of the Direct Provision population without access to cooking facilities.¹⁴ 	<ul style="list-style-type: none"> - The current system of Direct Provision is not <i>fit for purpose</i>. - The failure to provide additional or private living space and the partial implementation of communal catering has had a significant negative impact on the capacity of protection applicants to effectively social distance in response to Covid-19. - Significant disparities in living conditions and standards between centres still persist.
Asylum Seeker Supports	<ul style="list-style-type: none"> - Budget 2019 restored value of the Daily Expenses Allowance in real terms. - Conditional right to access the labour market after nine months. - Restricted and prohibitive access to further education and vocational training. - Long stay asylum seekers were excluded from right to work as legislation was not retrospective - Supports to assist transition from Direct Provision to independent living in the community mainstreamed in 2019. 	<ul style="list-style-type: none"> - The enforced implementation of a right to work, following a Supreme Court judgement in 2018, and the failure to increase weekly payments in a timely manner, resulted in unnecessary human costs and damaged the reputation of State actors with both protection applicants and civil society. - The impact of the housing crisis on protection applicants was exacerbated by the Government decision to initially rely only on ad-hoc NGO initiatives to support the transition of persons with status.
Protection Process	<ul style="list-style-type: none"> - Resolution of approximately 2,000 long stayer cases was achieved over 18 months rather than the recommended months. Additional failure to roll on mechanism on to earlier durations. - Introduction of Single Procedure hamstrung by transfer of 4,000 cases to new system. - No overhaul of the IT systems to improve communication by decision-making bodies with applicants. 	<ul style="list-style-type: none"> - Failure to roll on long stayer mechanism to earlier durations resulted in applicants spending more time in an institutionalised settings without their status resolved. - Opportunity missed to prevent lengthy delays for first instance decision at the commencement of Single Procedure. - Applicants continue to live with experience of ‘not knowing’ about timeframes for interviews and decisions.

¹⁴Minister of State for Equality, Immigration and Integration, David Stanton T.D. (2019) [50111/19] Tuesday, 3 December, 2019, Dáil Éireann Debates.

2.5 New Factors Since the McMahon Report

2.5.1 The Housing Crisis

An apparently intractable national housing crisis will pose significant challenges to the State in any efforts to reconfigure how Ireland receives and processes claims for international protection. It is a difficulty faced by all sections of Irish society, but even more so by immigrants and persons with status/leave to remain in IPAS accommodation.

*Rebuilding Ireland*¹⁵ was launched in July 2016 to tackle the national shortage of housing and accelerate housing supply. Yet despite an overall housing budget for 2020 of €2.63 billion, significant annual increases to homeless funding and numerous schemes and social housing programmes developed to support those facing homelessness, the official figures had risen to 9,335 by April 2020.¹⁶ This represents a 166% increase in the number of homeless families since April 2015.¹⁷ In the most recent returns, 6,309 adults and 3,422 children were homeless, meaning that more than one in three of the people experiencing homelessness in Ireland is a child.

It is important to note that while *Rebuilding Ireland* has an explicit commitment to support Irish Refugee Protection Programme (IRPP) beneficiaries, it fails to refer to the accommodation needs of persons granted status or leave to remain seeking to leave IPAS accommodation.

2.5.2 The Development of National Standards

The McMahon Working Group originally recommended the establishment of a standard-setting committee to reflect Government policy across all areas of service in Direct Provision and the creation of an independent inspectorate to carry out inspections against the newly approved standards.

Towards this end, a Standards Advisory Group (SAG) was convened in February 2017, comprising of representatives from NGOs, public service providers and the Department of Justice. The Standards Advisory Group developed draft National Standards within three interconnected strands – *Governance, Accommodation* and *People* – and a public consultation was launched in August 2018 to further inform development. In August 2019, Minister of State for Equality, Immigration and Integration, Mr David Stanton T.D., published the agreed list of 39 standards and associated indicators.

The National Standards will become legally binding in January 2021, with current providers of accommodation given a two-year window in which to bring their facilities up to the outlined standards. Members envisaged that the National Standards would form part of all new contracts issued and that HIQA would be appointed to perform the function and duties of an independent inspectorate. However, the failure, to date, to introduce a fully independent monitoring system and inspectorate, along with recent examples of State procurement which run contrary to the spirit of the National Standards (e.g. bunk beds in Clare Lodge) give rise to concerns about their ultimate efficacy.

¹⁵ Department of Housing, Planning and Local Government (2016) 'Rebuilding Ireland – Action Plan for Housing and Homelessness', Dublin: Government of Ireland.

¹⁶ Department of Housing, Planning and Local Government (2020) 'Homelessness Report April 2020', available at https://www.housing.gov.ie/sites/default/files/publications/files/homeless_report_-_april_2020.pdf [accessed 15 June 2020].

¹⁷ Focus Ireland (2020) 'About Homelessness', available at <https://www.focusireland.ie/resource-hub/about-homelessness/> [accessed 15 June 2020].

While a long-term approach is being developed by the next Government to radically overhaul the system of Direct Provision, compliance with National Standards, from the start of 2021, can institute obligations to improve living conditions and accommodation in the short and immediate term.

2.5.3 Impact of Covid-19

The pandemic exposed a number of structural weaknesses in the IPAS's accommodation portfolio. Reference can be made in particular to the following:

- a. Overcrowding in many centres, particularly those accommodating single males. Although the thinning exercise successfully undertaken by IPAS was guided by a principle of no more than 3 persons per room, this required inter-county transfers of approximately 300 persons during a national lockdown.
- b. Insufficient living space prevented appropriate self-isolation and cocooning, requiring the establishment of off-site regional facilities.
- c. Reliance on communal catering undermined social distancing efforts and necessitated implementation of problematic staggered mealtimes.
- d. Increased vulnerability of certain categories of persons (elderly, immune-compromised, existing health conditions, etc.) was increased as a result of living in congregated settings.
- e. Inadequate consultation/communication caused strong opposition from local communities where new centres were proposed, e.g. Cahersiveen.

JRS Ireland contends that full implementation of the McMahon Report and adherence to the European Communities (Reception Conditions) Regulations 2018 would have strongly mitigated against these risks. The system needs to be future-proofed against further pandemic outbreaks, or even localised epidemics.

2.6 Key Finding: Need for an Implementation Plan

Five years after the publication of the McMahon Report, there remains a lingering sense of frustration and an opportunity lost at the failure of the Department of Justice and Equality to fully honour McMahon commitments and seize the potential for change in a timely manner.

While acknowledging that there undoubtedly have been achievements derived from the McMahon Report, the implementation of recommendations – especially relating to living conditions – has been piecemeal and incomplete. The key learning following the publication of the McMahon Report was the absence of an appropriately resourced implementation plan and a complementary body to oversee and monitor progress of the implementation of recommendations in the agreed timeframe.

A similar trend has emerged in relation to the National Standards on Direct Provision with implementation concerns re-emerging. This cannot be allowed to happen with the forthcoming Day Report. Goodwill is needlessly squandered with residents, their representatives, NGOs and civil society partners if negotiated transformative change agreed under joint initiatives, like McMahon Working Group or the National Standards Advisory Group, are not fully followed through as agreed.

3. Mechanisms for System Change

Introduction

It has been demonstrated that the full implementation of McMahon and compliance with National Standards would greatly improve the living conditions and accommodation for protection applicants. JRS Ireland concurs with the growing public consensus that system change needs to go further and deeper. A fully functioning and adequately resourced protection process, with legacy backlogs fully eliminated, is an engine for system transformation, but space needs to be created to affect change.

The model of accommodation provision and procurement is no longer fit for purpose. The pandemic confirmed the indisputable case for fundamental and systemic change. Recent protests demonstrate that this system of accommodation has lost the faith and trust of communities around Ireland. A new model of accommodation provision and method of procurement needs to be established.

At the heart of McMahon and the National Standard processes lies the conviction that international protection applicants must be treated with dignity from the moment of arrival until their claim is fully determined. This requires a comprehensive model of supports that vindicates their rights, enables them to live and work with dignity and supports their long term development and integration.

Radical change takes time. Time and space need to be created in the system to enable transformation. The challenge is to achieve systemic change in the context of a national housing crisis, while still honouring obligations to accommodate and support 7,700 persons in the process.

JRS Ireland has identified the following key principles to inform system change:

The issuance of a full and final determination of protection claims in a fair and transparent manner within 12 months. The achievement of this goal would eliminate the biggest single issue that has faced asylum seekers since Direct Provision began over 20 years ago, namely the length of time in the system. Speeding up the process cannot be at the cost of the quality of decision-making; past experience has shown that would be a false economy with increased recourse to judicial reviews a likely consequence.

A communal model of accommodation which may be suitable for a short period at the start of the process is not appropriate for longer durations. One of the big issues from the perspective of residents is the inconsistency and disparity in living conditions between accommodation centres. Improvements post-McMahon have been piecemeal and incomplete. **An independent living model would enable residents to live with dignity with own-door accommodation where practicable.**

The rights and entitlements of protection applicants should be respected through the **provision of comprehensive reception and integration supports at all stages of the protection process.** The provision of comprehensive reception and integration supports, from the moment of arrival, builds protection applicant capacity, fosters connections with local communities and better prepares persons with status/permission to remain for effective transition into the community from centres.

There will also need to be a shift in the mindset which views protection applicants solely as *customers* of the Department of Justice and Equality and their protection, accommodation and integration needs as distinct rather than interrelated. This requires a **holistic person-centred approach to receiving, accommodating and processing claims of protection applicants** that complies with national standards and international legal obligations.

JRS Ireland identifies three mechanisms as necessary for system change

1. Expedited Long Stayer Scheme and Enhanced Processing Capacity
2. Distribution Key Based New Model of Accommodation Provision
3. Holistic Person-Centred Supports at All Stages of the Protection Process

3.1 Expedited Longer Stayer Processing

3.1.1 New Long Stayer Scheme: Expedited Processing of Legacy Long Stay Cases

The impact of transferring 4,000 existing cases at the commencement of the Single Procedure at the end of 2016 has acted as an anchor on the case processing bodies to the present day. Initially this resulted in significant delays in processing of cases, with average delays of up to 19 months experienced by applicants for first instance interviews. Although this has reduced, there remains a legacy long stay cohort within the Direct Provision population as a consequence. JRS Ireland believes there is a strong case for a new scheme using McMahon mechanisms to:

- a. Eliminate historic backlogs that hampered the Single Procedure since inception.
- b. Enable IPO case processing resources to be dedicated to more recent cases rather than legacy cases, which should significantly speed up the process.
- c. Remove older cases to also generate substantive improvements at the appeals stage.
- d. Capitalise on any window of lower number of new protection applications because of Covid-19 to enable case processing bodies to catch up and eliminate backlogs.

Defining Long Stayers

Approximately 2,000 long stayers had their status resolved in the 18 months following publication of the McMahon Report. However, the original scheme was premised on an arbitrary assessment, agreed unanimously for practical reasons, that five years was too long in the system.

When Direct Provision was established it was designed for short stays of no more than 6 months. The stated Government objective is to deliver full and final decisions in 12 months. The McMahon Report and National Standards recommend progressive rights for persons who spend 18 months in Direct Provision. As length of time has been consistently highlighted as the biggest issue facing persons residing in Direct Provision, on this basis it is reasonable to deem stays of more than 2 years as excessive and thus long stay. Long stayers are defined, for the purposes of this paper, as person more than 2 years in the system.

Characteristics of Longer Stayer Scheme

At the end of 2019, around 2,750 cases were 2 year+ (this is likely to have increased due to pandemic-related delays in processing). A new McMahon type scheme would aim to resolve these cases in a 6-month period. The basic long stay mechanism is that persons who are 2 years+ in the system would be eligible for permission to remain if they meet the following criteria:

- a. Do not represent a threat to public safety or security.
- b. Do not have a judicial review.
- c. Cooperate with the decision-making bodies.
- d. Verify their identity.

In addition, beneficiaries of the scheme should be enabled to access an accelerated GNIB registration process in order to reduce delays accessing housing supports and provided with dedicated transitions supports.

Any scheme would need to be administratively light, easily understood and would maintain the integrity of the process. McMahon provides the blueprint, but it would need to be tailored to the International Protection Act 2017 and be legally sound.

Leave to remain is the discretionary tool within the Minister’s armoury. Any accelerated access to the grant of leave to remain through an administrative scheme would need to be worked through. Consideration will have to be given as to how such a scheme might operate alongside the new International Protection Act framework. Also, it would have to be determined what happens for persons granted leave to remain through the Long Stayer scheme who wish to proceed with their protection claim, in particular, those who would wish to avail of automatic family reunification rights which is only bestowed on person granted refugee status or subsidiary protection.

3.1.3 Benefits of Longer Stayer Scheme

The first and most important benefit is that this will accelerate the processing of 2,750 persons in the system. Resolving these legacy cases will eliminate backlogs and delays in the system. It will provide space for additional resources to be acquired and improvements to decision-making body processes implemented to enable a full and final determination in 12 months.

A second benefit is space is created in the accommodation system to facilitate fundamental change. Clearly the system benefit of any administrative scheme will be only be yielded if persons granted permission to remain exit IPAS accommodation in a timely manner. To assist progression, it would be essential to allocate sufficient transition supports to relevant agencies with a priority focus on families. Transition supports could be provided for an initial nine months with a discretionary extension for an additional three months where scheme beneficiaries have made demonstrable efforts to leave Direct Provision but cannot out due to the challenging housing environment.

3.1.4 Overall Space Created and Resources Required

The new Longer Stayer scheme would aim to resolve the status of 2,750 persons more than two years in the system in an expedited manner over a six-month period. Two existing cohorts with status require transition support also:

- a) *Persons with Status*: In 2019, 837 persons successfully moved into the community. Contracted support from Depaul Ireland and the Peter McVerry Trust to facilitate progressions from IPAS Accommodation should continue, in partnership with officials in the Department of Housing, Planning and Local Government, and the City and County Managers Association, to assist approximately 1,018 persons with status to access appropriate housing options as soon as practicable.
- b) *Persons awaiting confirmation from Ministerial Decisions Unit*: The bureaucratic delays prolonging this cohort’s stay in Direct Provision must be eliminated. In 2019, successful protection applicants were waiting over six months in many cases for MDU to issue grant letter. In addition, once the MDU letter issues, fast-track access to GNIB registration for this cohort would enable receive speedier approval of housing supports.

In total, 4,000 persons (see Table 5) will require transition out of Direct Provision to create space for change.

Table 5: Estimated Total of Number of Persons Eligible to Exit Direct Provision	
<i>Beneficiaries of New Longer Stayer Scheme</i>	2,750
<i>Existing Number of Persons with Status</i>	1,000
<i>Estimated Number of Persons awaiting MDU</i>	250
<i>Total Persons Eligible to Exit Direct Provision</i>	4,000

3.1.5. Other Measures to Achieve 12-Month Processing Time

To realise the aim of processing claims to completion within a 12-month timeframe, a number of measures recommended in the McMahon Report and other reports to improve the protection process need to be fully implemented and adequately resourced:

- a) Access to Early Legal Advice produces better quality decisions for applicants and reduces costly and time consuming legal challenges. However, the quality, quantity and consistency of legal advice needs to be improved and this requires significant extra resources to be invested.
- b) Extra case processing resources are required to reduce the average times for decisions at first instance from 15 months and nine months for prioritised cases. Appeals are taking six to nine months to determine, followed by a number of months to complete the Permission to Remain (PTR) Review. The total average case processing time to completion needs to come down from 24 months. Also, at times of higher application numbers, there will be a need for additional case processing resources to avoid backlogs.
- c) Asylum applicants not knowing where they are in the process is hugely frustrating and negatively impacts their wellbeing. Relevant McMahon recommendations (e.g. 3.379) regarding the importance of communication remain unimplemented. This requires significant investment in IT systems to improve the efficiency of decision-making bodies and to improve communication with applicants at all stages.
- d) There is a need to eliminate unnecessary bureaucratic delays that prolong people's stay in Direct Provision. In 2019, successful applicants often waited months for the MDU to issue a grant letter.

3.2 Distribution Key Based New Model of Accommodation Provision

3.2.1 Outline New Model of Accommodation Provision

The current market-led procurement model of accommodation provision is unsustainable. The availability of accommodation has been the key driver in the location of new centres in rural communities in recent years, despite well-founded concerns regarding suitability and capacity to support residents. Any alternative model must instead be guided primarily by the suitability and capacity of the location to host protection applicants with dignity. In addition, a longer term and holistic view of the needs of protection applicants and the integration needs of potential host communities should be taken to ensure appropriate resources and supports are available.

A new model of dispersal derived from the EU Resettlement Programmes should be developed. This would be led by local authorities, based around an agreed distribution key and underpinned by designated *hub* locations with sufficient population, economic strength and support services (Dublin, Cork, Galway, Limerick and Waterford). There could be secondary hubs in Donegal, Sligo, Athlone, Tralee, Wexford, Kilkenny, Monaghan, Drogheda and Dundalk. Finally, smaller towns surrounding hubs could act as *spokes* taking smaller populations of protection applicants but linked with services centrally provided in hubs.

This approach would allow local authorities to manage community expectations and lead to a more equitable sharing of accommodation responsibility across the regions.

Existing and new state accommodation centres could act as a safety valve on the system at times of large and unanticipated need. Capacity could be developed within existing state accommodation facilities immediately, providing an effective backstop in the long term and to facilitate transition in the shorter term to the new local authority distribution model. As the Ombudsman has highlighted, the per diem cost is €22.80 per day, compared to circa €40 for private contractors and closer to €100 in emergency locations. The savings could be invested in capital expenditure on State land to develop facilities that meet the National Standards.

3.2.2 Key Components of a Long-Term Accommodation Approach

Distribution Key

A distribution key would be employed to assign each local authority an equitable share of the new protection applicants arriving in the State each year, based on objective, measurable criteria.

To ensure a fair allocation between local authorities and regions, the distribution key could weigh factors such as population size and demography, economic capacity and previous experience of receiving protection applicants. Use of a distribution key could also identify service and support gaps in hubs to be progressively addressed over time.

This would be a transparent process offering greater clarity to local communities being asked to host protection applicants.

Hub and Spoke Model

A hub-and-spoke model would arrange primary accommodation for protection applicants allocated by an agreed distribution key in anchor cities (hubs), offering the full array of mainstream State services, complemented by secondary establishments in smaller towns (spokes) which would provide comparable accommodation with more limited local services but facilitate protection applicants to be linked to services centrally provided in the hub.

The nature of the accommodation options would vary (apartment clusters, own-door accommodation within congregated facilities, purpose built centres etc.) but would adhere to National Standards and support an independent living model for asylum seekers. Strategic centralisation of services would incorporate both State and civil society supports.

A designated ring-fenced annual budget to provide housing for international protection applicants would be allocated to each local authority from central government.

Independent Living Model

Living with dignity necessitates a person to have autonomy and effective control over their lives. It requires the enjoyment of basic physical and mental needs, and from a child's perspective, there is also the necessity for the enjoyment of conditions that facilitate healthy growth and development.

Some of the key characteristics of an appropriate independent living model that were identified in the National Standards for Direct Provision include, but are not limited to:

- Homely accommodation that ensures the privacy, dignity and safety of residents and prioritises own-door living.
- Adequate and appropriate private living space.
- Food preparation and dining facilities that meet the needs and respects the autonomy of residents.
- Provision of appropriate non-food materials to promote dignity, health and wellbeing.
- Effective access to local recreational, educational, medical, health, social care and other public services.
- Opportunities to participate in education (both formal and non-formal), training, volunteering and employment.

3.2.3 Short-Term Accommodation Improvements

System change will take time but there is an imperative to immediately address conditions in ‘sub-standard’ centres referred to by Taoiseach in the Dáil. Short term improvements might include:

- a. Move away from the use of expensive and inappropriate Emergency Accommodation to house asylum seekers as soon as suitable alternative accommodation is procured.
- b. Audit of IPAS accommodation portfolio to ensure compliance with National Standards in advance of them becoming legally-binding at the start of 2021.
- c. Purpose-built accommodation on State land compliant with National Standards could provide additional accommodation capacity to the system in the short term. This could be repurposed after the transition to the new long-term accommodation model.

3.2.4 Overview of Long-Term Accommodation Model

A new long-term model of accommodation provision might include:

- a. **Balseskin Orientation Service:** All newly arrived protection applicants accommodated in the Balseskin Reception Centre until access secured to mainstream State supports.
- b. **Identification and Designation of Hubs:** Cities and large towns possess the greatest capacity (in terms of size and resources) to accommodate protection applicants and subsequently integrate persons granted status/permission to remain. Sufficient hubs to be designated for the accommodation of all future applicants, following initial reception and orientation.
- c. **Distribution Key:** To ensure a fair allocation between local authorities and regions, a distribution key weighing factors such as population size and demography, economic capacity and previous experience of receiving protection applicants could be utilised. This would be a transparent process offering greater clarity to local communities being asked to host protection applicants.
- d. **Migration of Existing Population:** The distribution key would be used for dispersing new arrivals but there has to be a migration of the existing population into the new system. A fair sharing of responsibility involves a reconciliation of the existing housing responsibilities to asylum seekers in local areas with allocations of new applicants under the distribution key. This might require redistribution to ensure equity.
- e. **Allocating Resources:** By designating hubs and setting quotas based on a distribution key, local authorities and service providers would have greater clarity in relation to the anticipated accommodation need, budget allocation requirement and additional demand on local supports and services.
- f. **Recourse to Purpose-Built State Centres:** Accommodation gaps filled by recourse to building customised Direct Provision centres (in line with National Standards) on State owned land. These centres would have capacity to be re-allocated as homeless hubs or other State accommodation during periods of decreasing protection application trends.
- g. **Independent Living Model** to enable protection applicants maximise autonomy and effective control over their lives.
- h. **Mainstreaming Transition Supports:** Transition support expertise should be developed in hubs or provided by national agencies, to facilitate timely exit from accommodation.

3.3 Holistic Person-Centred Range of Supports at All Stages of the Protection Process

3.3.1 On Arrival: Comprehensive Reception and Orientation Services

The international resettlement experience has demonstrated the benefits for protection applicants being welcomed and received in a communal setting for durations of up to three months after arrival. During normal operating circumstances, the average duration of stay in Baleskin Reception Centre is approximately four to six weeks, before dispersal to accommodation centres around the country.

In Baleskin Reception Centre, newly arrived applicants should receive:

- *Orientation Service:* A programme of enhanced reception and orientation supports should offer protection applicants a one-stop-shop information and referral service through dedicated clinics. They should also receive facilitated access to PPSN and welfare services, support to complete social protection documentation and referrals to legal aid should be provided prior to dispersal.
- *Medical Screening and Vulnerability Assessments:* Applicants should be medically screened shortly after arrival in the State. The differentiated needs of applicants should be recognised through a consistent and comprehensive vulnerability assessment process which will enable the State to identify and respond to the specialised needs of vulnerable applicants.

This initial short period of residence also offers the potential to inform and shape protection applicants' initial impressions of Ireland, provides an opportunity to develop basic coping strategies and positive experiences prior to dispersal, and should foster greater integration with health and other services in wider society.

While such significant developments are already in train to improve and streamline orientation services in Baleskin Reception Centre, contingency plans should be in place for a large unanticipated inflow of arrivals or if new applications significantly exceed reception capacity.

3.3.2 Awaiting Decision: Education, Employment and Financial Support

The right to work has been really important to protection applicants for whom it applies. Unfortunately, it has created two categories of applicants, with those who do not have it significantly disadvantaged. The applicants longer in the system who are not eligible to work because they received a first instance decision prior to its introduction – even though many waited longer than nine months for a first decision – have felt especially aggrieved.

Recent ESRI research found that migrants from countries with a high rate of protection applications tend to have worse labour market outcomes in terms of unemployment and occupational attainment. *“This could be because of factors related to the trauma and disruption experienced by protection applicants prior to and during migration. It is also likely that the length time an international protection applicant spends inside the State but outside the labour market plays a role, particularly if this period is prolonged.”*¹⁸

The JRS Ireland submission *Living with Dignity: Right to Work* found the average time before access to the labour market is granted to asylum seekers among the 27 EU Member States who provide a right to work was 5.44 months.¹⁹ This makes a compelling case for access to the labour market after six months or earlier, which is in line with international best practice and research. Additional practical barriers such as the prohibition on applications for driver licenses and inhibited access to bank accounts should be resolved.

¹⁸ McGinnity, F., Privalko, I., et al, (2020), *Origin and Integration: A Study of Migrants in the 2016 Census*, Dublin: ESRI

¹⁹ JRS Ireland, (2017), *Living with Dignity: Right to Work*, Dublin: JRS Ireland

Education is vital for the health and wellbeing of protection applicants. Building the human capacity of protection applicants also has an intrinsic value as not only does it better prepare applicants to actively participate in Irish society, but it will benefit them irrespective of the outcome of their protection claims.

JRS Ireland would advocate to allow access to further education courses, at QQI Level 5 and 6, where there are available places on courses in line with the McMahon recommendation.

Finally, there needs to be adequate financial support to enable applicants to live with dignity and to participate as fully as possible in their local communities. Asylum seeking families should be permitted to claim the universal** children's benefit payment.

3.3.3 Grant of Status: Transition and Integration Supports

The key challenges when exiting the international protection process are accommodation, welfare, education, employment and links to the community. The priority is to find suitable accommodation. Mainstreaming of transition supports from specialist agencies, as delivered by the Peter McVerry Trust and Depaul Ireland, at the present time, will be important to enable successful protection applicants to move into the community in a timely manner.

The JRS Ireland PATHS project, delivered in partnership with Peter McVerry Trust, clearly demonstrates the value of providing wraparound integration supports (education, employment and links to local services and amenities) to assist persons with status integrate and settle into their new homes and communities.

4. Implementation: Roadmap to System Change

4.1 Protection with Dignity: Vision for Change

At the centre of the protection system – the determination process, State provided accommodation and supports – are people. It is individuals, children and families who have been forcibly displaced from their homes and homelands. They have crossed borders and bodies of water in search of safety and protection. Each has a name, a face and a story. Each is deserving of having their claim processed and to be received and accommodated for the duration of that claim with dignity. System changes takes time to implement and there will be inevitable associated risks. Change is a process. There needs to be a vision for change and a clear time bound roadmap to achieve it.

4.2. Overview of Mechanisms for System Change

1. Expedited Long Stayer Scheme and Enhance Case Processing Measures

- a. Long-stayer Administrative Scheme to resolve the status of persons 2,750 more than 2 years in the system.
- b. Implement measures to improve efficiency of decision-making bodies and reduce decision-making times. These include improved IT systems and securing and maintaining the required resources to produce full and final determinations in a 12-month timeframe. This will involve very tight average decision-making time at each stage of the process.
- c. Adequately resourced transition supports to enable persons with status to move on in a timely manner to from Direct Provision and create space for system change.

2. Distribution Key and New Model of Accommodation Provision

- a. Development of a new model of accommodation provision that is based on:
 - Equitable sharing of responsibility for receiving and welcoming protection applicants countrywide using a distribution key.
 - Annual estimate of local authority area quota based on number of new applicants over previous 12 months adjusted mid-year to reflect significant changes in arrivals. Redistribution may be required initially to reflect prior housing responsibilities in a local authority area for an existing population of protection applicants.
 - *Hub and spoke* model enabling provision of supports centrally, thereby ensuring towns will receive numbers to accommodate proportionate to their size and capacity.
- b. Developing capacity within existing State accommodation centres and having recourse to purpose-built facilities that can be utilised as an effective backstop at times of large unexpected inflows but also can be availed of in the transition phase to the new *hub and spoke* model across local authority areas.

3. Holistic Person-Centred Range of Supports at All Stages of the Protection Process

- a. Orientation services and supports in Baleskin, including vulnerability assessment.
- b. Linking of persons deemed vulnerable to appropriate supports and accommodation.
- c. Right to work granted at the earliest possible juncture.
- d. Enhanced access to further education and training for adults (QQI Level 5 and 6).
- e. Appropriately resourced transition supports.
- f. Connecting applicants at all stages of the process to local community supports.

4.3 Roadmap Stages of Change

4.3.1 Protection Process

Vision: Issue of fair and high quality final decisions on each asylum claim within 12-month timeframe

1. Long Stayer Scheme: There is a two-fold benefit of expediting the processing of an estimated 2,500 cases of more than two years in the system. Firstly, it eliminates the legacy backlog that has hamstrung the Single Procedure since its inception. Secondly, it creates space for change in model of accommodation provision.
Timeframe: Commence start of Q4 2020, Completed end of Q1 2021
Resources: Utilise additional capacity due to reduced applicant numbers and deploy temporary panels.
2. Reduce Case Processing Times and Resource Allocation: The average total case processing time is over 24 months at present. Moving forward, the IPO and IPAT need to be resourced sufficiently in the future if these durations are to be reduced to six four, and two months respectively to enable a final determination within 12 months. Resource allocation needs to be flexible, with rapid mobilisation of additional case processing resources to meet spikes in new application numbers.
Timeframe: Target case processing time achieved by Q4 2021
Resources: Need sophisticated model of resourcing and appropriate budget for each of the case processing bodies
3. Ensure fair and high-quality decision-making: Frontloading legal advice is win-win with improved representation for applicants and better-quality decisions, less open to costly legal challenge. The quantity, quality and consistency of early legal advice for applicants needs to be significantly enhanced. Currently, new applicants are experiencing delays in being assigned legal assistance, due to the significant increase in demand arising from greater new applicant numbers.
Timeframe: Immediate
Resources: Increased financial and human resources for the Refugee Legal Service
4. Ongoing Review of Protection Process: Fully implement outstanding recommendations to improve the protection process, the quality of decision-making and the experience of children and vulnerable applicants seeking asylum. There should be a rolling process to review average total case processing times, waiting times for decisions and to address any emerging delays speedily to avoid the associated human and financial costs.
Timeframe: Conducted annually Q1 2021-24
Resources: Establish Oversight Committee with representatives of Case Processing Bodies, UNHCR and NGOs
5. Improve IT Systems and Communication with Applicants: Upgrading and improvements in IT systems should streamline case processing and eliminate bureaucratic inefficiencies. Improved communication with applicants at all stages in the process especially around timeframes for interviews and decisions with case processing bodies can address the stress and uncertainty experienced by applicants in the process.
Timeframe: In place by end of Q4 2021
Resources: Invest in and upgrade IT systems and processes in case processing bodies

4.3.2 Living Conditions and Accommodation

Vision: Independent Living Model enabling applicants to live with dignity while protection claim is processed

1. Audit of IPAS Portfolio: This review of the suitability of the 85 IPAS centres needs to be completed as soon as practicable. The identification of centres that are incapable of being compliant with National Standards by 2021 is urgent.
Timeframe: Complete and Published by Q4 2020.
Resources: Audit team established and audit published of findings
2. Full implementation of National Standards with independent inspection: From the start of 2021, all IPAS accommodation is required to be compliant with National Standards. The National Standards “provide a framework for any future assessments, including inspections carried out by an independent inspectorate, to assess whether service providers are providing high-quality, safe and effective services and supports for residents.” It is vital that an independent inspection regime of IPAS accommodation is established and adequately resourced
Timeframe: July 2020-21.
Resources: Establishment and resourcing of Independent Inspectorate
3. IPAS Accommodation Transition Plan 2021-2023: The shift to any new model of accommodation provision will take time. There is an urgent need to move away from Emergency Accommodation. Centres need to be compliant with National Standards. While awaiting the development and rollout of a new long-term accommodation model, there needs to be a short-term transition plan ensuring sufficient accommodation capacity is in place.
Timeframe: 2021- 2023.
Resources: Interagency steering committee to oversee transition and change
4. Enhance Accommodation Capacity on State sites: There is a need to cover gaps in accommodation capacity while a new model of accommodation provision is developed and rolled out and non-compliant centres in the existing portfolio phased out. In light of ongoing supply issues in a market-led approach and also local community opposition, purpose built additional accommodation on State sites compliant with National Standards would offer an interim solution. The recent development in Baleskin offers a blueprint for this type of accommodation. When the new model is fully rolled out, this accommodation would be available to meet large unanticipated inflows or to meet other housing needs.
Timeframe: 2021-22.
Resources: Assessment, acquisition, design and development of appropriate accommodation on State sites
5. IPAS New Model of Accommodation 2021-25: A long-term approach to provision of IPAS accommodation, as recommended by the Day Advisory Group, should be fully developed and rolled out over the next 5 years. The development of a distribution key to replace the existing dispersal model would require agreement and adoption by local authorities. A pilot in Limerick could test the efficacy of the concept, allowing the model to be adjusted in line with real-world data. The *hub and spoke* approach would then enable a fair sharing of responsibility at a local level for welcoming and receiving protection applicants.
Timeframe: Model Development and Approval Q3-Q4 2020; Pilot 2021-22; Rollout 2023.
Resources: New Model Planning and Implementation Group to oversee and manage the development and rollout of the new model of provision

4.3.3 Asylum Seeker Supports

Vision: Comprehensive range of reception and integration supports responsive to the needs of applicants from the moment of arrival, supporting integration and building connections with local communities

1. Orientation and Initial Reception Services: All new protection applicants will receive comprehensive orientation to the Irish protection process. This will include:
 - a. Medical screening.
 - b. Vulnerability assessment.
 - c. Information on protection process.
 - d. Registration with Refugee Legal Service and connection to early legal advice to assist submission of initial questionnaire.
 - e. Link to state services: TRC, PPS No, register with DEASP, application for Medical Card.
 - f. Signposting to specialised services e.g. Ruhama, SPIRASI, etc.
 - g. Orientation information and supports.

Following stays in Baleskin for on average four to six weeks before dispersal, move-on information and contacts for new accommodation location should be provided prior to leaving.

Timeframe: Fully functioning by end of Q4 2020.

Resources: Adequate human and financial resources for Baleskin and to meet the specialised health and other needs of protection applicants assessed as vulnerable

2. Effective Right to Work in place: Solutions found to practical barriers to an effective right to work, in particular, issuing driving licenses and facilitating the opening of bank accounts for asylum applicants. The waiting period for labour market to access reduced to 6 months or less in line with EU best practice.
Timeframe: Q1-Q2 2021.
Resources: Incorporate the recommendations of the Day Advisory Group
3. Enhance Access to Education: Access to adult and further education for asylum seekers permitted where there is capacity in the system. Do not charge non-EU fees when applicant education is sponsored privately. Also, the recognition of existing qualifications should be streamlined and made more accessible.
Timeframe: Q1-Q2 2021.
Resources: Incorporate the recommendations of the Day Advisory Group
4. Linking with local communities and supports: Protection applicants live and work in local communities. Children attend local schools and play in local clubs and amenities. Adults access education and training from local providers. The needs of asylum seekers and the importance of forging links with communities should be incorporated into local integration strategies and resources allocated to support implementation.
Timeframe: Ongoing.
Resources: Local integration plans developed and appropriately resourced
5. Transition Supports: Provide a model of resettlement and transition supports for persons granted status/leave to remain consistent with IRPP beneficiaries. This should also be reflected in local development plans and national housing policy, which should include persons granted status/leave to remain in its planning going forward.
Timeframe: Immediate.
Resources: Continue to resource NGO transition supports; maintain Oversight Committee; actively engage with local authorities and ensure planning locally and nationally incorporates housing needs of successful protection applicants

4.4 Implementation Challenges and Considerations

- *Significant Existing Accommodation Obligations:* There is a legal obligation under the Reception Directive to accommodate and to provide material supports to 7,700 people in the system residing in 85 locations throughout any system change. It would be easier to implement radical system change if there was a *tabula rasa*, which strengthens the case for a Long Stayer scheme as soon as practicable to create space for change.
- *Housing Context:* There is an ongoing national housing crisis. In April 2020, there was 9,355 people homeless. Furthermore, in December 2019, there were a reported 69,000 households in Ireland that are qualified for social housing support but whose social housing need is not currently being met. The capacity to move to a new model is predicated on the availability of secure and affordable accommodation.
- *Competition for Scarce Housing Resource:* The need for asylum seeker accommodation is demand led. A significant structural barrier to change is the lack of supply, which risks putting different qualifying groups, local and migrant, in competition for scarce housing resources. The draft programme for government has annual social housing build targets, but these will take time to come on stream, and it is uncertain if they will significantly meet growing demand.
- *Impact of Legally Binding National Standards:* The National Standards will come into effect from the start of 2021. This requires the existing accommodation stock and any future procurement to be compliant with the Standards. The sanction for non-compliance should be determined by an independent and yet to be appointed monitoring body. This may result in further complications and place constraints on the transition process.
- *Communication Strategy:* System change takes time. The commitments in the draft programme for government will understandably have raised expectations of imminent system change among asylum seekers. Communication around progress in the change process and implementation timelines needs to be clear and regular.
- *Shorter Term Improvements:* Transition to a long-term approach will, by definition, take time. Thus, there will need to be interim measures put in place to improve case processing, living conditions and accommodation and asylum seeker supports in the short-term. For example, the immediate phasing out of emergency accommodation will require more suitable alternative accommodation to be secured in its place.
- *Securing and Retaining Required Case Processing Resources:* The effectiveness of the proposed expedited Long Stayer scheme is that it is delivered quickly but not be at the expense of creating delays elsewhere in the process. The allocation, recruitment and retention of required case processing resources is vital.
- *Local Authorities Housing Role:* A vital component of the new distribution key model advocated is the role of the local authority in implementation. This new housing responsibility for protection applicants will have to be balanced by local authorities with existing responsibilities for vulnerable households and social housing needs locally. Clear communication of housing priorities will be very important to avoid frustration between groups with competing housing needs.
- *Accommodation Backstop:* If local authorities are unable to meet the housing need of protection applicants allocated to them under a distribution key, consideration must be given to where the responsibility for providing accommodation lies.
- *Post Covid-19 Economic Cost:* It is unclear how quickly the economy might recover and how many businesses may never restart. The long-term economic implications of Covid-19 are unknown, but it is clear that there will be a significant negative budgetary impact for years to come, which may constrain system change and also create a more challenging political environment.
- *Implementation Planning:* The process of system change will be delivered over the lifetime of the next Government. Learning the key lessons from the McMahon Working Group and National Standard processes, a detailed implementation plan needs to be agreed and necessary resources secured. The Government must appoint and clarify the role, responsibilities and membership of a body overseeing the implementation of system change.

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Tables

- Data for Table 1, Table 2 and Table 3 sourced from correspondence with the Department of Justice and Equality.