

Doc 1

#ExploringDP  
-Dept Social & Family Affairs

Linda Carr

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**From:** Benny Swinburne, AP(1) [SWINBURNE\_B]  
**Sent:** 17 June 2008 13:43  
**To:** pj timmins  
**Cc:** Michael Joyce HEO  
**Subject:** Asylum Case  
  
**Sensitivity:** Confidential

PJ

More brain teasers !

Could you have a look at the case below which Eithne O'Sullivan has raised.

I have set out my views in bold below this.

Could you have a look when you get a chance and let me have any thoughts.

Thanks

Benny  
17-Jun-2008

Liam Thornton  
FOI Docs 2008

**Case 4 (From Eithne O'Sullivan, NW Appeals)**

(A) The individual concerned was in Dublin in Camden Hotel and was relocated in January 2004 to Cliffview house in Donegal Town where he currently resides.

He is in a direct provision hostel and has an Irish born child. He was offered a placement in Tathony House in Dublin in October 2007. The DOJ provides self catering accomodation in Tathony Hall and basi is paid less 13 euros per week towards overall costs. He refused it on the basis that if he moved from Donegal he would be unable to fulfil his obligations to his child and to the court. His appeal is based on the fact that the RIA reviewed his case as a long term asylum seeker (4 1/2years) and offered him self catering in Dublin which he says would entitle him to basic SWA. He could not accept this because of his obligations to his Irish born child which he could not discharge at that distance.

The appllant applied for a similar provision in Donegal i.e basi and rent supplement and submitted a solicitors letter stating that an arrangement for access was made at Letterkenny Court House on 21st November whereby Mr Guissila is to take care of the child every Wednesday and Thursday It stated that the child's mother is attending a course and wants increased childminding input by the child's father. She wants him to look after the child on a near daily basis but this is not possible as father is in hostel and he needs his own accomodation for this (they do not mention that the hostel is 30 miles away).

Issues which arise in this are:

1) While rent can be refused on grounds of no status , the issue re basi is less clear.

2) If this man moves to Dublin he will qualify for basi at a much higher rate i.e 184.80 per week and has greater independence and self direction. Thus he can qualify for this in Dublin where this facility is provided but not in Donegal. He says he cannot move because of his childcare commitments but wants to have a similar provision / option here.

3) While the long term residents in this Dublin facility i.e those who came here in 01 and 02 have now been given leave to remain there is no sign of a similar provision for 2003 clients yet but the self catering option is being given to 03 clients apparently in recognition of their long stay. He wants that same recognition here

I am aware of the issues relating to precedent in this case and know that DOJ would be concerned if it was upheld.

On one hand there is the narrow option of stating that his needs are currently being met in Donegal and quote the needs assessment criteria which leaves him with 19.10 per week. However the basic rights agenda and different rights in different areas is a bigger issue. I think this individual is availing of legal advice in this matter. He is quoting basic human rights for children without discrimination.

I would welcome your views and any guidance available from DSFA

(B) I have another case also of an asylum seeker (also 2003) with an Irish born child who resisted a hostel move for 3 years so as to remain close to his child and avail of medical support for a chronic health condition. (the original hostel closed down). I refused his appeal on the basis his needs could be met in DP facility. He has now moved to the new hostel 60 miles from the first but his appeal is on its way to CAO. He will probably also be offered Tathony House. He is now in same hostel as other appellants.

#### Response to Case 4

The issue in this case is that if the person concerned was residing in DP accommodation in Dublin, he would be allowed to transfer to the step down accommodation in Tathony Hall. He would then be able to claim full basic SWA payment less 13. The fact that he lives in Donegal and step down accommodation is not available, the only options to him are either to move to Tathony Hall in Dublin (which he does not wish to do for family reasons) or else remain in Direct Provision in Donegal. The case this applicant is making is that he should be allowed go into self-catering accommodation and be paid basic SWA and Rent Supplement.

Direct Provision is the main facility available to asylum seekers. Step down accommodation such as Tathony Hall is only offered in exceptional circumstances, for instance, for medical reasons but it is still part of the Direct Provision arrangements. The person concerned is an asylum seeker who is in the asylum process. He is not entitled to any social welfare payments as he is not regarded as habitually resident in the state.

While he is in the asylum process, his immediate needs are catered for by Direct Provision. While waiting for his case to be decided, all he is entitled to are the arrangements available under Direct Provision. The fact that the Direct Provision arrangements available to him do not suit his personal circumstances does not give him any entitlement to a social welfare or SWA payment.

? WTF!!

Doc 1

[REDACTED]  
From: [REDACTED]  
Sent: 17 June 2008 13:43  
To: [REDACTED]  
Cc: [REDACTED]  
Subject: Asylum Case

Sensitivity: Confidential

#ExploringDP

[REDACTED]  
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Thanks

[REDACTED]  
17-Jun-2008

LIAM THORNTON  
FOI DOES 2008

(A) The individual concerned was in Dublin in [REDACTED] and was relocated in January 2004 to [REDACTED] where he currently resides.

He is in a direct provision hostel and has an Irish born child. He was offered a placement in [REDACTED] in [REDACTED]. The DOJ provides self catering accommodation in [REDACTED] and basi is paid less 13 euros per week towards overall costs. He refused it on the basis that if he moved from [REDACTED] he would be unable to fulfil his obligations to his child and to the court. His appeal is based on the fact that the RIA reviewed his case as a long term asylum seeker (4 1/2 years) and offered him self catering in [REDACTED] which he says would entitle him to basic SWA. He could not accept this because of his obligations to his Irish born child which he could not discharge at that distance.

The applicant applied for a similar provision in [REDACTED] i.e basi and rent supplement and submitted a solicitors letter stating that an arrangement for access was made at [REDACTED] on [REDACTED] whereby Mr [REDACTED] is to take care of the child every Wednesday and Thursday. It stated that the child's mother is attending a course and wants increased childminding input by the child's father. She wants him to look after the child on a near daily basis but this is not possible as father is in hostel and he needs his own accommodation for this (they do not mention that the hostel is 30 miles away).

Issues which arise in this are:

- 1) While rent can be refused on grounds of no status, the issue re basi is less clear.
- 2) If this man moves to [REDACTED] he will qualify for basi at a much higher rate i.e 184.80 per week and has greater independence and self direction. Thus he can qualify for this in [REDACTED] where this facility is provided but not in [REDACTED]. He says he cannot move because of his childcare commitments but wants to have a similar provision / option here.
- 3) While the long term residents in this [REDACTED] facility i.e those who came here in 01 and 02 have now been given leave to remain there is no sign of a similar provision for 2003 clients yet but the self catering option is being given to 03 clients apparently in recognition of their long stay. He wants that same recognition here.

I am aware of the issues relating to precedent in this case and know that DOJ would be concerned if it was upheld.

On one hand there is the narrow option of stating that his needs are currently being met in [REDACTED] and quote the needs assessment criteria which leaves him with 19.10 per week. However the basic rights agenda, and different rights in different areas is a bigger issue. I think this individual is availing of legal advice in this matter. He is quoting basic human rights for children without discrimination.

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#### Response to Case 4

The issue in this case is that if the person concerned was residing in DP accommodation in [REDACTED], he would be allowed to transfer to the step down accommodation in [REDACTED]. He would then be able to claim full basic SWA payment less 13. The fact that he lives in [REDACTED] and step down accommodation is not available, the only options to him are either to move to [REDACTED] in [REDACTED] (which he does not wish to do for family reasons) or else remain in Direct Provision in [REDACTED]. The case this applicant is making is that he should be allowed go into self-catering accommodation and be paid basic SWA and Rent Supplement.

Direct Provision is the main facility available to asylum seekers. Step down accommodation such as [REDACTED] is only offered in exceptional circumstances, for instance, for medical reasons but it is still part of the Direct Provision arrangements. The person concerned is an asylum seeker who is in the asylum process. He is not entitled to any social welfare payments as he is not regarded as habitually resident in the state.

While he is in the asylum process, his immediate needs are catered for by Direct Provision. While waiting for his case to be decided, all he is entitled to are the arrangements available under Direct Provision. The fact that the Direct Provision arrangements available to him do not suit his personal circumstances does not give him any entitlement to a social welfare or SWA payment.

? WTF!!

Doc 2

#ExploringDP

Linda Carr

From: Kieran Dunne [kieran.dunne@hse.ie]  
Sent: 21 July 2008 16:19  
To: Benny Swinburne, AP(1)  
Subject: Re: Supplements and D.P.A

Sensitivity: Confidential

Hi Benny

Further to our meeting 17/07/2008 I am writing to you to articulate the concerns I raised on behalf of Joe Kinsella and myself.

The Asylum Seekers and New Communities Unit regularly pay a large number of ENPs with regard to assistance with the cost of nappies, travel etc. These are paid in weekly and in some cases up to eight weekly intervals. We propose that these should now be paid by means of a weekly DPA supplement. We also propose to use the following type of notation in remarks column: 'Nappies DPA'. The rationale for doing so is three fold:  
1) It will transfer all the cheque payments to PDTs (EIDs)

2) It will allow the relevant CWOs to utilise there time more efficiently and help the Unit to absorb the increasing workloads.  
And

3) Controls are also more targeted on weekly supplements than ad hoc payments by ENP.

I should be obliged if you would let me have your comment as soon as possible.

-----Original Message-----

From: Benny Swinburne, AP(1) [mailto:BENNY.SWINBURNE@welfare.ie]  
Sent: 21 July 2008 12:42  
To: Kieran Dunne  
Subject: RE: FW: another HRC query  
Sensitivity: Confidential

Kieran

Thanks for that

Benny  
21-Jul-2008

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