



Exploring Direct Provision: Freedom of Information File Database

Documents are organised by year, from XXXX to XXXX.

Document Key:

GOV: Files prepared for Government cabinet meetings (usually, but not always by the Department of Justice) relating to the system of direct provision.

JUST: Files prepared from the Government department currently named (since 2011) the Department of Justice and Equality (DJE). The Department was previously known from 2010 - 2011 as Department of Justice and Law Reform (DJLR) and from 1997- 2010 Department of Justice, Equality and Law Reform (DJELR).

SW: Files prepared from the Government Department currently named (since 2017) the Department of Employment Affairs and Social Protection (DEASP). The Department was previously known as: 2010-2017: Department of Social Protection (DSP); 2002-2010: Department of Social and Family Affairs (DSFA) and, 1997-2002: Department of Social, Community and Family Affairs (DSCFA).

SHB: Southern Health Board (replaced by Health Services Executive in 2004).

DELG:

DHC:

SWAO: Social Welfare Appeals Office

HSE: Health Services Executive

Files begin with the date of the file in numeric format e.g. a file from 10 December 1999, are labelled 1012-99.

The relevant government department is then identified, e.g. 1012-99-SW

Where the document contains a thread of correspondence between one or more Government Departments, then the document will be placed in the year that correspondence commenced, and be identified with a joint file name e.g. JUST-SP where the correspondence commenced from JUST.

1997

| Document | Content Description |
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| 2210to0411-97-SW-JUST | Discussion of <i>Irish Independent</i> newspaper reports alleging abuse of social welfare system by asylum seekers between Ministers for DSCFA and DJELR. DJELR noted that the newspaper reports were false and of the newspaper's own making. |

1998

| Document | Content Description |
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| 0307-98-DELG | Analysis of the DELG on the pressures on accommodation provision for asylum seekers in the Dublin region. The note stated that given the gravitation of persons seeking asylum to Dublin, significant challenges were being faced in ensuring asylum seekers could be accommodated. Prepared for the Interdepartmental Committee on Immigration, Asylum and Related Issues. |
| 2407to0708-98-SW-JUST | Concerns raised by Minister for SCFA to Minister for JELR around safeguarding of welfare system from 'abuse' by asylum seekers, and issues related to perceived weaknesses in border security, duplicate asylum claims, and asylum seekers entering and leaving the State without permission. The Minister for JELR in response noted the strengthening of border security, while also highlighting that the UK's system for social welfare for asylum seekers was less generous than Ireland's. |
| 2707-98-JUST | Press statement by the then Minister for JELR publicly noting the United Kingdom Home Secretary's statement on the Immigration and Asylum White Paper. This statement indicated that Ireland was to move away from inclusion of asylum seekers within the general social welfare system. |
| 0609-98-JUST | Public announcement by Minister for JELR of the establishment of the system of direct provision for asylum seekers. |
| 2808to0311-98-GOV | Decisions sought by the DJELR on establishing the system of direct provision. These documents include portions of the Report from the Interdepartmental Committee on Immigration, Asylum and Related Issues recommending that Ireland introduce a system of direct provision. The tensions between various Government departments surrounding these approaches are outlined in these documents. The system of direct provision was formally approved by Government on 28 August 1998. Questions remained on operationalisation e.g. provision of accommodation in army barracks, involvement of the church, provision of vouchers, rather than cash allowances for asylum seekers. On 03 November 1998, it was decided that the DJELR would be the lead government body responsible for direct provision, with significant input from Health Boards and DSCFA. |

1999

| Document | Content Description |
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| 0104-99-SWA Circular 01 of 1999-SW | SWA Circular 01/1999 from the Supplementary Welfare Allowance (SWA) Policy Section of DSCFA establishing procedures for dealing with asylum seekers. |
| 0104-99-SWA Circular 02 of 1999-SW | SWA Circular 02/1999 from the Supplementary Welfare Allowance (SWA) Policy Section of DSCFA relating to modalities for making social welfare payments to asylum seekers. |
| 1910-99-JUST | Minister for JELR formally announces that Ireland will introduce a system of dispersal for asylum seekers. |
| 26to2910-99-JUST-SW | Correspondence between DJELR and DSCFA on need for co-ordinated government action relating to asylum seekers. |
| 0211-99-DHC | Preliminary response of the DHC to the proposed establishment of the system of direct provision to the Interdepartmental Committee on Immigration, Asylum and Related Issues. The Department stated that a legislative response was needed, including amendments to various legislative enactments. Support was expressed for DJELR being the lead government department with overall control of reception conditions for asylum seekers. Some blame was placed on local authorities, with DHC saying that issues with accommodation for asylum seekers were foreseeable. |
| 0511-99-SW | DSCFA response to the Interdepartmental Committee on Immigration, Asylum and Related Issues. DSCFA proposed that asylum seekers be entitled to comfort payments of between IR£10 and IR£15 weekly. The totality of communal accommodation, low weekly payment rates may make Ireland less 'attractive' as a destination for asylum seekers. DSCFA |

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| | <p>noted legislation may be needed for this. This response also notes financial challenges that DSCFA projected in moving to a system of direct provision. This response also acknowledges that asylum seekers would still be entitled to certain social assistance payments (such as One Parent Family Payment) and questioned did changes need to occur.</p> |
| 2911-99-SHB | <p>The Southern Health Board's Protocol on Asylum Seekers. This document outlines the entitlement of asylum seekers to supplementary welfare allowance (where the individual/family has no other income or source of financial support), as well as modalities for accommodating asylum seekers in Cork region.</p> |
| 1012-99-SW | <p>On International Human Rights Day 1999, the DSCFA sets the rates of the payment of direct provision allowance at a rate of IR£15 (€19.10) for adults per week, and £7.50 (€9.60) per child per week. The rate of this payment will remain unchanged, for children, until 07 January 2016, and for adults, until June 2017.</p> |
| 2602to1312-99-GOV | <p>These are the 1999 cache of documents prepared for government meetings. Many of documents above give effect to the decisions made by Government within these documents. Further agreement to establish the system of direct provision, changes to asylum and refugee legislation so as to attempt to curb arrivals of asylum seekers to Ireland. On 19 October 1999, Government policy was to mainly provide accommodation to asylum seekers on a 'full board' basis, without access to cooking facilities. Government policy on dispersal of asylum seekers, and moving asylum seekers away from Dublin, is also contained in this tranche of documents. Concerns were expressed at the slow progress in issuing decisions on refugee claims. There is some discussion of the Minister for JELR intensifying deportations. Other issues such as access by non-European Union/European Economic Area citizens to the workplace are also discussed in these documents.</p> |

2000

| Document | Content Description |
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| 1401to2102-00-SW-EHB | A series of communications between DSFCA and the Eastern Health Board (EHB) and Eastern Regional Health Authority (ERHA). Concerns were expressed at a local level, some Community Welfare Officers were providing asylum seekers with rent supplement, rather than placing them in hotels/bed and breakfasts, or the direct provision centres that had informally commenced. Some community welfare officers stated that the DSCFA was 'manipulating' the law, and if they wanted to prevent asylum seekers from accessing rent supplement, then legislation would be needed. It is acknowledged in the correspondence that Community Welfare Officers may have some residual discretion to provide asylum seekers with rent supplement so as to access private rented accommodation. However, generally, asylum seekers should only be not be provided with rent supplement. Managers within the EHB/EHRA stated that they fully supported government policy, and would communicate this to community welfare officers. |
| 0802-00-SWA Circular 02 of 1999-SW | SWA Circular 02/2000 establishing further particulars of making payments to persons seeking asylum. |
| 2003-00-ERHA-SW | Concerns expressed by a manager in EHRA to the DSCFA that community welfare officers were having their discretion unlawfully fettered by the DSFCA, in the DSFCA seeking to set the precise amount of money that was to be paid to adult and child asylum seekers. |
| 1004-00-SWA Circular 04 of 2000-SW | SWA Circular 04/00 is the formal communication that the system of direct provision in Ireland commenced for all persons claiming asylum from 10 April 2000. The circular confirms the weekly rates of IR£15/£7.50 payable to asylum seekers, and informing Community Welfare Officers that <i>generally</i> rent supplement and full-rate of supplementary welfare allowance, should not be paid to asylum seekers. |
| 1305to1705-00-JUST-SW | Correspondence between Ministers in DJELR and DSCFA, where Justice expressed concerns that Community Welfare Officers were granting asylum seekers full rate supplementary welfare allowance and rent allowance, frustrating the |

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| | government's intention to establish the system of direct provision. The Minister for DSCFA noted that it was important not to adopt a 'heavy handed' approach, and that certain vulnerable asylum seekers should be permitted access to full supplementary welfare allowance and rent supplement. |
| 1505-00-SWA Circular 05 of 2000-SW | SWA Circular 05/00 further emphasised that where asylum seekers refused direct provision accommodation, access to supplementary welfare allowance nor rent supplement should be granted. However, DSCFA recognised that direct provision may not be appropriate for pregnant asylum seekers, asylum seekers suffering illness or where family members of asylum seekers are already in the State, and that person wishes to live with them. Within these enumerated exceptions, full rate supplementary welfare allowance (and rent supplement) was to be paid. |
| 1805to1406- 00-EHB-SW- JUST | Correspondence between the EHB/ERHA, DSFCA and DJELR where the latter bodies requested DJELR to take over the weekly payment to asylum seekers. Questions about legal appropriateness of fettering discretion of Community Welfare Officers, along with organisation of reception conditions more generally, dominates this correspondence. |
| 1807to2507- 00-SW-JUST | Communications between DSCFA and officials within DJELR (and the then Directorate of Asylum Support Services (DASS), which was subsequently replaced with the Reception and Integration Agency (RIA). DSFCA formally requests that DJELR/DASS take over responsibility for weekly payments to asylum seekers. Upon allegations being made that Community Welfare Officers are not following Government policy through granting of full rate Supplementary Welfare Allowance and Rent Supplement payments, DSFCA notes the poor quality of DASS accommodation as a key reason for payments being made. |
| 1011-00- JUST-SW | Notification of the commencement of the Refugee Act 1996 (as amended). |
| 0802to2010- 00-GOV | Government documentation between 08 February 2000 and 20 October 2000 relating to establishing and operating the system of direct provision for asylum seekers. Throughout significant concerns dominate cabinet decisions relating to the perceived high number of persons seeking asylum. This documentation includes more developed discussions relating to different types of potential accommodation: <ul style="list-style-type: none">• Establishing Flotels (floating hotels) in various harbours for persons seeking asylum. However, harbour authorities strongly objected to this, and the plan was never preceded with (but was also discussed publicly in 2003 by then Minister for JELR, Michael McDowell);• Placing accommodation for asylum seekers in former army barracks. There were significant objections to this from the armed forces;• Use of hotels and Bed and Breakfasts to continue until there was enough capacity within purpose built or acquired accommodation for asylum seekers. |

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| | Although not fully discussed (within this documentation), some concerns were expressed that many asylum seekers did not accept the offer of direct provision like accommodation, and were often granted supplementary welfare allowance, and rent supplement, in order to source accommodation in the private sector. |
| 1611-00- JUST-SW | This document is the first document amongst these FOI files that discusses the Interim Advisory Board of the Reception and Integration Agency (RIA). This document confirms the appointment of the National Social Policy Officer of St. Vincent de Paul, to the Interim Advisory Board of RIA. |

2001

| Document | Content Description |
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| 2803-01- JUST | Statement by the then Minister for JELR rejecting the Irish Refugee Council report, <i>Beyond The Pale</i> . The Minister stated that the sample size of the research was small, and the accommodation and meals provided to asylum seekers in Ireland were excellent. |
| 0102to2409- 01-JUST | The establishment of the Interim Advisory Board of the Reception and Integration Agency (RIA), and its programme of work, including minutes of its meetings during 2001 are set down in these documents. It had been the Minister for JELR's intention to place this Interim Board on a legislative footing (which never occurred). The purpose of the Interim Board was to advise the Director of RIA on the implementation of government policy as it pertained to the functions of RIA. Although mainly RIA deals with direct provision, it also had/has a number of other objectives pertaining to integration of recognised refugees. Focusing on its direct provision remit, these documents provide some rich insights into how non-governmental representatives of the Interim Board, attempted to ameliorate conditions for asylum seekers in direct provision. Discussions on granting asylum seekers the right to work, increase weekly payments to asylum seekers, and seeking to influence Ireland's engagement with the then Draft EU Reception Conditions Directive all emerge from this documentation. In saying that, many of these suggestions (backed up with a draft report), were put forward by the National Social Policy Officer of St. Vincent de Paul. |
| 3005to1412- 01-JUST-SW | These files provide an insight into the approaches of DJELR, DSCFA (along with health boards), of differing approaches being adopted towards permitting asylum seekers exit the system of direct provision. DJELR felt that Community Welfare Officers (in certain areas), were all too readily permitting asylum seekers exit direct provision, and granting them full rate Supplementary Welfare Allowance and rent supplement. DSCFA criticised the slow progressing of cases, and noted that a "one size fits all" approach to a varied asylum seeker population would not be possible, so as to take account of individual needs of different asylum applicants. |

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| | <p>The files also discuss Draft SWA Circular 04/01 (this is not to be confused with the issued Circular 04/01 discussed below). A copy of this Draft Circular is not available. However, the circular appeared to seek to permit asylum seekers whose children were Irish, to seek and enter employment (which would have been contrary to the Refugee Act 1996 (as amended)). In addition, the Draft Circular, sought to bring consistency to the issue of when Community Welfare Officers could exercise their discretion and pay full rate Supplementary Welfare Allowance and rent supplement.</p> |
| 2906-01-SWA Circular 0401- SW | <p>Confirming no change of payment rates to asylum seekers in direct provision within Budget 2001.</p> |

2002

| Document | Content Description |
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| 1402to1904-02-JUST-SW | Linked with 3005to1412-01-JUST-SW , requests from DJELR official to an official within DSCFA for a meeting on <u>Draft SWA Circular 04/01</u> was reiterated. From the documentation available it does not seem that the meeting ever took place, despite several requests over a five-month period. |
| 1802to2010-02-JUST-SW | These are the final set of files relating to the Interim Advisory Board of the Reception and Integration Agency (RIA). Only one meeting of the Advisory Board occurred in 2002. It discussed issues relating to delays in processing asylum applications, as well as highlighted what was regarded as a significant increase in individuals applying for residence on the basis of the Irish citizenship of their child. On 20 October 2002, the new Minister for JELR informed members of the Interim Board that it was being disbanded, and there was no plans to place RIA on a legislative footing. |
| 1007to0312-02-SW-JUST | DSFCA, after a meeting with Community Welfare Officers trade union officials, sought a meeting with officials within DJELR. According to DSFCA, the trade union officials were concerned at what they saw as the 'manipulation' of law and the community welfare system, for asylum seekers in direct provision. Union officials proposed that the system of direct provision be provided with a legislative underpinning if that is what the Government sought to do. It appears a meeting may have taken place in December 2002, but no further documentation is available on this. |

2003

| Document | Content Description |
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| 0804-03-SW- JUST | Letter to official in DJELR relating to meeting with trade unions regarding asylum seekers and the welfare system (see also, 1007to0312-02-SW-JUST). |
| 1102-03-GOV | <p>In response to correspondence received from Masters of the Dublin Maternity Hospitals, the Minister for Justice in this note for government stated that there was an urgent need to consider SWA Circular 00/05 (1505-00-SWA Circular 05 of 2000-SW). The Masters stated that by Health Boards granting pregnant asylum seekers full rate supplementary welfare allowance and rent supplement, this was resulting in women in the late stages of pregnancy relocating to Dublin. The Midlands Health Board confirmed that within its operative area, women in late stage pregnancy (post 28 weeks) were granted full rate supplementary welfare allowance and rent supplement. (Not documented, but this would have been the general approach of many Health Boards at the time).</p> <p>The Minister stated that direct provision, including for pregnant asylum seekers, was suitable and provided adequate accommodation. The Minister stated there was no need for Community Welfare Officers to grant any asylum seeker rent supplement and requested that SWA Circular 00/05 be withdrawn. While then passed (but not commenced) legislation would resolve the issue, the Minister wanted the practice to stop prior to the commencement of this legislation. The Minister also expressed concerns with the practice of Community Welfare Officers granting supplementary welfare allowance and rent supplement to non-national asylum seeking parents of an Irish child. The Government noted this issue in its meeting on 11 February 2003.</p> |
| 3005-03-SWA Circular 02/03-SW | SWA Circular 02/03 informed DSCFA officials about the legal changes adopted in section 13 of the Social Welfare (Miscellaneous Provisions) Act 2003, which legislatively prohibited asylum seekers from accessing rent supplement. From this date, Community Welfare Officers had no discretion as regards granting rent supplement to asylum seekers. The Circular states that all asylum seekers needs are met through direct provision accommodation and the weekly allowance. This circular replaced SWA Circular 00/05 (1505-00-SWA Circular 05 of 2000-SW). |

2004

| Document | Content Description |
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| 0402to1310-04-SW-JUST | <p>These series of documents illustrate significant issues with the operation of direct provision. The Midlands Health Board (and potentially other Health Boards) stopped providing payments for nappies for children in direct provision. It appears that in some direct provision accommodation centres, the Reception and Integration Agency provided nappies, but possibly not in other centres. Various requests for 'refunds' by the Reception and Integration Agency to DSCFA were made to cover the cost for the provision of nappies (estimated at €80,000 per month) were made (and ignored).</p> <p>Within these files, there also appears to have been agreement that the DJELR would take over the administration of the direct provision allowance payment. While it would be funded by DSCFA, it would be administered by the Reception and Integration Agency on behalf of RIA. However, as outlined in documentation below, DJELR eventually stated it would not take over the administration of direct provision allowance payments for asylum seekers.</p> |
| 0105to2209-04-SW-JUST | <p>With the coming into force of the 'habitual residence condition' and the accession of new member states to the European Union, this documentation outlines (i) the approach to removing EU citizens from direct provision; (ii) the approach to be adopted as regards access to welfare payments for these EU citizens; (iii) repatriation of non-economically active EU citizens. This includes SWA Circular 02/04 establishing processes for determining whether an individual is habitually resident. Along with SWA Circular 06/05 (1511-05-SWA Circular 06 05 – SW), these were key documents utilised in arguing that asylum seekers could not be habitually resident. Therefore, access to child benefit, and certain other contingency social assistance payments (one parent family payment, non-contributory old age pension, blind pension etc.) were no longer paid to persons seeking asylum. This did not impact on asylum seekers who received these payments prior to the implementation of the habitual residence condition.</p> |
| 2608to3008-04-JUST-SW | <p>On 26 August 2004, officials within the Reception and Integration Agency drafted a (never implemented) Circular titled DPA Circular 01/04. The contents of this circular were to move administration of direct provision allowance from DSCFA to the DJELR (while costs for this would still be met by DSCFA). DPA Circular 01/04 simply confirmed that asylum seekers would be entitled to €19.10/€9.60 per week per adult/child. However, it also proposed a separate payment 'Direct Provision Supplement', which would be paid to cover travel costs (to refugee interviews) or other unexpected costs that could potentially</p> |

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| | <p>arise for persons seeking asylum. DSFCA had a number of questions surrounding how operationally this arrangement would work.</p> <p>Within two days of sending DPA Circular 01/04, the Reception and Integration Agency stated at a meeting that it would not be in a position administer direct provision allowance. No FOI correspondence was released assists with explaining why such a drastic change in approach occurred.</p> |
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2005

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| 1305-05- JUST-SW | Following on from the introduction of the Irish Born Child (IBC) 05 Scheme, this letter outlines the entitlement of beneficiaries to this scheme, many being former asylum seekers still in direct provision, to access full rate supplementary welfare allowance and rent supplement. |
| 2909-05- JUST | This is one of the first formal issuance of Reception and Integration Agency House Rules, Services and Procedures documents. This outlines various entitlements for asylum seekers within direct provision accommodation centres. Complaints mechanisms are also outlined. These 'House Rules' were updated on a number of occasions. |
| 1511-05-SWA Circular 06 05 – SW | SWA Circular 06/05 reconfirmed how the habitual residence condition operated. Along with SWA Circular 02/04 (0105to2209-04-SW-JUST), this was a key basis for arguing that asylum seekers could never be considered habitually resident. |
| ??-05-SW | This undated document, albeit from 2005, continues to raise issues surrounding the availability of nappies for children within direct provision accommodation. This follows on from the 2004 documents which more substantially discussed this issue. It appears the issue was still unresolved in 2005 (see, 0402to1310-04-SW-JUST) |

2006

| Document | Content Description |
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| 0505to3005-06-SW-JUST | DSFA wrote to the then Secretary General of the DJELR stating that the continued payment of direct provision allowance, as a Supplementary Welfare Allowance payment, was contrary to social welfare law. The approach of DSFA was that asylum seekers were not habitually resident, therefore should not be entitled to SWA. An Assistant Secretary in DSFA claimed the direct provision allowance payments had no legal authority, and requested DJELR to take over payment of direct provision allowance, possibly by making it a responsibility of direct provision accommodation managers to make the payment. DJELR responded by stating that it had been unable to agree with DSFA on how DJELR would take over responsibility for direct provision allowance payments. The Secretary General for DJELR also noted that the suggestion that centre managers would take over responsibility for payments as concerning, giving the amount of control this would have over asylum seekers. Overall, DJELR stated it was anxious not to create a 'parallel and duplicate welfare system'. |
| 1005to1205-06-SW | Issues relating to the operationalisation of the IBC-05 Scheme (see, 1305-05-JUST-SW), particularly where spouses of a person granted residency under the Scheme arrive in the country "by-passing direct provision", and questions surrounding entitlement to social assistance payments. |

2007

| Document | Content Description |
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| 3003-07-SW-JUST | The issue of how nappies were provided for children continued to cause issues between DSFA and DJELR (see also, ??-05-SW and 0402to1310-04-SW-JUST). |
| 1705to1212-07-SW-JUST | DSFA attempted to provide a legislative underpinning to direct provision allowance in 2007, following on from claims that the payment had no legal basis in 2006, see 0505to3005-06-SW-JUST. Placement of direct provision allowance in legislation did not occur due to objections from DJELR. However, it is not clear from documentation available what the precise objections of DJELR were. DSFA once again requested that DJELR take over the administration of direct provision allowance payments. DJELR responded by rejecting (in an unspecified manner) some of the claims of DSFA. By December 2007, the Minister for Social and Family Affairs was claiming in the Dáil that direct provision allowance was the responsibility of the Minister for Justice. |
| 2807-07-JUST-SW | As with Documents 1511-05-SWA Circular 06 05-SW and 0105to2209-04-SW-JUST, the issue of asylum seekers not being capable of being habitually resident, is briefly discussed. These discussions occurred during planning to introduce a 'right to reside' test into Irish social welfare law. |

2008

| Document | Content Description |
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| 1405-08- JUST | Report of the Working Group reviewing House Rules in direct provision accommodation centres. A number of recommendations made and adopted, surrounding plain English, translation of house rules to a number of languages and simplification of complaints procedures. |
| 1706-08-SW | An Appeals Officer in DSFA contacts officials in DSFA requesting their insights in to how to resolve an appeal. The appeal related to whether a father of an Irish child could move to Donegal, where the Reception and Integration Agency were unable to provide a transfer. The move was to enable more sustained contact between father and child. The outcome of this appeal is not known but raises significant concerns that an independent appeals officer contacts DSFA to ask them how she should decide a case. |
| 0105to0107- 08-SW | SWA Circulars 01/08 and 02/08, mainly dealing with issues relating to habitual residence, but confirming the DSFA's view that asylum seekers could not be deemed habitually residence (see also: Documents 2807-07-JUST-SW, 1511-05-SWA Circular 06 05-SW and 0105to2209-04-SW-JUST). |
| 1807-08- JUST | Reception and Integration Agency, Circular 01/08, which prohibited the availability of any political literature during election campaigns, within direct provision accommodation (reiterated by Circular 01/14- see: 2304-14-JUST). |
| 2107-08-SW | The issue of the funding of nappies for children within direct provision raised once again (see also: Documents 3003-07-SW-JUST; ??-05-SW and 0402to1310-04-SW-JUST). |

2009

| Document | Content Description |
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| 0204to0912-09-HSE-SW | <p>The Health Services Executive expressed concerns surrounding the Community Welfare Officers “inappropriately supporting asylum seekers” through the use of Exceptional Needs Payments (a form of supplementary welfare allowance) in order to pay for: travel costs to status determination interviews or hospitals, creche places, nappies, school books, payments to the Legal Aid Board (with the HSE incorrectly believing the Free Legal Advice Centres were the body seeking payment from asylum seekers for legal advice). The HSE also noted it continued to have concerns surrounding the lack of a legislative basis for payments to asylum seekers.</p> <p>It appears no resolution was ever forthcoming on these issues.</p> <p>The final document in this file re-confirms that Budget 2010 would not increase weekly payments for asylum seekers, and provided advice on how the €19.10/€9.50 weekly payments were to be entered onto the internal DSFA computer systems.</p> |
| 1206-09-SWAO | <p>This is the decision of the Chief Appeals Officer who held that in this particular case, the asylum applicant was habitually resident in Ireland, and should be entitled to child benefit. The DSFA had maintained that asylum seekers could never be habitually resident in the State (see previous Documents: 0105to2209-04-SW-JUST; 1511-05-SWA Circular 06 05-SW; 0105to0107-08-SW).</p> <p>The Chief Appeals Officer stated that if the Oireachtas had sought to designate asylum seekers as not being capable of being habitually resident in Ireland, then they would have done this explicitly.</p> |
| 1506-09-SWA Circular 0809-SW | <p>This circular updated previous advice provided to decision makers on the habitual residence condition. It included advice that asylum seekers could never be habitually resident. (It should be noted that this came within days of the 1206-09-SWAO decision, and it is unlikely the DSFA had received or considered the decision. The Circular would have been under preparation for some time).</p> |

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| 2909to2110-09-JUST-SW | <p>Over three months post the habitual residence decision of the Chief Appeals Officer (1206-09-SWAO), did DJELR become aware of the decision. DJELR only became aware of the decision due to the Free Legal Advice Centres (FLAC) publishing a Briefing Note. So DSFA never informed DJELR about this decision. Further urgency was injected into DJELR's correspondence when Fine Gael commented on this issue. Throughout this correspondence, both DJELR and DSFA agree that they felt that the decision was incorrect, with the DJELR stating it went against what he believed to be well-established legal principles from Supreme Court decisions. Within this correspondence, concerns are raised that the decision had the potential to act as a 'pull factor' for asylum applicants to the State, and undoing the removal of asylum seekers from the welfare state since 2000. The correspondence highlights that DSFA were working on a legislative solution to this issue (see, Document 2711to1012-09-SW-JUST).</p> |
| 2711to1012-09-SW-JUST | <p>In late November 2009, draft legislation was shared between DSFA and DJELR. This draft legislation would have the effect of nullifying (prospectively) the Chief Appeal Officer decision (see Document 1206-09-SWAO and 2909to2110-09-JUST-SW). Discussions on tightening up the precise working of the draft legislation occurred. The DJELR prepared a Briefing for the Minister for Social and Family Affairs, stating that if this legislation was not adopted, the State's approach to separating asylum seekers from the welfare state would be under threat. The Briefing Note also provided an outline of estimated costs for Government on supports provided to persons seeking asylum.</p> <p>The draft legislation was passed on 21 December 2009 in section 15 of the Social Welfare and Pensions (No. 2) Act 2009.</p> |
| 0912-09-JUST-SW | <p>These documents outline estimated costs spent on persons within the asylum system, relating to social welfare, education, health and systems for determining asylum claims in 2008 and 2009. Justice estimated that over €200 million was spent on these supports for asylum seekers in 2009.</p> |

2010

| Document | Content Description |
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| 0104to2110-10-JUST-SW | <p>These documents illustrate the difficulties faced by the Department of Social Protection (DSP) in calculating the precise amount spent on certain payments to asylum seekers. As within DSP systems, asylum seekers were granted full rate Supplementary Welfare Allowance, which was then manually reduced to €19.10/€9.60, with a note attached explaining that reduction was because the payee was an asylum seeker.</p> <p>Other difficulties emerged as regards the precise calculation of Exceptional and Urgent Needs Payments, with many Community Welfare Officers based in or near direct provision centres not responding to requests for calculating amount paid to asylum seekers.</p> <p>While figures were provided to DJELR, the tenor of the correspondence indicates the difficulties for DSP in calculating precise amounts spent on persons seeking asylum. DSP also informed DJELR that it would be unable to assist in such calculations in future years, due to significant time having to be spent collating figures.</p> <p>The final document continues to insist that DSP simply pays direct provision allowance on an “administrative basis” pending its move into DJELR (which never occurs).</p> |
| 2204to1706-10-HSE-SW | <p>This tranche of documents continued the practice of the HSE complaining to DSP regarding the use of Exceptional and Urgent Needs Payments being used for travel to asylum interviews and hospitals, for nappies, and school books for children. These documents also raise an issue with some Community Welfare Officers ceasing payments to asylum seekers in Further Education or University (where fees were paid by charities or NGOs). Other Community Welfare Officers continued such payments.</p> |
| 3108to0109-10-SW-JUST | <p>The DJELR requested the DSP to stop direct provision allowance payments to asylum seekers who were protesting their removal from Mosney direct provision accommodation centre. DSP expressed concerns with this request, noting that in an unspecified previous but similar incident, they refused to stop asylum seekers direct provision allowance payments. No further correspondence is available on this issue.</p> |

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| 1709to1310-10-SW | The Irish Human Rights Commission invited officials from DSP to a roundtable on the system of direct provision. Summarising DSP input, an official noted that they communicated at the roundtable that the habitual residence condition remains in place; it would be inappropriate to use Exceptional/Urgent Needs Payments to supplement income for asylum seekers. A number of issues surrounding divergent practices relating to some asylum seekers attending college/university not being granted direct provision allowance (there appears to be no further follow up on this issue from documentation available). |
| 0812-10-SW | Confirmation that the weekly rates of direct provision allowance for asylum seekers in Budget 2011 would remain unchanged at €19.10 per adult per week, and €9.60 per child per week. |
| 1412to2012-10-SW | <p>This file relates to discussion of a judicial review that was then underway, whereby a non-Irish national asylum seeker, who was parent to Irish children, and whose husband was Irish, was being refused child benefit.</p> <p><i>*In 2018, the Court of Appeal declared that refusing child benefit to a non-national parent of an Irish citizen child, to be unconstitutional. As of November 2019, this case is under appeal to the Supreme Court.</i></p> |

2011

| Document | Content Description |
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| 3107-11-SWAO | Extract from Annual Report of SWAO. Despite being contrary to legislation, the Appeals Officer granted access to supplementary welfare allowance to an asylum seeker on grounds of “exceptional circumstances”, due to ill-health caused by being subject to direct provision accommodation. |

2012

| Document | Content Description |
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| 3004-12-SW | Report from the DSP on the use of Exception Needs Payments (ENPs). This Report, dealing with the generality of the ENP system, discusses issues that inhere with utilising ENPs to ensure asylum seekers can travel to appointments, which the group recommended should be covered by DJE and the HSE. In some parts of the country, practices developed so that ENPs were paid to pay prescription charges on medical card medications, and charges for non-medical card covered medicines. Covering the cost of clothing (which generally had been twice yearly €100 payments per person) were recommended to continue, but at a rate of €150 per year per adult, and €75 per year per child. The issue of nappies for children in direct provision were once again discussed, and once again DSP concluded that these should be paid by the RIA. The report also concluded that creche costs for asylum seekers, and costs for education (school tours, books, school activities) should not be paid to asylum seekers. |
| 0206-12-SW | Information note on direct provision prepared by DSP. |

2013

| Document | Content Description |
|-----------------|--|
| 3011-13-SW | Report by the DSP Decisions Advisory Office on the habitual residence condition. Just brief mention of the fact that asylum seekers could not be habitually resident, and therefore not entitled to social assistance payments in Ireland. |

2014 (and 2015)

| Document | Content Description |
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| 2304to1405-14-JUST | Circular 01/14 reiterated Circular 01/08 (1807-08-JUST) on prohibiting political literature in direct provision centres during the local election. A then Sinn Fein local election candidate, Donnchadh Ó Laoghaire (represented by KOD Lyons and Patrick Dillon-Malone SC), commenced legal action against the RIA due to the contents of Circular 01/04. In response to this threat of legal action, on 14 May 2014, Circular 02/14 was issued, permitting local election candidates to leave literature at designated points within direct provision accommodation centres. |
| 2907to0110-14-JUST | With the public announcement that a group would be established to assess the protection process and direct provision, this file makes available some of the initial suggestions for inclusion within what became the McMahon Group. A number of individuals expressed an interest in participating within the Group, while two organisations, the Immigration Control Platform, and Doras Luimní, wrote to the Minister for Justice requesting they appointed to the group. |
| 0708to0309-14-JUST | <p>In August and September 2014, officials within the DJE discussed which persons should be appointed to what became the McMahon Group Report on the Protection Process, Direct Provision and supports for asylum seekers. In appointing non-governmental organisations, a key impulse was to bring these groups “into the tent”, while arguing that asylum seeker led organisations should not be included due to their ‘strident’ demands.</p> <p>The draft terms of reference for the Group were agreed upon, with it being very clear that there would be no abolition of direct provision. Rather, focus was to be on what ways could usefully speed up the systems for determining entitlement to protection status, and what additional supports could be provided to asylum seekers. All of this was to be achieved in a manner that did not overly impact on budgets.</p> |
| 0711-2014 to 3005-2015-McMahon | With the McMahon Group established, the draft programme of work and working methods were agreed by 07 November 2014 (McMahon, 2014a). Costings from the DSP provided an approach towards potentially increasing direct provision allowance (McMahon 2014b, 2014c). In ultimately recommending an increase to €38.74 per adult per week, and €29.60 per child per week (McMahon 2015a, 2015b, 2015c), a majority of the thematic work group stated this would be at limited cost to the exchequer, would be at a rate to ensure asylum seekers had an adequate disposable income, and would not be so high |

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| | <p>so as to be seen as disadvantaging persons reliant on mainstream social welfare payments, or persons in low paid work. The adult rate was linked to the initial percentage differential that had existed between supplementary welfare allowance and direct provision allowance when this payment was introduced in April 2000 (around 20%). The child rate was based on child dependent allowances paid to persons in receipt of certain social welfare assistance payments. From the documentation, there appears to be very limited engagement with whether child benefit should have been paid to persons in the protection process.</p> |
| ????-2014-McMahon | <p>This is the undated INIS proposal relating to what became known as the 'five year rule' scheme, seeking to quantify the number of current and former asylum applicants in the status determination system for a period of five years and more, and who could potentially benefit from the grant of residency.</p> |

2015

| Document | Content Description |
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| 3007to3112-15-SW | <p>The McMahon Report was hailed as a ‘yes equality’ moment by then junior minister, Aodhán Ó Ríordáin. Budget planning for increases to direct provision allowance, at the rates proposed in the McMahon Report, and at lesser rates of increases occurred in July and August 2015. However, it was clear by September 2015, that Budget 2016 would not raise direct provision allowance. Correspondence between the then Minister for Social Protection (Joan Burton) and the then Minister for Justice (Frances Fitzgerald), indicated concerns by Social Protection that increases to direct provision allowance in line with the McMahon Report, could only be considered if there was a central government increase in the budget for Social Protection, and in light of the increasing numbers seeking asylum in Ireland and “events in Europe”. As late as 17 December 2015, the Department of Social Protection stated that consideration of the increases proposed by the McMahon Report was “still ongoing”. However, in late December 2015, costings were conducted on rates of increases for direct provision allowance. By New Year’s Eve 2015, it looked likely that there would be an increase in the child rate of direct provision allowance.</p> |

2016

| Document | Content Description |
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| 0401to1108-2016-SW | <p>By 04 January 2016, agreement had been reached that the child rate of direct provision allowance would be increased by €6 (see also: 3007to3112-15-SW). Announced as a joint press release by the Departments of Social Protection and Justice, the stated reasons for the increase was to provide additional income to children, pending full consideration of the McMahon rate proposals. Around this time, Ireland’s obligations under the United Nations Convention on the Rights of the Child, were being considered in Geneva. I’d argue that the core reason for the increase, was an attempt to announce some ‘positive progress’ before the UN Committee on the Rights of the Child, rather than necessarily a concern with implementing the McMahon Report. Although from this documentation, both approaches could be argued for. Once again, there was absolutely no Oireachtas involvement with this decision to increase direct provision allowance payments. Later documentation stated that the McMahon proposed rates for increase, were under “active consideration”. However, for Budget 2017 (planning which would have commenced in July 2016), from documentation available, there does not appear to have been any planning for increasing direct provision allowance rates.</p> |

2017

| Document | Content Description |
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| 2405-1406-2017-SW | <p>It appears that not until May 2017, did consideration of increases to direct provision allowance again occur. As with the January 2016 increases (see, 0401to1108-2016-SW), I'd argue that the McMahon Report was secondary. A highly orchestrated series of events (some not contained in documentation!), saw around the time of the Fine Gael leadership battle, a very precise request for a €6 per week direct provision allowance raise for children, being made by the Children's Rights Alliance. Costings for this were conducted at break-neck speed, and an increase of €6 for children was announced on 14 June 2017. In addition, the adult rate of direct provision allowance was increased by €2.50. This aligned the weekly rate of direct provision allowance for adults and children, to €21.60 per week. Interestingly, officials within the Department of Justice objected to the stated rationale for increasing payments to children, due to children being a 'particularly vulnerable group'. Instead, the language of the press release was changed to children as a group of 'particular focus'.</p> |
| 2007to2209-2017-JUST | <p>These files deal with the Government's response to the May 2017 finding by the Irish Supreme Court in N.H.V., which held that the absolute prohibition on freedom to work for asylum seekers was unconstitutional. An Inter-Departmental Task Force was established. By the end of July 2017, it had concluded that the government should exercise its opt-in to the EU's Reception Conditions Directive (recast) 2013. Information on access to work for asylum seekers in other EU member states was discussed. The Draft/Final Reports of the Taskforce were refused under the FOI Act 2014. Nevertheless, the files do evidence that opt-in to EU law was seen a key recommendation, subsequently adopted by Government (SI 230/18). Pre opt-in, the Government stated that it would opt-in to EU law in November 2018, and determined that asylum seekers would have a much more restricted access to PAYE employment, with lesser restrictions on accessing self-employment, prior to the opt-in (see also: 1101-2018-JUST).</p> |

2018

| Document | Content Description |
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| 1101-2018- JUST | A briefing note for Oireachtas members was issued in January 2018. As well as confirming that the Government would opt-in to the EU Reception Conditions Directive (recast), it set out the rights of asylum seekers to access employment and self-employment from February 2018. With the coming into force of SI 230/18 , this scheme no longer applied. |
| 0507to2709- 2018-SW | Direct provision allowance was increased in Budget 2019 (effective from March 2019) by the DEASP. These files evidence the process that was gone through in achieving this increase. Budgetary scoping documents were prepared, with (soft) proposals to either increase by €5, or to take the McMahon recommendations, and increase these to take into account inflation. The totality of the documents show that the raising of the rate to €38.80 for adults (a 6 cent increase on the McMahon recommendations), and €29.80 for children, had already been agreed and decided upon. This increase was the first ever occasion that it was not done by press release, and the first time ever (through budgetary votes) that the Oireachtas voted on direct provision allowance. That planning for the increase occurred so close in time to the placement of direct provision system on a legislative footing (SI 230/18) cannot be ignored. |
| 2609to2709- 2018-SW- JUST | Surprisingly, the DJE were not formally informed of the proposed 2019 increases to direct provision allowance (0507to2709-2018-SW) until late September 2018. The reaction of one official in DJE was less than positive. This official stated that the proposed rate increases would be exceptionally generous and failed to take account of the fact that Ireland had introduced a right to work for asylum seekers. Upon being informed that the proposed increases were still subject to approval from the Minister for Employment Affairs and Social Protection, the official then began to raise issues not directly relevant to the proposed increase. The official, without evidence, accused asylum seekers of having being working before lawfully entitled to do so, and within the same email suggested asylum seekers did not want to work so as to not contribute to the cost of accommodation and meals provided in direct provision centres. These objections were not considered by DEASP. |

2019

| Document | Content Description |
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| No current documents in database. | |