

FOI/2021/0210 – any (including any appendices or documents related to or attached to) - 1. Memorandum for Government; 2. Aides Memoire; 3. Government decisions - pertaining to the system of direct provision for asylum seekers between 01/01/2014 and 31/12/2016 (Dr Liam Thornton, UCD)

13	Memorandum for the Information of the Government - 'Report of the Working Group on the Protection Process'	25/06/15	Yes	
	Appendix A - Terms of Reference of Working Group on the Protection Process		No	Public record
	Appendix B - Final Report of Working Group		No	Public record
	Appendix C - List of Recommendations		No	Public record
14	Extract from Briefing Note for Government meeting of 30 June 2015		Yes	
15	Government Decision	30/06/15	Yes	
16	Memorandum for the Information of the Government - 'Higher Education Access for school leavers in the Protection System'	09/07/15	Yes	
17	Extract from Briefing Note for Government meeting of 14 July 2015		Yes	
18	Government Decision	14/07/15	Yes	



25/06/2015

Ref:

Oifig an Aire Dlí agus Cirt agus Comhionannais
Memorandum for the Information of the Government
Report of the Working Group on the Protection Process

1. Matter/Issue for Information

The Minister for Justice and Equality requests the Government to note that the Report of the Working Group on the Protection Process was submitted to her on 23 June 2015 and that her intention is to publish the Report on 30 June 2015 after the Government meeting.

The Minister will be bringing proposals on the implementation of the Report to Government in the normal way and after consultation with all relevant Government Departments at a later stage.

2. Background/Reason for Memorandum

The Government in its Statement of Priorities 2014-2016 committed to establishing an Independent Working Group to report on improvements to the protection process, including Direct Provision and supports for asylum seekers. This commitment was in response to consistent negative commentary about Ireland's protection system from a wide range of non-governmental interests, including international bodies. Following on from Government decision No. S180/20/10/1918 of 01/10/2014 a Working Group to review the protection system was established by Minister Frances Fitzgerald and Minister of State for New Communities, Culture and Equality, Aodhán Ó Ríordáin in October 2014. The Group was chaired by Dr Bryan McMahon, retired High Court Judge and its membership was drawn from a range of interests in the international protection area including UNHCR, non-governmental organisations, protection applicants, academia, and relevant Government Departments and Offices. The terms of reference of the Working Group and its membership are at Appendix A.

The establishment of the Working Group provided an opportunity for the first time in 15 years for a comprehensive review of the operation of the protection system in Ireland. The Working Group's terms of reference essentially tasked it with identifying practical measures that could be implemented in the short and longer term to enhance the dignity of persons in the protection system and improve the quality of their lives while their applications for protection were under investigation.

Length of time in Direct Provision/Absence of Single Procedure Protection System

The predominant focus of negative commentary on the Irish protection system has been on conditions in Direct Provision. It is generally acknowledged, however, that the biggest single issue facing protection applicants is the length of time that they spend in the system. The reason for this is the current multi-layered and sequential processes currently in place for the investigation and determination of protection applications, which has led to significant numbers of protection applicants waiting many years for a final decision on their application. These structural deficiencies will be addressed with the introduction of a single procedure

under the International Protection Bill which is currently with the Office of the Attorney General for drafting.

The report makes it clear that the implementation of many of the major recommendations are directly related to and contingent on the enactment of this Bill and the commencement of the single applications procedure.

Approach to its work

The Working Group examined and considered improvements to the protection system under three headings: living conditions in Direct Provision centres; supports for asylum seekers (i.e. financial, educational, health etc); and existing arrangements for the processing of protection applications with particular regard to the length of the process and time persons spend in the overall system.

Over 40 meetings of the Working Group and its sub-groups were held in the period from 10 November 2014 to 14 May 2015. The deliberations of the Working Group were also informed by consultations with protection applicants; members' first-hand reports of the living conditions in Direct Provision accommodation centres; the various commentaries of national and international bodies; the experience and expertise of the members themselves; and written submissions from interested parties and the views of invited experts and stakeholders.

The Chairperson of the Working Group, Dr Bryan McMahon formally submitted the report of the Group to the Minister for Justice and Equality, Ms Frances Fitzgerald and the Minister of State for New Communities, Culture and Equality, Aodhán Ó Ríordáin on 23 June 2015. The Report, which extends to some 390 pages, is at Appendix B.

The Report includes some 170 recommendations covering almost every aspect of the protection system and related parts of the process. Those considered to be of most importance to protection applicants are concerned with:

- solution for persons in the system for 5 years or more;
- RIA complaints procedure;
- increase to the Direct Provision weekly allowance;
- access to the labour market;
- access to third level education for school leavers;
- early enactment of International Protection Bill and commencement of single applications procedure;
- cooking facilities in Direct Provision centres (whether in a self-contained unit or through use of a communal kitchen) for all residents and, in the case of families, their own private living space.

A list of all the recommendations in the Report is at Appendix C.

While the Report's recommendations are intended for immediate action the Working Group recognises that some will take longer to implement than others for various reasons, for instance those which may impact upon existing contractual arrangements in place between RIA and service providers and structural and planning processes in re-configuring centres to provide cooking facilities and extra living space at a time of increasing demand.

In keeping with its terms of reference, the Report deals with costs associated with the protection system. It does not deal with downstream impacts and costs outside that system arising from implementation of the Report's recommendations. Some of these may be considerable. For instance, if a large number of applicants are granted status within a defined period of time and exit the Direct Provision system this will likely give rise to a surge in

applications for social welfare benefits and/or requests for social housing. It should be noted that there are over 500 persons in Direct Provision who have been granted a status to remain but continue to reside in Direct Provision because of the wider housing situation.

Although the Report does not elaborate on any ‘pull factors’ which may arise from the implementation of recommendations it is apparent that such factors were considered by the Working Group in the framing of its recommendations. It should be noted that there was a 53% increase in the number of asylum applications received in Ireland in 2014 (1,448) compared to 2013 (946) and there is expected to be a further 100% increase in applications in 2015 compared to 2014.

The Report is being published in the first instance to allow for as wide an audience as possible to absorb its contents and recommendations. It is planned that a separate memorandum will be submitted to Government in the coming weeks with proposals in relation to implementation of the Report’s recommendations. It is intended that this further memorandum will identify the recommendations that may be acceptable to the Government and can be implemented in the short, medium and longer terms and those recommendations which may require further consideration. The memorandum will also identify the key impacts/issues arising from implementation of the recommendations.

There is high expectation from those in the protection system and other interested parties that the Working Group Report will deliver some immediate noticeable improvements for applicants.

3. Public Announcement

It is planned that the Minister and Minister for State will hold a press launch on the afternoon of 30th June.

4. Regulatory Impact Analysis

Implementation of some of the Report’s recommendations will require legislative change.

5. Impacts

There are no adverse impacts for North South and East West relations, Gender Balance, Poverty Proofing, Industry Costs, Rural Communities or Quality Regulation.

6. Cost to Exchequer of Proposal

There are no notable costs associated with the publication of the Report. The Working Group identified and quantified the material financial and human resource implications of its recommendations for improvements to the protection system. These details are included in chapter 6 of the Report.

7. Ministerial Observations

Not applicable.

8. Observations Returned

No observations supplied

Extract from Briefing Note for Government meeting of 30 June 2015

Item No. 22: Report of the Working Group on the Protection Process

M/J&E asks the Government to note her intention to publish the Report of the Working Group on the Protection Process. It is being published in the first instance to allow for as wide an audience as possible to absorb its contents and recommendations. The Minister will come back to Government in the coming weeks about implementation of the Group's recommendations.

The Government's Statement of Priorities 2014-2016 committed to establishing an Independent Working Group to report on improvements to the protection process. The Working Group's terms of reference were essentially to identify practical measures that could be implemented in the short and longer term to enhance the dignity of persons in the protection system.

The Working Group was established by M/J&E and MoS Ó Ríordáin in October 2014. It is chaired by Dr. Bryan McMahon, a retired High Court Judge and its membership was drawn from a range of interests in the international protection area including UNHCR, non-governmental organisations, protection applicants, academia, and relevant Departments and Offices. The Chairman formally submitted the Report to M/J&E and MoS O'Riordan on 23 June 2015. It includes some 170 recommendations - notably, solution for persons in the system for five years or more; increase in the Direct Provision weekly allowance; access to the labour market; access to third level education for school leavers; and early enactment of the International Protection Bill.

The Memo on implementation that the Minister will be submit in the coming weeks following consultation with relevant Departments will identify the recommendations that may be acceptable to the Government and the key impacts/issues arising from implementation, including costs. (The Report identifies various savings and costs, on pages 245 onwards).

A Memo to Government last week noted that a major increase in asylum applications, mainly from Pakistan and Bangladesh nationals with a UK immigration history, is putting pressure on all areas of the system, including the capacity of the Direct Provision system which is now full and requires additional accommodation estimated at an additional €15m-€20m p.a. Contributing factors suggested for this increase included the possibility of the right to work being granted as a result of the Working Group's Report and rumours of increases in welfare payments.

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for

(1) that the Report of the Working Group on the Protection Process was submitted to the Minister for Justice and Equality on 23 June 2015;

(2) the intention of the Minister to publish the Report on 30 June 2015, after the Government meeting; and

(3) that the Minister will bring proposals on the implementation of the Report to Government, after consultation with all relevant Government Departments, at a later stage, following detailed discussion at the Cabinet Committee on Social Policy and Public Service Reform.

Noted:

Cinnadh an Rialtais:

Data an Mheabhraín: 25/06/2015

An tAire a thionscain: Oifig an Aire Dlí agus Cirt agus Comhionannais

Ábhar: 22. Report of the Working Group on the Protection Process

Data: 30/06/2015

CRUINNÍŪ RIALTAIS

Uimhir Thaghartha: S180/20/10/1918

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Ard-Rúnaí an Rialtais

Cóip curtha chuig: Oifig an Aire Airgeadais, Oifig an Taoisigh, Oifig an Aire Caiteachais
Phoiblí agus Athchóirithe, Oifig an Aire Coimirce Sóisialaí

#ExploringDP



09/07/2015

Ref:

Oifig an Aire Oideachais agus Scileanna
Memorandum for the Information of the Government
Higher Education Access for school leavers in the Protection System

1. Matter/Issue for Information

The Minister for Education and Skills asks the Government to note her intention to provide supports in line with the Student Grant Scheme to school leavers in the protection system who have spent a minimum of five years in the Irish school system, on a pilot basis from September 2015.

2. Background/Reason for Memorandum

The Minister for Education and Skills wishes to inform Government of the measures she is taking to prioritise implementation of specific recommendations in the recently published Report of the Working Group on the Protection Process.

The Working Group on the Protection Process, which was chaired by Dr Bryan McMahon, was established by the Minister for Justice and Equality, Ms Frances Fitzgerald and the Minister of State for New Communities, Culture and Equality, Aodhán Ó Ríordáin, in October 2014.

The Group was tasked with identifying practical measures that could be implemented in the short and longer term to enhance the dignity of persons in the protection system and improve the quality of their lives while their applications for protection were under investigation.

The Working Group examined and considered improvements to the protection system under three headings:

- living conditions in Direct Provision centres;
- supports for asylum seekers (i.e. financial, educational, health etc); and
- existing arrangements for the processing of protection applications with particular regard to the length of the process and time persons spend in the overall system.

The Report of the Working Group was submitted to the Minister for Justice and Equality and the Minister of State for New Communities, Culture and Equality, on 23 June 2015. The Report was noted by the Government and published on 30 June 2015.

The Working Group Report includes some 170 recommendations covering almost every aspect of the protection system. These include a number of recommendations relating to the education sector. The Minister for Education and Skills intends to prioritise the provision of student supports for school leavers in the protection system in order to improve their access to Further and Higher Education in line with the relevant recommendation in the Report:

“Recommendation 5.70

The extension of student supports for third-level and Post Leaving Certificate courses to persons who are protection applicants or are at the leave to remain stage, have been in the Irish school system for five years or more, and satisfy the relevant academic and other eligibility criteria. The Working Group welcomes the public commitment by the Minister for Education and Skills in this regard.”

Prior to the establishment of the Working Group in October 2014, and later in April 2015, the Minister for Education and Skills announced/stated her intention to introduce improved supports for this group to ensure that they are in a position to access third level and Post Leaving Certificate courses on the same basis as their classmates.

The specific details of what is proposed is outlined in section 3 below.

3. Proposal

The Working Group Report highlighted the extent to which those in the protection system are treated differently than EU/EEA nationals when it comes to accessing Further and Higher Education courses.

At present, those in the protection system who exit the Irish school system with a Leaving Certificate can access Higher Education and PLC courses, subject to satisfying the academic and other entry requirements laid down by the relevant educational institutions.

However, such persons are not eligible to benefit from student supports that are made available through the Student Grant or Free Fees Schemes and must pay the full cost of attending Post Leaving Certificate courses and Higher Education programmes.

This is noted in the report of the Working Group as a barrier to participation in Further and Higher Education which can cause distress to those persons within the protection system who wish to continue their education beyond the Leaving Certificate.

It is therefore proposed by the Minister for Education and Skills that school leavers who are protection applicants or are at the leave to remain stage, other than those at the deportation order stage, will be enabled from September 2015 to benefit from student support in line with the Student Grant Scheme for Post Leaving Certificate and Higher Education programmes on similar grounds to EU/EEA nationals, provided that they meet the following criteria:

- That they have spent a minimum of five years in the Irish school system
- That they have obtained their Leaving Certificate and made the necessary application for entry to a Higher Education or PLC course
- That they satisfy the academic and other relevant requirements for entry.

This proposal is in line with the relevant recommendation (5.70) in the Working Group report.

The five-year requirement is designed to address the position of the children of asylum seekers who have already been fully integrated into the Irish education system, while also ensuring that this provision does not represent a pull factor for migrants currently resident in other jurisdictions.

Based on data provided to the Department of Education and Skills by the Reception and Integration Agency (RIA), the number of older children in Direct Provision who might aspire to advance to Further and Higher education is relatively small:

- Approximately 60 students aged 15–18 are currently at secondary level and might be expected to sit their Leaving Certificate over the next three to four years;
- Approximately 100 young people have obtained a Leaving Certificate in the past five

years and remain in Direct Provision, of whom 21 young people sat the Leaving Certificate in 2014;

- 22 are scheduled to sit the examination in 2015.

The Report of the Working Group notes that the number of children in the protection system outside of Direct Provision who might have similar aspirations is not known. However, it is not the intention of the Minister for Education and Skills that there would be any discrimination between those school leavers in Direct Provision and those outside. As noted above, those in the protection system (whether in Direct provision or outside) who wish to continue their education beyond Leaving Certificate would still have to meet the relevant means test and academic requirements for any particular course.

Protection applicants who meet the criteria specified above who wish to apply for student support as part of the new measure will apply to, and be processed by, Student Universal Support Ireland (SUSI) in the same way as EU/EEA nationals. Their applications will be assessed by SUSI against the specified criteria.

Given the small numbers of potential applicants involved and the potential for this measure to be overtaken by the implementation of the Working Group report's recommendations for persons in the protection process for five years or more (paragraph 3.128 of the report), it is proposed to operate the new measure on a pilot basis, and on an administrative basis, for the academic year 2015/16. It will be reviewed at the end of the 2015/16 academic year. A one year pilot measure is considered appropriate and prudent in light of the other broader policy developments that have been proposed to strengthen and improve the protection system.

Specifically, it is anticipated that the enactment by the Minister for Justice and Equality of the International Protection Bill, which is currently with the Office of the Attorney General for drafting, and the implementation of other relevant recommendations in the Report of the Working Group will reduce the number of protection applicants who have been in the protection system for more than 5 years, and will provide that such a backlog does not arise again in the future. These measures have the potential to render unnecessary the continuation of the pilot scheme by the Department of Education and Skills.

4. Cost

The cost of the new measure for the academic year 2015/16 is estimated to be between €0.5m and €1 million, most of which will fall to be met in 2016. The 2016 cost will form part of the annual Estimates discussion with the Minister for Public Expenditure and Reform.

The 2016 costs will also be considered as part of the 'dialogue' that the Minister for Justice and Equality intends to undertake with relevant stakeholders on the implementation of the recommendations of the Working Group.

As indicated in section 3 above, it is anticipated that this pilot measure will only be required for one year, pending the introduction of the new single procedure envisaged in the International Protection Bill and the implementation of the other relevant recommendations in the Report of the Working Group, particularly with regard to persons in the protection process or at the leave to remain stage for five years or more.

5. Next Steps

It is intended to announce the introduction of the new measure for the 2015/16 academic year, once it has been noted by Government

6. Observations Returned

No observations supplied

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Extract from Briefing Note for Government meeting of 14 July 2015

Item No. 47: Higher Education Access for school leavers in the Protection System

M/E&S asks Government to note her intention to provide supports in line with the Student Grant Scheme to school leavers in the protection system who have spent more than five years in the Irish school system. This is to be announced immediately.

The extension of such supports to such children, other than those at deportation order stage, is a recommendation in the recently published Report of the Working Group on the Protection Process. The estimated cost of up to €1m in 2016 will form part of the Estimates discussions. Discussions are ongoing with various institutions in relation to waiving the requirement of full cost of fees for this small group also.

This measure affecting a small number of students will be operated on a pilot basis for 2015/2016 and reviewed pending the outcome of broader policy developments on the protection process. The Memo in stating that the pilot measure will only be required for one year, assumes the introduction of the new single procedure envisaged in the International Protection Bill and the implementation of the other relevant recommendations, the full implications of which have yet to be considered by Government.

#ExploringDP



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Uimhir Thagartha: S180/20/10/1918

CRUINNIÚ RIALTAIS

Dáta: 14/07/2015

Ábhar: 47. Higher Education Access for school leavers in the Protection System

An tAire a thionscain: Oifig an Aire Oideachais agus Scileanna

Dáta an Mheabhráin: 09/07/2015

Cinneadh an Rialtais:

Noted the intention of the Minister for Education and Skills to provide supports in line with the Student Grant Scheme to school leavers in the protection system who have spent a minimum of five years in the Irish school system, on a pilot basis from September 2015.

#ExploringDP

Ard-Rúnaí an Rialtais

Cóip curtha chuig: Oifig an Aire Airgeadais, Oifig an Taoisigh, Oifig an Aire Caiteachais Phoiblí agus Athchóirithe, Oifig an Aire Dlí agus Cirt agus Comhionannais, Rename2020, Oifig an Aire Oideachais, Oifig an Aire Coimirce Sóisialaí