

# Ireland is changing its system of direct provision for asylum seekers

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*Ireland is planning a major reform of its system of "direct provision" which places asylum seekers in segregated accommodation and accords them limited or no social rights. People currently spend two years on average in this system, waiting for their cases to be processed. Plans announced in a White Paper on 26 February 2021 will reform this 20-year-old system by December 2024. The orientation of the system will be changed to better reflect principles of integration and support. These are welcome changes. They have been criticised, however, for not going far enough, especially in terms of speed of roll-out and instituting the changes on a statutory and rights basis.*

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## Description

The direct provision system for asylum seekers was first put in place in April 2000 (at which time it was intended to last for only 6 months). Reflecting an understanding of the state's obligation as merely to provide shelter, it was modelled on the UK's Immigration and Asylum Act of 1999. The system involves a bed-and-board arrangement which houses people in institutionalised centres in confined, designated accommodation (usually run by private, for-profit contractors) while their application is being processed. Those in the system have the legal status of "authorised presence" in the state. Residents receive a fixed, low-level payment: currently €29.80 weekly per child and €38.80 per adult (these used to be lower but have been increased since 2017). There is an entitlement to a medical card which gives medical services free of charge as well as, recently, to education up to third level (i.e. further education and university) for both adults and children.

The separated existence and penal nature of this system is unique in the Irish welfare state and it has taken years of protest, court challenges, evidence of negative effects and criticism by national and international bodies to change it (Thornton 2019). Even then, change has been slow. It is only in the last 3 years or so that the system has become less punitive and exclusionary. Adult asylum seekers in Ireland were long forbidden to work but a conditional right to work was introduced in 2018 for all applicants who have not had a decision on their claim within nine months, which in January 2021 was reduced to six months. The

right is conditional not just because of the temporal stipulation but also because it is based on a permit (or leave to seek employment). These changes followed a Supreme Court decision in February 2018 declaring the complete ban on employment for asylum seekers to be unconstitutional (Thornton 2019). Ireland's opting in to the "European Communities (Reception Conditions) Regulations" in 2018 saw further improvement and inspired the change in system orientation planned in the White Paper (Irish Statute Book 2018). Despite these easements, people were still confined to a system of highly-controlled and institutionalised accommodation and effectively treated as outsiders in the state. It is these conditions that the White Paper proposes to change (Government of Ireland 2021).

Under the new plans, people seeking asylum will be housed in state-run accommodation and for no longer than four months. Instead of the existing system of isolated detention centres, six reception and integration centres will be established which will be in state ownership and operated by not-for-profit organisations. In a second major change, the ethos of the system will change to become more supportive and oriented to helping people to integrate into Irish society through health, housing, income support and education services. This will be a major change from the current system whereby applicants are treated as outsiders or "visitors" (denied even the right to open bank accounts or have a driver's licence for example). Vulnerability and health assessments will be carried out and people will be assisted to move into employment, to which they will have a conditional right after six months (as currently).



## Outlook and commentary

The legal status of the White Paper is non-statutory and falls within the auspices of the Department of Children, Equality, Disability, Integration and Youth. It is planned to begin the roll-out this year and progress will be monitored by a Programme Board (which will include non-government stakeholders).

The White Paper is a welcome development and has some notable strengths. First, the plan to remove for-profit, private providers from the accommodation provision is important. State ownership and operation by not-for-profit organisations are more in line with the ethos of welfare provision in Ireland. Secondly, welcome also is the move away from treating asylum seekers as a homogenous or undifferentiated group, especially in terms of recognising the variety of their support and accommodation needs. The planned reforms promise tailored services and accommodation for people who have been trafficked, are fleeing violence including sexual violence, are LGBTQI (lesbian, gay, bisexual, transgender, queer, intersex), disabled or older. The attention to be given to the needs of children is

also welcome. Thirdly, the embedding of people in “normal community life”, though own-door accommodation for example, and the discursive framing of the new system in terms of dignity, respect and a person-centred approach are also welcome.

The White Paper has also been met with some criticism though, especially from NGOs in the field and legal and other scholars. Three main criticisms have been expressed. First, the slowness of the roll-out: a four-year period to 2024 is planned which to critics is unjustifiably long and may indicate lack of commitment or perceived urgency (RTE News 2021). Second, the fact that the changes will not be on a statutory basis, but rather continue the existing non-statutory basis, potentially makes it difficult to hold government to account. A third point of criticism is the absence of a fundamental system change: people’s rights are still limited, for example they have no choice of where they may be housed (Mfaco 2021) and the White Paper does not provide the kind of positive legislation that is required to guarantee such rights as the right to privacy, the right to autonomy in decision making, and the right of children to grow up within a non-institutionalised family environment (Thornton 2019).

### Further reading

Government of Ireland (2021) *A White Paper to End Direct Provision and to Establish a New International Protection Support System*: <https://www.gov.ie/pdf/?file=https://assets.gov.ie/124757/ef0c3059-b117-4bfa-a2df-8213bb6a63db.pdf#page=0>

Irish Statute Book (2018) SI No 230 of 2018, *European Communities (Reception Conditions) Regulations*: <http://www.irishstatutebook.ie/eli/2018/si/230/made/en>

Mfaco, B. (2021) “Ireland’s system needs a complete overhaul. This plan does not go far enough”, *The Guardian*, 3 March 2021: <https://www.theguardian.com/commentisfree/2021/mar/02/irelands-asylum-system-overhaul-direct-provision>

RTE News (2021) *Govt to Replace Direct Provision with International Protection system*, 26 February 2021: <https://www.rte.ie/news/ireland/2021/0226/1199464-direct-provision>

Thornton, L. (2019) *Submission to the Oireachtas Committee on Justice and Equality on Direct Provision and Human Rights*: <http://dx.doi.org/10.2139/ssrn.3396616>

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