

## Spiritan Asylum Services Initiative Ltd

### Presentation to the Joint Committee on Public Service Oversight and Petitions - Direct Provision System within Ireland

Ref: PSOP\_I\_239\_2014

SPIRASI is the national centre for the rehabilitation of survivors of torture. Annually SPIRASI provides services to almost 600 survivors of torture and in 2013 assisted 18% of all adults resident in Direct Provision. SPIRASI's services include the provision of Medical-Legal Reports to the protection process, multi-disciplinary assessments of survivors of torture, therapeutic interventions, psycho-social support, outreach and early identification, language and vocational training and training to third parties on survivors of torture.

The areas that the Joint Committee on Public Service Oversight and Petitions has sought input are as follows:

#### 1. The Reception and Integration Agency and how it functions

- **Effectiveness:** The Reception and Integration Agency (RIA), is highly effective in the provision of accommodation to protection seekers. Since its inception it has accommodated a vast number of protection seekers, according to its own reports it has provided this to over 80% of those seeking protection. RIA has also very successfully been able to provide accommodation at the levels variant to the protection process and has managed occupancy levels very well given the various fluctuations.
- **Positioning:** Protection seekers make an application for protection to an agency, the Office of the Refugee Applications Commissioner (ORAC) that although it is legislatively independent, is under the jurisdiction of the Department of Justice and Equality (DOJE). RIA is also managed under the DOJE. Many Protection seekers come from states that have oppressive regimes and often after being tortured will have very little trust in the state. It could be considered that RIA be positioned inside a different state Department in order to remove the conflict of interest, perceived or otherwise, that arises from the same Department being responsible for both accommodating and deciding on the fate of an individual. This connection can often give those charged with accommodating Protection seekers enormous power, again perceived or otherwise. It may well be better to charge the Department of Social Protection or another Department or agency with the task of accommodating Protection seekers?
- **Objectives:** RIA has three objectives, they are stated on its website as follows (1) accommodate asylum seekers in RIA accommodation centres while their applications for asylum are processed, (2) coordinate the provision of services (e.g. health, education, etc.) to asylum seekers in RIA accommodation (3) to facilitate the voluntary return home of destitute nationals from certain EU states, and to accommodate suspected victims of human trafficking pending a determination of their case and during the 60 day recovery and reflection period.  
Overall RIA does not provide an overarching aim; this could be informed by the long term outcomes of the protection process, i.e. integration or return. RIA may be more

effective if it was informed by the UNHCR's Note on the Integration of Refugees in the European Union<sup>1</sup>, which states:

*Reception policies are more effective if they are guided by the potential longer-term outcomes of the process: the integration of asylum-seekers who are ultimately recognized as refugees or beneficiaries of subsidiary protection, and sustainable return and re-integration of those whose claims are unsuccessful.*

In relation to its own objectives, as has already been stated above RIA is very effective in the implementation of the first objective. However in terms of the second objective, namely the coordination of services, apart from the inter-agency committee which it convenes, it is less effective. This may well be because it has limited influence over the provision of health and education services which are largely decided by those individual Departments.

As SPIRASI is not engaged in the activities under the third objective we will not provide comment on the implementation of this.

- **Vulnerability of Protection Seekers:** Whilst RIA is a very effective accommodation provider it is not in our experience at times very good at recognising the vulnerability of those people in its care. It seems not to take into consideration fully the needs of individuals at the centre of decisions being made about them; this includes non-consultation on transfer, ensuring continuity of medical support following dispersal and the impact of long term accommodation in non-self-catering accommodation on family life.
- **Purpose Built Accommodation:** It is highly likely that people seeking protection in Ireland is a phenomenon that will not disappear. Given this fact and following the vast amount of resources that have been paid to private companies to provide accommodation; RIA at this point should have considered the construction of purpose built reception and accommodation facilities. At present Baleskin, the state's only reception centre, is comprised mainly of temporary style accommodation that is isolated and could not be considered a place of safety and well-being. The state's reception centre should be made a permanent structure within a community. Given the millions paid to private companies to date, investment in state owned, purpose built accommodation should be considered.

## **2. That the remit of the Ombudsman for Public Services be extend(ed) to include –**

### **a. The Direct Provision System;**

SPIRASI would welcome the extension of the remit of the Office of the Ombudsman into the Direct Provision System. At present complaints in DP are processed by RIA as outlined by RIA's House Rules and Procedures<sup>2</sup>. There is an obvious challenge present in this process in terms of maintaining the integrity of such a complaints process. Especially when it largely requires that the protection seeker, who is in a vulnerable and powerless position, to make a complaint directly to the manager of the accommodation centre or to RIA who are in the same Department as the one that will make a decision on

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<sup>1</sup> <http://www.refworld.org/docid/463b24d52.html>

<sup>2</sup> <http://www.ria.gov.ie/en/RIA/House%20Rules%20Nov%202009%20%28A4%29%20%28Amended%20Jan%202011%29.pdf/Files/House%20Rules%20Nov%202009%20%28A4%29%20%28Amended%20Jan%202011%29.pdf>

the protection case. There is a great deal of fear for protection seekers who believe that making a complaint will result in localised retribution by accommodation managers or systematic retribution either in the form of transfer or worse a perceived impact on the case for protection. By having an independent agency, such as the ombudsman, responsible for complaints there would be multiple benefits:

- Removal of the fear of making a complaint for protection seekers
- Reduction of risk for RIA, by providing for independent oversight, RIA can ensure that any abuses that occur whilst they are responsible for protection seekers will have an effective avenue to be addressed.
- The involvement of the ombudsman will give protection seekers a greater level of confidence in RIA as an agency looking to protect their interests and not the interests of private accommodation centre managers.
- Ultimately this would additionally help to drive improvements in the provision of accommodation to protection seekers.

The involvement of the Ombudsman in the complaints process for DP users is long overdue. In addition SPIRASI would also see an obvious role for HIQA in the process of inspecting accommodation centres where a similar challenge is evident.

**b. The Appeals System , such as the statutory jurisdiction that the Ombudsman has with both Revenue and Social Protection**

Central to the delays in the present protection process is the backlog at the High Court of Judicial Reviews (JRs). JRs are normally taken to the High Court on the basis of administrative errors or flaws in the decision making process. Ireland is unique in allowing this access to the courts as a mechanism for reviewing protection decisions.

If the Ombudsman can be used as a mechanism to seek such a review of a protection decision that is faster and more efficient than the courts system then it could be a very effective mechanism to reduce the lengthy delays of the current process. However the right to seek Judicial Review should not be removed and the choice to pursue either option should reside with the protection seeker and his/her legal representative. Asylum law and processes can be very complex and the setting up of such a service within the Office of the Ombudsman should take this fully into account. In addition the consideration of cases currently awaiting a hearing at the High Court may be a way of providing some form of remedy for those already in the system; however we are not sure of how this may legally work.

**c. The Irish Naturalisation & Immigration Service as it Relates to the Direct Provision System**

INIS as far as we understand is responsible for RIA. Oversight by the Ombudsman into the process of tendering and contracting for the Direct Provision system by RIA would be most welcome. There are concerns regarding this process<sup>3</sup> and the lack of jurisdiction and oversight that is available. We also acknowledge the challenges inherent in the provision of DP on the procurement process such as episodic fluctuations.

The use of the DP system as a tool of asylum policy by INIS is another concern of SPIRASI. It was stated by the previous Minister for Justice that

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<sup>3</sup><http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2013061100109?opendocument#WROO01250>

*“The Direct Provision system remains a key pillar of the State’s asylum and immigration system and I have no plans to end it at this time”<sup>4</sup>*

The use of the DP system by INIS to act as a push factor to those seeking international protection is abhorrent. The use of DP by INIS in such a manner requires some form of policy oversight; however we are not sure if this can come within the remit of the Ombudsman?

**3. That the Freedom of Information Acts be fully applicable, in all respects, to the areas of public administration as it relates to –**

- a. Direct Provision Centres;**
- b. The Reception and Integration Agency;**
- c. The Garda National Immigration Bureau**
- d. The Irish Naturalisation and Immigration service as it relates to asylum seekers;**
- e. That the provision of FOI legislation applies to all suppliers of goods and services, whether in the form of Private or Public Sectors, as it relates to asylum seekers and the direct provision system.**

We are aware that although the DOJE is covered under the FOI Acts these agencies are not fully held to account under FOI legislation and therefore there are difficulties relating to obtaining information in all five of these areas?

We would support the extension of FOI legislation into these areas. However with the caution that the identity of protection seekers is fully protected when such requests are made and that protection seekers receive support, especially language, in accessing their own records. Such an extension would increase the level of oversight into the administration of these areas of concern and would increase the accountability of officials in RIA, GNIB, INIS and other bodies supplying goods and services to protection seekers.

We have limited or no experience of using FOI to obtain information from the DOJE and therefore cannot respond much further to

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<sup>4</sup> <http://www.thejournal.ie/direct-provision-alan-shatter-1144333-Oct2013/>