Direct Discrimination?

An analysis of the scheme of Direct Provision in Ireland

FLAC Report

Free Legal Advice Centres – July 2003

FLAC's Mission Statement

The Free Legal Advice Centres (FLAC) is a non-governmental organisation which campaigns for full and equal access to justice for all, promotes innovative methods to meet the needs of those living in poverty and operates a range of services designed to meet those needs.

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Glossary of Terms

CAO	Chief Appeals Officer
CWO	Community Welfare Officer
DASS	Directorate of Asylum Support Services
DELG	Department of Environment and Local Government
DJELR	Department of Justice, Equality and Law Reform
DSFA	Department of Social and Family Affairs
ECHR	European Convention on Human Rights
ENP	Exceptional Needs Payment
HB	Health Board
HLR	Humanitarian Leave to Remain
ICTU	Irish Congress of Trade Unions
NAPS	National Anti-Poverty Strategy
NASS	National Asylum Support Services
NGO	Non-governmental Organisation
OPW	Office of Public Works
RIA	Refugee and Integration Agency
SW	Social Welfare
SVP	Society of St. Vincent de Paul
UNHCR	United Nations High Commissioner for Refugees
UNP	Urgent Needs Payment

Preface

FLAC aims to improve basic human rights of vulnerable groups, including asylum seekers, through a combination of strategic court work and social policy research.

Direct Provision is the policy, introduced by the Irish government in November 1999, of meeting the basic welfare needs of asylum seekers by providing full bed and board in designated accommodation units and weekly 'comfort money' of €19.10 per adult and €9.60 per child.

FLAC has opposed the introduction of the scheme of Direct Provision from the outset and has consistently expressed concerns about the legal basis for its introduction and its human rights implications. This report aims to document these concerns.

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Introduction

Few issues have generated more debate in recent years than that of the number of asylum seekers coming to Ireland. Much of this debate has focused on the welfare support of asylum seekers with exaggerated claims regarding the cost to the State of supporting them. The introduction of Direct Provision in November 1999 heralded a major change in the application of the social welfare code. The scheme has been the subject of much criticism, particularly from asylum seekers and those working with them, who know first-hand the harsh reality of living on less than €3 a day.

FLAC has represented a number of asylum seekers in social welfare appeals to the Social Welfare Appeals Officer following refusals of full welfare payments, but has found that such appellants have had little success. FLAC is currently preparing to seek leave in the High Court to judicially review a number such decisions.

The experience of dispersed asylum seekers living in Direct Provision is well documented and generally the picture is one of social exclusion, poverty and hopelessness. With the scheme now in operation for over three years, the danger is that it will become a permanent feature of the social welfare system and may even be extended to other groups. This research seeks to challenge the government's policy in this area and focuses on the legality of Direct Provision — an issue that has been given little detailed analysis to date.

The paper is structured around seven chapters. Chapter one charts the introduction of Direct Provision and looks at the scheme in detail. Chapter two looks at the social welfare entitlements of asylum seekers in Direct Provision. Chapter three examines the statutory basis for the SWA scheme. The fourth chapter looks at the complex issues of administrative discretion and how it operates under the social welfare code. The fifth chapter examines the legality of Direct Provision from an equality perspective, while chapter six looks at the experience of asylum seekers living in Direct Provision. The final chapter summarises the findings and makes a number of recommendations.

The importance of policy analysis cannot be underestimated. People on the ground are seeing the effects of the system on people. The reality of the meagre existence of asylum seekers in Ireland must be challenged and the reality of the experience, good and bad, must be fed back to the policy makers.
Brendan Hennessy at TOSACH seminar, 25 May 2001, Dublin.

CHAPTER 1

The scheme of Direct Provision

Chapter 1 The scheme of Direct Provision

Welfare support of asylum seekers prior to Direct Provision

Until late 1999, asylum seekers in Ireland were eligible for the same welfare support as other persons in the State. This consisted, in the main, of payments provided through the Supplementary Welfare Allowance (SWA) scheme. Subject to the legislation governing the scheme, every person in the State whose means are insufficient to meet his/her needs and the needs of his/her adult or child dependants shall be entitled to SWA. Before the introduction of Direct Provision, asylum seekers had little difficulty in satisfying the conditions for the maximum SWA payment, currently €124.80, then £76. Those fortunate enough to find accommodation in the private rented sector could qualify for a rent deposit and subsequently rent supplement.

By late 1999, some 6,500 asylum seekers were living in private rented accommodation and 2,600 in emergency accommodation in the Dublin area alone. The demand for private rented accommodation had reached acute levels, particularly in Dublin, and newly arrived asylum seekers were finding it more and more difficult to access accommodation. There was no central body with responsibility for accommodating asylum seekers and it was largely left to the Health Board (HB) for the Dublin area, then known as the Eastern Health Board, to take on this function. In October 1999, the EHB reported that the situation of accommodating asylum seekers had reached crisis point with 150 people, including family units, being turned away by the EHB because it was unable to arrange accommodation. Not only were asylum seekers being placed in unsuitable accommodation, but many had resorted to sleeping rough.

In November 1999, the Minister for Justice, Equality and Law Reform stated the government's intention to introduce Direct Provision as a matter of "extreme urgency",[1] commenting that the number of applications for asylum were "spiralling out of control"[2] and announcing the need for the burden to be spread throughout the country. The Minister also expressed concern that "the welfare scheme must not act as a pull factor for non-genuine asylum seekers."[3] The United Kingdom was introducing Direct Provision in April 2000 and the Minister was of the view that if Ireland did not have a similar scheme up and running by that time, the country would be overwhelmed by the numbers of asylum applicants. Indeed government correspondence at the time shows that the primary motivation for introducing the scheme was to follow the regime being implemented in the UK .

Following on from the Minister's decision, asylum seekers entering Ireland at the end of 1999 could expect to be resettled at various locations throughout the country and have their basic accommodation and welfare needs provided for directly. This practice became known as dispersal and complemented the policy of Direct Provision. The new regime was introduced without any consultation with asylum seekers, relevant NGOs or the communities to which asylum seekers were to be dispersed. Accordingly, it was the subject of considerable criticism.

1 Meeting of Minister of Justice, Equality and Law Reform with the Secretary General, Monday 8 November, 1999.

2 Minutes of reconvened Interdepartmental Committee on Immigration, Asylum & Related Issues, Monday 8 November, 1999.

3 Meeting of Minister of Justice, Equality and Law Reform with the Secretary General, Monday 8 November, 1999.

Meanwhile, contracts were entered into between the Department of Justice, Equality and Law Reform (DJELR) and proprietors of hostels, guesthouses and hotels across the country to provide full board and accommodation for asylum seekers.

Asylum seekers in full board accommodation were deemed to no longer be entitled to full rate SWA, but rather a "residual income maintenance payment to cover personal requisites" currently amounting to €19.10 per adult and €9.60 per child.[4]

On 28 March 2000, some four months following what had already become practice, the DJELR issued a press release announcing a package of measures to deal with the increasing numbers of asylum seekers. It included the allocation of up to 8,000 accommodation places, plans to legislate for the speeding up of deportation orders and a commitment to accelerate the decision-making process in asylum applications. A new body was established to oversee services for asylum seekers called the Directorate for Asylum Seeker Services (DASS), which was subsequently renamed the Reception and Integration Agency (RIA).[5] All newly arrived asylum seekers could now expect to be placed in Direct Provision. The document did not provide any detail on how Direct Provision was to be implemented. This lack of guidance was a cause of concern among the HB officials responsible for administering SWA, i.e. Community Welfare Officers (CWOs), many of whom operated weekly clinics in Direct Provision accommodation centres and were being confronted with cases of hardship. In addition, asylum seekers were leaving full board accommodation to which they were dispersed and successfully seeking SWA and rent supplement for private rented accommodation. Correspondence from the DASS to the various HBs provides evidence that this practice was not being tolerated:

> *"You will appreciate that this is in direct conflict with the Government's decision that asylum seekers be dispersed throughout the country and that their needs are met by Direct Provision. In order to effect this decision fully, the Minister for Justice, Equality and Law Reform requires to be assured that any asylum seeker who has rejected a legitimate offer of accommodation, thereby rendering themselves homeless, should not be awarded the full rate of Supplementary Welfare Allowance or have their accommodation needs met in either emergency accommodation or the private rented sector except in very exceptional cases."*

Direct Provision became official government policy in Ireland on 10 April 2000 at the same time as all remaining cash payments for asylum seekers in the UK were removed and replaced with vouchers worth £35 per week to be spent in designated stores. SWA Circulars 04/00 and 05/00 were issued by the Department of Social and Family Affairs (DSFA) to the HBs, detailing guidance to officials in their implementation of Direct Provision. Circular 04/00 provided that newly arrived asylum seekers were allocated accommodation by DASS initially in an 'Arrivals Reception Centre' on a full board basis in Dublin. Alternative accommodation elsewhere in the country would then be allocated, usually within two weeks. It confirmed the rate of the SWA payment and stated that Exceptional Needs Payments (ENPs) can be made where appropriate.

With regard to rent supplement, Circular 04/00 stipulated that "in general", rent supplement and deposits should not be paid where an asylum seeker was in full board accommodation, as they should be considered as not having an accommodation need. The HB, however, was given the discretion to make such payments in "exceptional circumstances because of particular circumstances which justify an exception being made." Circular 05/00 expanded on what might

4 Internal circular issued by Brian O'Raghallaigh, Principal Officer, Department of Social and Family Affairs, 10 December 1999.

5 The Reception and Integration Agency (RIA) has been in existence since 2 April 2001 and was established following the merger of the Directorate of Asylum Support Services (DASS) and the Refugee Agency. DASS was established at the end of 1999 under the aegis of the Minister for Justice, Equality and Law Reform to co-ordinate the schemes of dispersal and Direct Provision for asylum seekers. The Refugee Agency, which had operated under the aegis of the Minister for Foreign Affairs, was responsible for co-ordinating the reception of programme refugees and this function is now included in the remit of the RIA.

have been considered an exception. Examples included a pregnant woman who was close to full term or a newly arrived asylum seeker having a spouse/partner who arrived in the State some time earlier and was now in private rented accommodation. Rent supplement could also be paid in other exceptional circumstances where justified on social or medical grounds. The needs of separated children who have no relatives in the State were to be dealt with in whatever manner is deemed appropriate by the HBs.

Circular 05/00 dealt primarily with situations where asylum seekers refused Direct Provision without apparent justification. It directed HBs to refer back to DASS (now the RIA) those asylum seekers who refused Direct Provision without clear and apparent justification so that [RIA] could make "appropriate arrangements to meet their basic needs in line with government policy".[6] Those who left Direct Provision voluntarily were only entitled to the Direct Provision rates of SWA.

It must be noted that while Circular 04/00 and 05/00 continue to apply in relation to SWA, recent developments in social welfare legislation have significantly changed the picture in relation to rent supplement for asylum seekers. Section 13 of the Social Welfare (Miscellaneous Provisions) Act 2003 provides that a person shall not be entitled to a payment referred to in Subsection (3) (rent supplement) where the person is not lawfully in the State or the person has made an application to the Minister of Justice, Equality and Law Reform for a declaration under paragraphs (a) or (c) of Section 8(1) of the Refugee Act 1996 (i.e. is an asylum seeker). (If the person does obtain status, they will then be eligible.) The section does not apply to people who were in receipt of rent supplement before the coming into operation of the Section.

As in other instances where a class of persons is specified to be ineligible for rent supplement, there will still be the possibility of a payment being made in case of urgency, but it is envisaged that this provision would be rarely if ever used.

Section 13 of the Act came into effect on 27 May 2003. Its effect is to render it even more difficult for asylum seekers to access rent supplement and to remove some of the potential legal grounds for challenging refusal of rent supplement.

Prohibitions

Asylum seekers in Direct Provision do not have the right to work, to attend full-time education/training or to travel outside the state without the permission of the Minister for Justice, Equality and Law Reform. Children of asylum seekers, however, are entitled to free primary and post primary education. They are not entitled to free third-level university or college education.

Asylum seekers must stay at the regional centre where their application is being processed. They are prohibited from seeking alternative accommodation in the private rented sector during this time. Furthermore, if an asylum seeker is absent from a designated accommodation centre for more than three consecutive nights, the RIA will deem his/her bed space abandoned. Continuous absenteeism (more than three nights) is taken as an indication that the asylum seeker does not wish to receive any aid or assistance from the RIA.

House rules are a further feature of the system. Each of the accommodation units has its own set of house rules which are usually posted prominently in the reception area and in the rooms. Asylum seekers are expected to abide by these rules, which can include not being allowed to

6 DSFA Circular 05/00, 15 May 2000.

cook or receive visitors. A sample of typical house rules taken from two unnamed centres is attached at Appendix 1.

Statistics

All asylum seekers who make a claim for asylum are offered accommodation under the system of Direct Provision. Since April 2000, when the policies of Direct Provision and dispersal were officially introduced, 26,427 persons have applied for asylum to the Office of the Refugee Applications Commissioner. Of that number, 1,093 were unaccompanied minors who are the responsibility of the HB under the provisions of the Child Care Act 1991 and are not, therefore, accommodated in the Direct Provision system. Another 432 persons were assigned accommodation at the application stage, other than in the Direct Provision system, by the Community Welfare Service, i.e. they were granted emergency accommodation run by the HB or granted rent supplement allowance facilitating immediate entry to the private rented sector for medical or social reasons. A further 2,785 persons refused the offer of Direct Provision. Since April 2000, the RIA has provided accommodation and ancillary services to 24,185 asylum seekers. There are currently over 4,500 asylum seekers being accommodated by the RIA in 53 accommodation centres in various parts of the country and six reception centres in Dublin.[7] Further details of these centres are included at Appendix 2.

The cost

While the RIA has a co-ordinating role in the provision of services for asylum seekers, including sourcing accommodation, it does not fund such services from its own resources. Such costs are met by the relevant government department, e.g. Department of Environment and Local Government (DELG), Office of Public Works (OPW) or DSFA. At the time of writing, accommodation costs for asylum seekers are ultimately met by the DELG or the OPW. Accommodation sourced by the RIA falls into two categories:

(i) Properties in the commercial sector, including hostels, guesthouses, former hotels, former convents and a former holiday centre (i.e. Mosney).
(ii) Sites/properties purchased or constructed on behalf of the State.

The costs associated with providing accommodation and ancillary services in both categories are met by the relevant local authority in whose administrative area the accommodation centre is located. These costs are then recouped by the local authority from the Homeless Vote of the DELG. Meanwhile, the capital costs of properties purchased or constructed by the State are borne by the OPW.

The costs are as follows:

Year	Accommodation and ancillary costs recouped by local authorities from DELG	Costs incurred by OPW in respect of State-owned accommodation
2000	€44.47 million*	€43.68 million
2001	€66.43 million*	€18.16 million

Source: RIA, 5 November 2002.

7 Statistics supplied by the RIA, 5 November 2002.

(Note* €20.21 million in 2000 and €13.74 million in 2001 was for emergency bed and breakfast accommodation sourced by the then Eastern Health Board for asylum seekers who arrived prior to the introduction of the dispersal and Direct Provision system.)

Overall, it is estimated that in 2001, the cost incurred by government departments in the provision of services to asylum seekers was more than €200 million, which includes the costs associated with claims processing and Refugee Legal Service costs. The RIA has advised that this figure is an estimate and that it is not possible to disaggregate spending relating to asylum seekers in certain areas of expenditure incurred by the Departments of Social & Family Affairs and Education & Science.

CHAPTER 2

Social Welfare Entitlements of Asylum Seekers in Direct Provision

Chapter 2 Social Welfare Entitlements of Asylum Seekers in Direct Provision

Introduction

This chapter provides a brief overview of the Irish social welfare system and examines the social welfare entitlements of asylum seekers living in Direct Provision.

Types of social welfare payments

The Irish social welfare scheme currently includes three types of payments: universal benefits, social insurance (or contributory) schemes and social assistance (or means-tested) schemes.

(i) Universal payments

Unlike social assistance and social insurance payments, which are conditional on eligibility requirements, child benefit is a universal payment. A universal payment is payable regardless of a claimant's means and child benefit is the only universal payment applicable to asylum seekers. Child benefit must be claimed within three months of the month in which the child was born, or the month the child became a member of the family, or the month in which the family came to reside in Ireland.

(ii) Social insurance payments

Eligibility for social insurance schemes is based on social insurance contributions. It is not necessary to consider social insurance payments in the context of this research, because unless Ireland has a bilateral agreement with the relevant country of origin, asylum seekers from that country are not eligible for such payments.

(iii) Social assistance payments

Social assistance payments are designed to ensure a minimum subsistence income for claimants with no income or inadequate income and are determined on the basis of a means test. SWA is an assistance payment and is the main payment of concern to this research. The full rate of €124.80 (as of June 2003) is paid where there is no assessable income and SWA is reduced according to any income received. As stated previously, asylum seekers living in Direct Provision receive only a fraction of this amount – €19.10 per adult and €9.60 per child. Where full facilities such as laundry are not provided, HBs have discretion to make higher payments to ensure that asylum seekers placed in such accommodation are not at a financial disadvantage compared to those where a full range of services is provided.

The SWA scheme also provides for discretionary payments in respect of urgent or exceptional needs. An Urgent Needs Payment (UNP) can be made to assist with immediate needs, for

example food and clothing in the aftermath of a fire. There have been no awards of UNP to asylum seekers in Direct Provision, according to DSFA records as of January 2003.

An Exceptional Needs Payment (ENP) can be made to assist with essential, once-off expenditure, e.g. funeral expenses. In practice, asylum seekers living in Direct Provision receive two ENPs per year at an average of €100 per payment. This is to cover the cost of clothes and shoes.

Weekly supplements are also provided for under the SWA scheme where the claimant has special dietary needs due to a medical condition or exceptional heating expenses due to ill-health. The Back to School Clothing and Footwear Allowance is also operated under the SWA scheme and asylum seekers in Direct Provision with school-going children are eligible to apply for this payment.

Rent supplements may also be paid under the SWA scheme, but asylum seekers living in Direct Provision or who voluntarily leave Direct Provision are generally refused this payment, as their accommodation need is deemed to have been met. The Social Welfare (Miscellaneous Provisions) Act 2003 specifically provides that asylum seekers are not eligible to apply for rent supplement. The legal issues arising are examined in Chapter 3.

Other relevant social welfare payments

Apart from the SWA scheme, asylum seekers living in Direct Provision are eligible for certain other social assistance payments. Deductions for food or lodging are not made. Men or women who, for a variety of reasons, are bringing up a child or children without the support of a partner may be entitled to the One Parent Family Payment. A person who is unmarried, separated, divorced, widowed, the spouse of a prisoner or a person whose marriage has been annulled and who is no longer living with his/her spouse is eligible to apply for the payment.

Pregnant women can claim an allowance towards maternity clothing, maternity requisites for hospital stay and to buy necessary items of clothing and a pram for the new baby.

Child-related benefits to which asylum seekers may be entitled:

Child Benefit *(monthly)*	**€125.60 (1st and 2nd child)**	
	€157.30 (3rd and subsequent children)	
Maternity clothing allowance	**€127.00**	
Confinement/Baby Clothing allowance	**€127.00**	
Maternity requisitives for those in *DP	**approx. €12.50 p/w (supplies may be provided directly)**	
ENP Designated Pram/Buggy payment	**€127.00**	
Maternity cash grant	**€10.16**	
Back to School Clothing & Footwear Allowance:		
For each child aged 2-11	**€80.00**	
For each child aged 12-17	**€150.00**	*(Rates as of June 2003)*
		**DP = Direct Provision*

Asylum seekers in Direct Provision may also be eligible to receive Disability Allowance, Carer's Allowance, Widow or Widower's (Non-Contributory) Pension, Blind Person's Pension and Old Age (Non-Contributory) Pension, depending on their particular circumstances. There is, however, evidence to suggest that many asylum seekers are unaware of their possible entitlement to certain payments.[8] The Irish Refugee Council report "Direct Provision and Dispersal – 18 Months On" described the information pack provided by the RIA as "inadequate and in some cases misleading" in relation to entitlement to social welfare payments.[9]

Number of asylum seekers in receipt of social assistance payments other than SWA[10]

	Amount* Age under 66/66+	Number of Asylum Seekers in receipt Direct Provision	Other accommodation
Disability Allowance (weekly)	€124.80	47	296
Carer's Allowance (weekly)	€129.60/ €147.80	0	45
Widow's/Widower's (Non-Contributory) Pension (weekly)	€124.80/ €144.00	0	not available
Blind Person's Pension (weekly)	€124.80/ €144.00	0	not available
Old age (Non-Contributory) Pension (weekly)	€144.00	0	not available
One-Parent Family Payment (weekly)	€124.80/ €144.00	66	not available

*Rates quoted are maximum rates

Medical card

Asylum seekers are also entitled to a medical card which gives the holder and family access to medical services free of charge, including GP services, prescriptions and hospitals. Free medical screening is also available to all asylum seekers.

8 Fanning, B., Veale, A. & O'Connor, D. (2001). *Beyond the Pale: Asylum-seeking Children and Social Exclusion in Ireland.* Irish Refugee Council, Dublin, p25.

9 Irish Refugee Council (2001). *Direct Provision and Dispersal – 18 months on*, p14.

10 Statistics supplied by DSFA, 20 January 2003.

CHAPTER 3

The legal basis for the Supplementary Welfare Allowance scheme

Chapter 3 The legal basis for the Supplementary Welfare Allowance scheme

(1) Legislation

The legislation underpinning the SWA scheme is incorporated in:

- Chapter 11 of Part III and Chapter 3 of Part VII of the Social Welfare (Consolidation) Act 1993;
- Third Schedule Part III of Social Welfare (Consolidation) Act 1993 – Rules as to Calculation of Means; and
- The Social Welfare (Consolidated SWA) Regulations, S.I. 382 of 1995, as amended.

The purposes of the scheme according to internal guidelines are as follows:

- To provide a residual and support role within the overall maintenance structure;
- To provide immediate and flexible assistance for those in need who do not qualify for payment under other state schemes;
- To guarantee a standard basic minimum income;
- To provide people with low incomes with a weekly supplement to meet certain special needs (e.g. rent payments) or a payment to help with the cost of any exceptional needs they may have;
- To help those whose needs are inadequately met under the major schemes and those confronted with an emergency situation.

Section 170 of the Act states that SWA means "an allowance in cash or in kind". The statutory right to SWA is established by Section 171 of the Act, which states:

> **Section 171**
>
> **Subject to this Act, every person in the State whose means are insufficient to meet his needs and the needs of any adult and child dependant of his shall be entitled to Supplementary Welfare Allowance.**

The legislative purpose behind the provision of SWA is to provide for those whose means are insufficient to meet their needs and those of their dependants. If the claimant's weekly income is below the SWA rate for their family size, a payment may be made to bring the income up to the appropriate SWA rate.

Section 177 of the Act provides that the "amount of SWA to which a person is entitled shall be the amount by which his means fall short of his needs". A person of no means gets the current maximum rate; a person who has some means gets the maximum rate less the amount of his/her means. Where a person has access to some resources, either in cash or in kind, this is taken into account in determining entitlement to SWA.

There is an obligation under Section 176(b) to apply for any other benefit or assistance to which a claimant may be entitled. This requirement reflects the premise that the SWA is an emergency payment authorised only where a claimant has no other means of support.

Administration of SWA scheme

The SWA scheme is administered by the HBs of the Department of Health on an agency basis for the DSFA. However, the DSFA has no role in deciding entitlement in individual cases and its function is restricted to financial and policy matters.

The discretionary power to provide SWA in cash or kind is set out in Section 180(1) of the Act, which states:

> "Whenever it appears to a health board that by reason of exceptional circumstances the needs of a person can best be met by the provision of goods or services instead of the whole or part of any payment to which he would otherwise be entitled ...the health board *may* determine that such goods or services be provided for him under arrangements made *by the Board*." (emphasis added)

The language of Section 180(1) strongly suggests that the HB must form the view, in respect of each claimant of SWA, that there are exceptional circumstances such that the needs of that person can best be met by Direct Provision. Thus, for example, the HB might form the view that Direct Provision ought to be made in respect of a particular claimant to avoid a situation where cash payments might otherwise be used to feed an addiction. It is clear, however, that it is the HB which must form this view by reason of its knowledge of exceptional circumstances particular to the claimant in question.

Since the exercise of the powers under s.180(1) is clearly discretionary, the decision-making function thereunder is subject to administrative law and the legal requirements controlling the exercise of discretionary functions which is dealt with in Chapter 4 of this research.

When calculating a claimant's means, the value of any benefit or privilege enjoyed by the claimant is considered.[11] 'Benefit or privilege' in this context is taken to mean the value of any board or lodging. There are no statutory provisions governing the method of calculation of benefit or privilege.[12] In practice, hostels with apparently identical services can attract different levels of benefit and privilege. This is most evident in the case of Irish homeless people. As with asylum seekers, the HB can provide for the homeless through full bed and board in hostels and bed and breakfast accommodation. Claimants resident in hostel accommodation receive a reduced amount of SWA based on an actual calculation of the benefits and privilege provided by the particular hostel, as reflected in the rent charged by the hostel. The remaining 'comfort money' is therefore not an across-the-board figure like the €19.10 paid to asylum seekers in direct provision. In further contrast to asylum seekers, in hostels where the rent is above a certain level, homeless people may also receive rent supplement towards the cost of the hostel. In practice CWOs apply the guideline that a person should not be left with less than a certain minimum amount per week after provision of board and lodging, currently around €65. FLAC submits that the discrepancy in the level of SWA for asylum seekers in Direct Provision and others in Direct Provision is a form of discrimination and may be in breach of the Equal Status Act 2000.

11 Rule 1 (4), Part III, Third Schedule, Social Welfare (Consolidation) Act 1993.

12 Brooke, Simon (Sept 2001). Background Paper on Social Welfare Assistance with Payments for Emergency Accommodation. Draft.

At a Dail Committee meeting in 2001, officials from the DSFA admitted, "[w]e may have got it wrong with €19.10."[13] Notwithstanding these comments, there has been no move on the part of Government to increase this figure.

(2) Rent supplement

The SWA scheme provides that a supplement can be paid to meet rent. A person's entitlement to rent supplement is governed by the Social Welfare (Consolidated Supplementary Welfare Allowance) Regulations 1995. Article 9(2) of these Regulations provides that a person shall be entitled to a supplement towards the amount of rent payable by him/her in respect of his/her residence. The rent supplement is calculated so as to leave the applicant with a disposable income, after payment of what the HB considers to be a reasonable rent, equivalent to the rate of SWA appropriate to the household, less a minimum contribution. The 1995 Regulations state that a claimant's entitlement to such a supplement is conditional upon, *inter alia*, the HB being satisfied that "the claimant is in need of accommodation and is unable to provide for it from his own resources". The assessment of an individual's needs again rests with the CWO.

In a further significant restriction of the entitlements of asylum seekers, Section 13 of the Social Welfare (Miscellaneous Provisions) Act 2003 amends the legislation in relation to rent supplement in order to exclude asylum seekers and persons who are "not lawfully in the State" from entitlement to rent supplement. Section 13 was given effect by way of a commencement order (S.I. no. 210 of 2003) dated 27 May 2003 [14]

Procedure for claiming SWA and rent supplement

Asylum seekers who wish to apply for payments under the SWA scheme must contact the CWO at their local Health Centre. Many HBs now run weekly clinics in the larger accommodation units housing asylum seekers. Decisions on entitlement to SWA and rent supplement are made by the relevant Superintendent Community Welfare Officer (SCWO). In practice, many decisions are made by the CWO and are approved by the SCWO. If a claim has been refused and the claimant is not happy with the amount of SWA granted, he/she can ask the CWO for the reasons behind the original decision to refuse his/her claim, in writing, together with any evidence relied upon by the CWO.

SWA Appeals

A SCWO may, at any time and from time to time, revise any decision if it appears that the original decision was wrong in the light of new facts or new evidence which have been brought to his/her notice since the original decision, or if there has been a relevant change in circumstances. The SCWO can revise decisions both in favour of a claimant and against a claimant. If a claimant is dissatisfied with a decision by a SCWO on a claim for SWA/rent supplement, he/she can appeal the decision to the Appeals Officer at the HB in question. A person unhappy with the outcome of his/her HB appeal has a further right of appeal to the Social Welfare Appeals Office, D'Olier House, D'Olier Street, Dublin 2.

The Appeals Officer may decide to hold an oral hearing of the appeal which the appellant will be invited to attend. On the other hand, the Appeals Officer may be able to deal with the case on the basis of the written evidence. Either way, the appellant is notified by letter of the outcome of the appeal.

13 *Irish Times* research, 28 March 2001.

14 DSFA Circular 02/03, 30 May 2003

Grounds for Judicial Review

Decisions of the Appeals Officer may be subject to judicial review by the High Court and can also be investigated by the Ombudsman.

Grounds for judicial review include:

- a mistake as to the law;
- a decision which flies in the face of reason and common sense;
- a breach of the rules of fair procedure;
- a decision which is *ultra vires* the relevant body.

No challenge has yet been taken by way of judicial review of a decision of an Appeals Officer on the issue of direct provision.

Standard refusal of SWA and rent supplement for asylum seekers

FLAC has represented asylum seekers who have applied for rent supplement and SWA to enable them to move out of Direct Provision into private rented accommodation on various grounds. FLAC has found that asylum seekers generally receive a standard form refusal from the Appeals Officer. Prior to recent changes, this stated that the applicant was not entitled to rent supplement as his/her accommodation needs were being met through Direct Provision. The refusal of SWA is made on the basis that taking into account the value of Direct Provision accommodation, the applicant's means are at least equal to the statutory rate less €19.10.

The DSFA policy is that although the majority of asylum seekers have no means, Direct Provision constitutes a source of means in accordance with Rule 1(4) of Part III of the Third Schedule of the 1993 Act and that a value must be attributed to the accommodation provided or made available in order to determine whether needs are being fully met. The CAO of the Western Health Board has stated that in relation to the implied assessment of the benefit of Direct Provision of around €76.16[15] per week "whether it appears to be artificially low by comparison with the general market costs of accommodation…if the DSFA wish to place a low value on Direct Provision or differentiate between costs and benefit in a manner which is favourable to (appellants), it is not appropriate for the Appeals Officer to place a higher value on Direct Provision to his detriment."

In practice, a single person with no dependants and no particular medical or health needs will find it impossible to move out of Direct Provision.

Now that Section 13 of the Social Welfare (Miscellaneous Provisions) Act 2003 has come into effect, the situation is even more restrictive as refusals of rent supplent can now be made simply with reference to the person's status as an asylum seeker.

The Circular relating to Section 13 (SWA Circular No. 02/03) makes clear that the CWO will have an extremely minimal role in relation to rent supplement. "The DJELR will provide for the needs of asylum seekers under its Direct Provision System, including the needs of certain categories of individuals who heretofore may have been granted rent supplements on grounds of medical or special needs."[16] It is envisaged that these needs will be met though provision of

15 Rate calculated in June 2000.

16 DSFA SWA Circular No. 02/03, 30 May 2003.

a range of accommodation including self-catering "step-down" facilities within the Direct Provision system.

A particularly disturbing and retrograde aspect of the new provisions relates to arrangements for families. Previously, a later arrival in the State could join a family member who had been granted rent supplement in private rented accommodation. Now, however, the newly arrived person will fall under Section 13 and will be ineligible for rent supplement. Therefore, in order for the family to be accommodated together the person who arrived earlier will have to apply to re-enter the direct provision system. This provision is clearly detrimental to families who will have already suffered traumatic separations.

CHAPTER 4

Administrative discretion and the social welfare code

Chapter 4 Administrative discretion and the social welfare code

Introduction to the exercise of discretion and the SWA scheme

This chapter examines the exercise of discretion by CWOs. It addresses the confines within which discretion must be exercised and looks at case law on the issue.

The Social Welfare (Consolidation) Act 1993 confers a number of important discretionary powers on CWOs. By virtue of Section 179, where the weekly amount of SWA payable to a person and any other income of that person is insufficient to meet his/her needs, the HB may grant him/her a weekly supplement. This provision authorises the HBs to pay *inter alia* rent supplement. Section 181 provides that the HB may, in any case where it considers it reasonable so to do, determine that SWA shall be paid to a person by way of a single payment to meet an exceptional need. Under Section 180, the HBs may, by reason of exceptional circumstances, pay SWA in kind – i.e. make a provision of goods or services instead of the whole or part of any payment to which the claimant would otherwise be entitled.

The exercise of administrative discretion

The exercise of administrative discretion is subject to the legal controls of administrative law. Discretion should be exercised having regard to the statutory objectives and policies discernible in the statutory code on the basis of the correct application of the law and a proper assessment of the relevant considerations. Where discretion is fettered by the adoption of a rigid policy or where discretion is exercised for a purpose not contemplated by the legislation, then the decision taken may be challenged as being *ultra vires* and of no legal effect.

In relation to discretionary powers, Hilary Delaney[17] states as follows:

> "Where a discretionary power is vested in a particular individual or body, it must bring its own discretion to bear on the case and the power must not be exercised under the dictation of another authority. So it must act in a genuinely independent manner and not feel constrained to act in accordance with a direction from an outside hand or authority. The exercise of discretion may successfully be challenged even where the authority mistakenly believes it must act on the basis of a direction, so it is the state of mind of the body in which the discretionary power is vested which is the determining factor. Equally, where the outside authority has not actually sought to impose its will, the decision may be questioned provided that the body exercising the power felt constrained to act in a certain way."

In the case of the administration of the SWA scheme, discretionary power is vested in CWOs to determine to provide for individuals in the State in accordance with Sections 171 and 180 of the 1993 Act. It follows that CWOs must bring their own discretion to bear on the case and the power must not be exercised under the dictation of another authority. Under the scheme of Direct Provision for asylum seekers, this discretion to provide for individuals as the CWO sees fit is clearly curtailed. No assessment is made by the HB as to whether or not exceptional circumstances exist in respect of each asylum seeker entering the State. What is worrying is the fact that the prime motivation for introducing the scheme of Direct Provision for asylum

17 Delaney, Hilary (2001). *Judicial Review of Administrative Action - a Comparative Analysis*, p101.

seekers was not in line with social welfare 'needs' ethos, but a cost-cutting measure driven by the DJELR. The question arises whether this department should have a legislative role in shaping social welfare policy having regard to the provisions of the social welfare code. One could argue that the DJELR is not the main policy provider in the area of social welfare law. It is therefore questionable whether social welfare objectives should be informed by another government department which has a marginal social welfare function.

Analysis of case law relating to the fettering of discretion

The Supreme Court ruled as far back as 1958 that the discretion of a welfare agency to determine the merits of an individual applicant's case could not be fettered or pre-determined by a ministerial circular.[18] In that case, the Appeals Officer dealing with the social welfare matter indicated that he was bound to adhere to a direction given by the Minister for Finance. O'Daly J indicated that the action of the Appeals Officer in adhering to a direction purported to have been given to him by the Minister for Finance was an abdication by him of his duty.[19]According to O'Daly, "[t]hat duty is laid upon him by the Oireachtas and he is required to perform it as between the parties that appear before him freely and fairly as becomes anyone who is called upon to decide on matters of right or obligation." This is precisely what happened to CWOs who found they no longer had the power to assess the individual needs of asylum seekers. One might also say that the HBs are taking irrelevant considerations into account, namely a government policy that is without a direct legal basis. One might equally say that the executive has made a decision affecting the right of applicants which is not sanctioned by any "principle or policy" contained in the 1993 Act, contrary to Article 15.2.1 of the Constitution.

In the 2001 High Court decision of *Martin Dunne, Desmond Crofton and Brendan McLoughlin v Garda Superintendent K.G. Donohoe, Patrick O'Toole, Ireland and the Attorney General*,[20] O'Caoimh J reiterated the point that a person having been conferred with a discretion is obliged to exercise that discretion independently and may not act under the direction and dictation of any other body. This point was made in respect of the power of Garda Superintendents under the Firearms Act 1925 to issue or renew firearms certificates in respect of persons in possession of a firearm.

The *ratio* of the decision was that where the Oireachtas confers a decision-making power on a designated person, then that individual must exercise the decision-making power conferred upon him/her and it is not permissible for the designated decision-maker to exercise power in accordance with the dictates of another body or authority. It follows that a person fails to exercise a discretion where he/she acts on the instruction or dictation of another party or applies an inflexible policy. Under the operation of the scheme of Direct Provision, the discretion of CWOs charged with the function to provide for persons' needs as they see fit is being fettered by the DJELR. FLAC questions the power of the DJELR to dictate how CWOs should exercise their statutory discretion.

FLAC condemns the fettering of discretion of CWOs and contends that their discretion should be exercised having regard to the statutory objectives and policies discernible in the statutory code on the basis of the correct application of the law and a proper assessment of the relevant considerations. It follows that decisions taken not to grant full rate SWA may be challenged as being *ultra vires* and such a challenge, if successful, would render the decisions of CWOs legally invalid. The same applies to refusals of rent supplement made to date. However, since 27 May when Section 13 of the Social Welfare (Miscellaneous Provisions) Act 2003 became effective, CWO decisions, in respect of rent allowance, have been governed by legislation rather than by ministerial circular and are not open to challenge on the basis of unlawful fettering of discretion.

18 Mc Loughlin v Minister for Social Welfare [1958] IR 1.

19 ibid, page 27.

20 Unreported, High Court 27/07/01.

Statutory basis for Direct Provision in the UK

The scheme of Direct Provision has no express statutory basis, other than insofar as Section 13 of the Social Welfare (Miscellaneous Provisions) Act 2003 restrict eligibility for rent supplement. Furthermore, the social welfare code does not provide a role for the DJELR in the development of social welfare policy and discharge of functions under the social welfare code. It is interesting that the UK's system of Direct Provision is on a statutory footing. In the UK, the Home Secretary is responsible for immigration policy and asylum decision-making through the Home Office's Immigration and Nationality Directorate (IND). The Immigration and Asylum Act 1999 (IAA) amended the previous Asylum Acts and Immigration Act 1971. Part VI of the IAA 1999 provides for the new support scheme for asylum seekers. Section 95 of the Act provides that the Secretary for State may provide or arrange for the provision of support for asylum seekers who appear to the Secretary of State to be destitute or to be likely to become destitute within such period as may be prescribed. For the purposes of the section, a person is taken to be destitute where (a) he/she does not have adequate accommodation or any means of obtaining it (whether or not his/her essential living needs are met): or (b) he/she has adequate accommodation or the means of obtaining it, but cannot meet his/her other essential living needs. The IAA 1999 provides for regulations[21] prohibiting asylum seekers from living in certain parts of the UK as a condition of their temporary admission. It is not proposed to deal with the UK support scheme for asylum seekers save to highlight that the entire scheme is on a legislative footing unlike the position in Ireland.[22]

Policy or purpose under the social welfare code

The rationale behind the introduction of Direct Provision stemmed from the government's policy of discouraging asylum seekers. The scheme of Direct Provision for asylum seekers is, arguably, contrary to Article 15.2.1 of the Constitution (separation of powers) as the executive is implementing a policy not contained in the 1993 Act. The Minister for Justice, Equality and Law Reform at the time, John O'Donoghue, openly stated that if there were not a scheme of Direct Provision up and running by April 2000, Ireland would be "overwhelmed by the numbers of asylum applicants."[23] The Minister relied on the common travel area between Ireland and England and stated, "if my scheme is more attractive than the British scheme, it must stand to any kind of logical reasoning that I would have a disproportionate number coming here from Britain."[24] The Minister's concern was not directed to the policy or objectives of the social welfare scheme which the Commission on Social Welfare (1986)[25] identified. The Commission listed the abolition of poverty, the redistribution of income different to that generated solely by market forces and the protection of the standard of living for claimants as the main objectives of the social welfare scheme.

FLAC contends that it is a misconstruction of the social welfare legislation to suggest that the needs or convenience of the State should properly be the concern of HBs when making a decision in each claimant's case. Such consideration is not provided for in the legislation nor is it appropriate. The objective of the DJELR of discouraging asylum seekers is at odds with the objective of the DSFA of meeting the needs of those who cannot provide for themselves in the State under the social welfare code.

21 Which must be laid before and approved by Parliament.

22 See further Willman, Sue, Knafler, Stephen & Pierce, Stephen (2001). *Support for Asylum Seekers - A Guide to Legal and Welfare Rights*. 1st Ed, Legal Action Group, London.

23 Minutes of Reconvened Interdepartmental Committee on Immigration, Asylum and Related issues, 8 November 1999.

24 *Law Society Gazette*, June 2000, p9.

25 The Commission on Social Welfare (1986) Research, Stationary Office, Dublin.

CHAPTER 5

The legality of Direct Provision: an equality perspective

Chapter 5 The legality of Direct Provision: an equality perspective

This chapter evaluates the scheme of Direct Provision from a constitutional perspective and examines the case law establishing equality rights under the Constitution.

Article 40.1 of the Constitution

Article 40.1 of the Constitution guarantees that all citizens shall, as human persons, be held equal before the law. It is well-established that the framer's preference for the use of the term 'citizen' when identifying that class of persons who are the holders of fundamental rights does not operate to exclude non-citizens from reliance upon those rights. The real issue is what, if any, fundamental right could be said to be at issue. FLAC acknowledges that it cannot be contended that an entitlement to a monetary payment of SWA or rent allowance, as opposed to bed and board as benefit in kind, is a fundamental and inalienable right.

The scope of Article 40.1 is seen as limited to a guarantee of equality as human persons and does not guarantee equality in all circumstances, as stated by Walsh J in the Supreme Court in *Quinn's Supermarket v Attorney General*:

> "...this provision is not a guarantee of absolute equality for all citizens in all circumstances but is a guarantee of equality as human persons and (as the Irish text of the constitution makes quite clear) is a guarantee related to their dignity as human beings and a guarantee against any inequalities grounded upon an assumption, or indeed a belief that some individual or individuals or classes of individuals, by reason of their human attributes or their ethnic or racial, social or religious background, are to be treated as the inferior or superior of other individuals in the community."[26]

It has long been established that non-nationals do not enjoy the same range of personal rights under the Constitution as citizens. It is an inherent characteristic of a State's sovereignty that it should have "...very wide powers in the interest of the common good to control aliens, their entry into the state, their departure and their activities within the state".[27] The judgment of Keane J in *Laurentiu v Minister for Justice, Equality and Law Reform*[28] concerning the Aliens Act 1935 holds that a person who is not entitled to be in the State cannot enjoy constitutional rights which are co-extensive with the constitutional rights of citizens and persons lawfully residing in the State. There would, however, be a constitutional obligation to uphold the human rights of the person affected which are recognised, expressly or by implication, by the Constitution, although they are not co-extensive with the citizen's constitutional rights.

26 [1972] IR 1.

27 Pok Sun Shum v Ireland [1986] ILRM 93 at 599.

28 [2000] 1 ILRM 1, 50.

Restrictions on Article 40.1

Article 40.1 is qualified by the statement that the guarantee to equality shall not be held to mean that the State shall not in its enactments "have due regard to differences of capacity, physical and moral, and of social function". It seems therefore that it may be constitutionally permissible to legislate differently in respect of different categories of persons. The dictum of Walsh J in *The State (Nicolau) v An Bord Uchtala* [29]

> "... Article 40.1 is not to be read as a guarantee or undertaking that all citizens shall be treated by law as equal for all purposes, but rather as an acknowledgement of the human equality of all citizens and that such equality shall be recognised in the laws of the State. The section itself [in its second sentence] recognises that inequality may or must result from some special abilities or from some special need and it is clear that the Article does not either envisage or guarantee equal measure in all things to all citizens".

On the other hand it could be argued that the qualifying clause was simply designed to make sure that the State was not debarred from treating one class of persons differently from another class where the circumstances so warranted such different treatment. As Keane CJ observed in *Re Planning and Development Bill 1999,* [30]

> "However, Article 40 does not preclude the Oireachtas from enacting legislation based on any form of discrimination: as has often been pointed out, far from promoting equality, such an approach would simply result in greater inequality in our society...where classifications are made by the Oireachtas for a legitimate legislative purpose, are relevant to that purpose and treat each class fairly, they are not constitutionally invalid."

Furthermore, Barrington J in *Brennan & Ors v The Attorney General* [31] stated that the legislature in its efforts to redress the inequalities of life or for other legitimate purpose may have to classify citizens into categories. This categorisation must be for a legitimate purpose but he warned the legislature that the classification must be relevant to that purpose, that each class must be treated fairly and that it would be prudent to make this express rather than implied.

The question is whether there is a legitimate purpose for treating asylum seekers differently to other persons resident in the state in assessing their entitlement to SWA. The classification of asylum seekers into a broad category of individuals to be treated separately from the mainstream with regard to social welfare entitlements is, arguably, contrary to the purpose of the Social Welfare (Consolidation) Act 1993. One of the main purposes behind the 1993 Act was to provide an emergency payment in the form of SWA to allow for a basic level of subsistence where a claimant has no other means of support. Section 171 of the 1993 Act provides the statutory basis for entitlement to SWA for every person in the State whose means are insufficient to meet his/her needs.

Furthermore, it is clear from the Supreme Court's decision in *Lowth v Minister for Social Welfare* [32] that the differing treatment of similarly placed persons for social welfare purposes violates Article 40.1 in the absence of a rational, objective justification for such treatment. In *Lowth* the plaintiffs contended that there was an invidious and unconstitutional discrimination in operation against deserted husbands as they received no social welfare payments

29 [1996] IR 567.

30 [2000] 2 IR 321, 357.

31 [1983] ILRM 449, 480.

32 [1998] 4 IR 321.

comparable to those received by deserted wives. The question is whether there is an objective justification for the different treatment of asylum seekers in assessing entitlement to SWA as compared with Irish nationals.

Counsel on both sides in *Re Illegal Immigrants (Trafficking) Bill* [33] made submissions on the nature and extent to which persons seeking asylum or refugee status enjoy the protection of certain rights under the Constitution in accordance with the principles of natural justice and constitutional justice. The Court reiterated the fact that non-nationals enjoy a constitutional right to equal treatment in the sense that any difference in treatment must be justified by some legitimate government objective. The Supreme Court recognised that there are certain issues in respect of which differential treatment between citizens and non-citizens is permissible; issues such as citizenship and deportation being obvious examples. However, there is arguably no legitimate basis for the discrimination experienced by asylum seekers in the provision of welfare services in the State. It is submitted that non-nationals are entitled to exercise their rights to social welfare entitlements and any interference by the State with these rights must be exercised in a constitutionally valid manner.

The Supreme Court recognised in *An Blascaod Mor Teo. v Commissioners of Public Works (No.3)* [34] that discrimination based on pedigree is suspect and requires an (apparently) strong objective justification. The case centred on legislation which discriminated in favour of persons whose immediate ancestors owned the land in question. The legislation was found to be unconstitutional since it discriminated on suspect grounds without any legitimate justification whatsoever. This fact alone made the classification suspect. The Supreme Court agreed with the trial judge that a constitution should be pedigree-blind, just as it should be colour-blind or gender-blind, except when those issues are relevant to a legitimate legislative purpose.

The reference to suspect classifications and the idea of constitutional blindness to certain irrelevant legislative criteria were clear echoes of US constitutional equality doctrine. Although Barrington J did not use the language of "presumptive invalidity", he was clearly suggesting that 'suspect' legislative criteria should be evaluated more closely than others. Doyle suggests that the Court's conclusion that it could see no legitimate legislative purpose for the discrimination indicates that it thought it incumbent on the State to show a legitimate purpose.[35] This corresponds with the approach taken in *Re Article 26 and the Employment Equality Bill 1996* [36] and contradicts the traditional approach of requiring the plaintiff to show that there was no justification for the measure.

It would only be a short step for the Court to apply these principles to discrimination based on citizenship in the provision of welfare services.

The value of human equality, guaranteed by Article 40.1, mandates the organs of the State to treat persons with equal respect and esteem. This is not a demand for mechanical equal treatment, but it does preclude classifications which are based on an assumption that some individuals are inherently inferior or superior to other individuals in the community by reason of their human attributes. Any such assumption is incompatible with the constitutional command of human equality. The justification for legislation which appears to be based on such assumptions must therefore be evaluated more closely, through the expedient of reversing the onus of proof.[37] It follows that if the government were to place the scheme of Direct Provision on a statutory footing, such legislation could fail as being incompatible with

33 [2000] 2 IR 360, 384.

34 [2000] 1 IR 6.

35 Doyle, Oran, (2001) 9 ISLR 101, 116.

36 [1997] 2 IR 321.

37 Doyle, Oran, (2001) 9 ISLR 101, 117.

the constitutional command of human equality. The question is not whether the courts should select some classifications for special treatment (such as providing for asylum seekers by means of Direct Provision) but rather how they should make that selection. How are the courts to ascertain the grounds of classification that rest on the impermissible assumption that some individuals are inferior to other individuals? Developing her argument of equality based on human dignity, Curtin[38] asserts that people should be treated for what they are and should not be discriminated against on the basis of irrelevant characteristics. Immutable characteristics, such as skin colour, religious affiliation and social or ethnic background, constitute irrelevant bases of discrimination and should be proscribed. The judgment in *An Blascaod Mor Teo*,[39] an indication of a move towards a more egalitarian interpretation of the law, would seem to indicate that such legislation would fail.

The ECHR and constitutional rights

While the incorporation of the European Convention on Human Rights (ECHR) into Irish law will take place only at sub-constitutional level, there might be circumstances where the rights developed under the Irish Constitution could provide better protection than is available in the ECHR. The conditions and circumstances in which asylum seekers are required to live whilst awaiting a decision on their application for refugee status may raise issues under the ECHR. None of the contentious issues of dispersal, Direct Provision or the refusal of the state to allow asylum seekers to work pending determination of their claims to refugee status has been addressed directly by the ECHR institutions. However, the recent attempt by the UK legislature to refuse social assistance to asylum seekers who did not apply for asylum at the port of entry failed in the courts on the basis *inter alia* of Article 3 (prohibition on degrading treatment) and Article 8 (right to respect for private life) of the UK Human Rights Act.[40] In the separate opinion in the case of *HLR v France,*[41] one member of the former European Commission on Human Rights argued that the refusal to accord the means of subsistence to a person whose expulsion had been ruled to be in violation of Article 8 fails to meet the requirements of that Article. As Nuala Mole has commented, "…the same must apply to those who cannot be expelled whilst their applications to remain are being determined".[42] In fulfilling their positive obligations under Article 8 of the ECHR, contracting states are also afforded a margin of appreciation by the ECHR. The difficulty for an applicant who seeks to argue that the state has failed in its positive obligations under Article 8 is that he/she will first have to convince the court of the existence of an interest which the State has failed to respect.[43]

Article 14 of the ECHR

Article 14 of the ECHR provides for a limited basis upon which discrimination arguments can be raised before the European Court of Human Rights (the Court).[44] It provides for an important general duty of non-discrimination by contracting states in securing the enjoyment of ECHR rights. However, Article 14 is not a free-standing equality norm and is dependent upon another ECHR right. Therefore, in order to claim that a law or administrative practice is discriminatory, an applicant must first show that the law or practice falls within the ambit of a ECHR right. Once that condition is satisfied, the Court may proceed to analyse whether the State has

38 Curtin, D. (1989). *Irish Employment Equality Law*, p23.

39 [2000] 1 IR 6.

40 *The Queen on the Application of "Q" and others-v- Secretary of State for the Home Department* [2003] EWCA Civ 364.

41 Dissenting opinion of Mr. Barreto, (1998) 26 E.H.R.R. 29, at 42.

42 See generally, C Warbrick, The structure of Article 8 [1998] 1 E.H.R.L.R. 32 at 35.

43 Egan, Suzanne (2001). *The European Convention on Human Rights and Refugees*. Dublin: Irish Centre for European Law.

44 Bringing a case to the European Court of Human Rights is not generally a possibility for an asylum seeker in Direct Provision.

discriminated against the applicant in guaranteeing the right in question. That enquiry takes the form of a two-pronged assessment. First, whether there is a difference in treatment between the applicant and another similarly situated group; and, if so, whether there is a reasonable and objective justification for the difference in treatment. The Court is prepared to accept that a difference in treatment has a "reasonable and objective justification" if it is satisfied that the difference is based on a legitimate aim and if the means used to achieve that aim is proportionate to the aim pursued.[45] This echoes the Irish Supreme Court's view in *Lowth v Minister for Social Welfare* [46] and *An Blascaod Mor Teo v Commissioners of Public Works (No.3)* [47] in the domestic context; differing treatment of similarly placed persons for social welfare purposes violates Article 40.1 of the Constitution in the absence of a rational, objective justification for such treatment. As the plethora of surrounding discrimination against asylum seekers during the determination procedure relates primarily to economic rights rather civil and political rights, it is difficult to pin-point particular rights in the ECHR to which Article 14 can be attached for support in bringing a claim. The only obvious one would be Article 2 of the Fourth Protocol in relation to freedom of movement and FLAC is doubtful how much weight such an argument would carry in the Irish courts.

Equality legislation in Ireland

The Equal Status Act 2000 prohibits discrimination in all areas other than the workplace, such as in the provision of goods and services and education. Section 3 of the Act lists a series of circumstances referred to as "the discriminatory grounds" where discrimination will be taken to have occurred. As stated in Chapter 2, FLAC is of the view that the scheme of Direct Provision may be in contravention of the Equal Status Act 2000 in that it discriminates between classes of persons in Direct Provision (Irish homeless/non-national asylum seekers). However, an action under the Equal Status Act would not be without difficulty. While services with a statutory basis are exempt from the scope of the Act of 2000, FLAC contends that the system of Direct Provision is without an express legislative basis, as outlined previously. Nevertheless, in order to come within the Act, discrimination must be based on one of nine grounds. Despite lobbying at the time of the introduction of the act, refugee/asylum seeker status is not one of the grounds. It would be necessary to show that the discrimination is nationality-based or, more plausibly, that it is more likely to affect non-nationals as a class (indirect discrimination).

International Convention on the Elimination of Racial Discrimination

While the UN Committee on the Elimination of Racial Discrimination (CERD) has not yet directly considered the Irish situation, it expressed concerns about the UK model of dispersal and direct provision on which the Irish system is based. The Committee found that the dispersal system could hamper the access of asylum seekers to expert legal and other necessary services such as health and education. It recommended that the UK implement a strategy ensuring that asylum seekers have access to essential services and that their basic rights are protected.[48]

45 Belgian Linguistics case (No.1) 1 E.C.R.R. 252.

46 [1998] 4 IR 321.

47 [2000] 1 IR 6.

48 CA/55/18: UN General Assembly Official Records 55th session, Supplement No 18.

CHAPTER 6

Living in limbo – Direct Provision assessed

Chapter 6 Living in limbo – Direct Provision assessed

Even though Direct Provision has only been in existence for three years, there is already a large body of published research detailing the hardship endured by asylum seekers living in the system. We do not propose to duplicate this research here; rather, we summarise some of the findings and draw on the experience of asylum seekers who have sought help from FLAC.

Response of asylum seekers living in Direct Provision

Through its work with asylum seekers, FLAC has found that many of the needs of asylum seekers are not being met under the scheme of Direct Provision. These include health, legal, social and cultural needs. The basic needs payment of €19.10 is so low that it can only provide for a fraction of the day-to-day requisites of asylum seekers. Items such as bus tickets, phone cards and razors are just some of the items (aside from food and clothes) for which the asylum seeker must budget. It is no surprise that asylum seekers regularly seek the support of groups such as the Society of St. Vincent de Paul.[49]

The nature of the full board and lodging provided under Direct Provision is also a cause for concern. The food provided in hostels is the main complaint of asylum seekers – both its lack of variety and poor quality.[50,51] Some centres allow residents to cook, but they must buy the ingredients out of their individual weekly allowance of €19.10. Asylum seekers living under Direct Provision frequently have no access to kitchen facilities. Food is generally prepared in advance by hotel/hostel staff and asylum seekers have little or no say as to what they prefer or are able to eat. The result is that food has become a pressing issue for asylum seekers, increasing their sense of powerlessness. Many asylum seekers also have difficulty in sleeping as a result of high noise levels in the hostels which heighten their stress levels.

FLAC has had contact with families who have found their recreational TV room in the hostel to be full of smoke and thus unsuitable for a family, leading them to spend long hours in the confined space of their room.[52] Other complaints include the lack of adequate laundry and recreational facilities. It is generally agreed that Direct Provision accommodation is particularly unsuitable for families, pregnant women or people who have suffered from trauma. Long stays in overcrowded reception centres with high levels of dependency and boredom were found to contribute to increased incidences of family and relationship-related problems, linked to mental health problems and higher levels of frustration and aggression.[53]

In a recent study,[54] less than one third of asylum seekers interviewed who were living in

49 St. Vincent de Paul submission to DSFA, July 2000.

50 Comhlamh (2001). *Refugee Lives? The Failure of Direct Provision as a Social Response to the Needs of Asylum Seekers in Ireland.* Dublin: Comhlamh.

51 Partnership Tra Li (2001). *Meeting the Needs of Asylum Seekers in Tralee*, research document.

52 Fanning, B., Veale, A. & O' Connor, D. (2001). *Beyond the Pale: Asylum Seeker Children and Social Exclusion in Ireland.* Dublin: Irish Refugee Council.

53 Dutch Refugee Council (1997). *Asylum seekers – don't let them just sit and wait*, p6.

54 Faughnan, Pauline & Woods, Mairide (2000). *Lives on Hold? Seeking Asylum in Ireland*, p54.

emergency accommodation claimed to be happy with their accommodation. In FLAC's experience, asylum seekers who are unhappy with the accommodation provided by the State are often afraid to complain in case this will detrimentally affect their application for asylum. Also, in most cases they will be told to sort out the matter between themselves and hostel management, as there is no independent grievance and resolution board. While complaints procedures have been established in most hostels, there is no uniform scheme of grievance resolution within the hostels and often the hostel proprietors seem to see themselves as representatives of the government with full authority.

The human impact of Direct Provision

There is a strong link between the quality of housing and a person's health. Overcrowding and enforced passivity have negative effects on the mental health of asylum seekers, which in turn may show in the form of physical symptoms.[55] The ability of asylum seekers to overcome the often traumatic experiences they have undergone before and during their journey from their country of origin and to deal with the multiple losses they have experienced is less likely to be reduced if reception conditions in the host society continue to be stressful and insecure. Severe housing deprivation produces a range of day-to-day tensions and pressures that affect the psychological well-being of parents and children in reception centres.[56] Reception centres should provide more than a roof over people's heads and asylum seekers should be encouraged to move from reception centres into normal housing as soon as possible after their arrival.[57]

Asylum seekers may have experienced long periods of constantly moving from place to place, of living in hiding, or of being in transit on their way to a safe country of asylum. Even after arrival in the host country, feelings of homelessness can continue for a long time, linked to loss of family and friends, isolation, loneliness and lack of security, as has been documented by various members of the medical profession in Ireland. The process of dealing with past experiences and adjusting to a new situation may stagnate as a result of continuous exposure to stress and tension, due to a lack of privacy and independence or due to frequent relocations between reception centres or flats.[58] Emotional and personal anxieties are increased by the fact that asylum seekers are forced to reside under conditions that may exacerbate their poor health.

The effect of the above is that thousands of asylum seekers fall out of the scheme. It is claimed that almost 40 % of applicants for asylum are now disappearing from the scheme within 10 days of lodging their claims.[59] The RIA could not give a definitive figure of the numbers of asylum seekers leaving the system of Direct Provision or their reasons for so doing. In practice, asylum seekers leave Direct Provision for a variety of reasons. Some leave rural dispersal centres to live in urban areas in informal accommodation arrangements with family or friends from their country of origin, while others are regularised because of a change of status. For some there is a change of circumstance in their country of origin and they return home, though sometimes still in fear of persecution.

FLAC is particularly concerned about those asylum seekers who have left Direct Provision and

55 Dibelius, Christine (2001). *Help or Hindrance: Accommodation and the Integration of Refugees and Asylum seekers in Waterford City.* Dublin: Clann Housing Association.

56 Fanning, B., Veale, A. & O' Connor, D. (2001). *Beyond the Pale: Asylum Seeker Children and Social Exclusion in Ireland.* Dublin: Irish Refugee Council.

57 Final research of Integrate Waterford Pilot Project, 2000-2001.

58 Dutch Refugee Council (1997). *Asylum seekers – don't let them just sit and wait.* Amsterdam: Dutch Refugee Council.

59 Aoife Collins for NASC, forthcoming.

essentially have no support or income maintenance. IMPACT, the union representing CWOs, claims that asylum seekers who have left Direct Provision and have forfeited their right to state benefits are ending up on the floors of friends' flats, adding that "...there is a potential that a sub-class is being created beneath the layer of an already badly disadvantaged group."[60]

Ultimately, what is important is that policy and practice does not make the experience of asylum-seeking so unbearable that asylum seekers are forced to abandon their right to seek asylum. The numbers of people leaving Direct Provision suggests that asylum seekers are abandoning their asylum claim rather than wait out a number of years in Direct Provision. This is most worrying and implies the need for a strict time limit for Direct Provision accommodation arrangements.

Response of the NGO community

The overwhelming response of the NGO community to Direct Provision has been critical. From the outset, FLAC expressed grave reservations about the scheme of Direct Provision and has consistently questioned its statutory basis. The Irish Council for Civil Liberties has described the scheme as both "discriminatory and unnecessary" while the Conference of Religious in Ireland has warned of the danger of "ghettoisation".[61] Similarly, Amnesty International (Ireland) has stated that the scheme "discriminates against a section of people which is already vulnerable".[62] The Irish Refugee Council has described the dispersal scheme as "inhumane, discriminatory and economically unsound".

Asylum seeker support groups are finding themselves in the invidious position of filling in the gaps left by Government in social and support structures. Such organisations face the dilemma of upholding a system with which they fundamentally disagree by helping people on a day-to-day level.

Interdepartmental conflict

The introduction of Direct Provision was the cause of considerable interdepartmental conflict. Records from the period show that much pressure had to be placed on other departments by the DJELR before the necessary personnel were seconded to the newly established directorate with responsibility for enforcing the dual policies of Direct Provision and dispersal. Relations between the DJELR and the then DSFCA were also strained. In January 2000, a senior DJELR official accused the DSFCA of undermining DJELR policy.[62]

More than 550 CWOs threatened to boycott Direct Provision, claiming that it was blatantly discriminatory and effectively confined recipients to the small provincial towns to which they had been consigned. They saw the role into which they were forced as a policing and not a welfare one. The unions were united in their condemnation of the government's policy. Then President of the Irish Congress of Trade Unions, Inez Mc Cormack, criticised the policies of Direct Provision and dispersal as involving "an unacceptable level of humiliation" of asylum seekers[63] and as "the beginnings of institutional racism in Ireland". Doubt was expressed as to the authority of DJELR policy in influencing the practice in this area. CWOs stated their

60 Statement by Dermot Bolger of IMPACT, *Irish Times* research, 8 May 2001.

61 The Irish government also looked at the possibility of accommodating asylum seekers in tent-like structures due to a critical shortage of suitable housing. One option being looked at around this time was canvas sites around the country and 'floating hotels' off the coast.

62 *Irish Times* research, 11 April 2000.

63 *Irish Times* research, 14 March 2001.

64 *Irish Times*, 11 April 2000.

commitment to full and equal treatment for all supplementary welfare applicants, irrespective of nationality and country of origin.[65] While industrial action by CWOs was averted, there is still much dissatisfaction among HB officials.

Poverty-proofing

Poverty-proofing was introduced in July 1998 as part of the National Anti-Poverty Strategy (NAPS). It is a process whereby all government departments are required to systematically examine all policies and programmes in order to assess their impact on poverty and inequality.

The definition of poverty underpinning the strategy is as follows:

> "People are living in poverty if their income and resources (material, social and cultural) are so inadequate as to preclude them from having a standard of living which is regarded as acceptable by Irish Society generally. As a result of inadequate income and resources, people may be excluded and marginalised from participating in activities which are considered the norm for other people within society." [66]

The revised strategy sets new targets to be met by 2007, including a rate of €150 per week (calculated in 2002) for the lowest rates of social welfare. Interestingly, the review found that there was very little direct evidence to suggest that the poverty-proofing process had seriously influenced policy formation and no evidence that it had changed the distribution of resources. It is clear that Direct Provision is one such example of the failure of Government to implement poverty-proofing. If Direct Provision had been subjected to such analysis at the policy stage, it surely would never have been implemented.

65 *Irish Times*, 29 February 2000.

66 Guidelines document, National Anti-Poverty Strategy. In *Review of the Poverty Proofing Process* by Dr. Sile O'Connor, National Economic & Social Council, November 2001, p13.

CHAPTER 7

Conclusion and Recommendations

Chapter 7 Conclusion and Recommendations

The **objectives** of this research were to:

- Examine and question the legal and policy basis for the scheme of Direct Provision in the context of the Irish social welfare code, equality legislation, the Irish Constitution and the ECHR;
- Highlight the human rights implications of the scheme;
- Identify necessary reforms.

The findings:

- The scheme of Direct Provision is a departure for asylum seekers from the existing social welfare code and was introduced without express statutory basis. The scheme was formally introduced not by legislation but by a press statement issued by the DJELR on 28 March 2000 followed soon thereafter by two circulars issued by the DSFA. These direct that the welfare needs of asylum seekers must be met by means of Direct Provision rather than by cash payment of SWA.

- The Social Welfare (Consolidation) Act 1993 vests a discretionary power in the HB's CWOs to determine how to provide for the needs of applicants under the SWA scheme. By adopting its current policy, the DJELR has fettered the exercise of this discretion. The research examines case law in relation to the exercise of statutory discretion and concludes that the law is clear that the discretion of CWOs should be exercised having regard to the statutory objectives and policies discernible in the statutory code, on the basis of the correct application of the law and a proper assessment of the relevant criteria.

- Section 180(1) of the 1993 Act provides that where it appears to a HB that the needs of a person would be best met by the provision of goods and services instead of a payment to which he would otherwise be entitled, *in exceptional circumstances* the HB may make arrangements for such provision. The wording of the section clearly envisages that the basis for such a decision should be the particular needs of the individual. It is clear from FLAC's examination of the context of Direct Provision that the decision to introduce the scheme was based on a policy of deterrence rather than on any attempt to address the needs of asylum seekers as a class or as individuals. FLAC argues that Section 180(1) cannot be interpreted as permitting a departmental decision to refuse SWA and rent allowance payments to an entire category of people as a matter of policy.

- The research examines the legality of Direct Provision from an equality perspective. Article 40.1 of the Constitution guarantees that all citizens shall, as human persons, be

held equal before the law, with the limitation that the State may in its enactments have "due regard to differences of capacity, physical and moral, and of social function". The Supreme Court in *Re Illegal Immigrants (Trafficking) Bill ([2000] 2 IR 360,384)* reiterated the fact that non-nationals enjoy a constitutional right to equal treatment in the sense that any difference in treatment must be justified by some legitimate government objective. The research considers the case law stemming from Article 40.1 and questions whether the discriminatory nature of the policy of Direct Provision can be justified in this respect.

- FLAC further concludes that current policy may be in contravention of the Equal Status Act 2000. An Irish citizen who is homeless, living in hostel accommodation and who applies for rent supplement in order to move out of the hostel is not denied it on the grounds that they are not in need of accommodation. In contrast, hostel accommodation is presumed to be adequate for asylum seekers as per Circular 04/00 issued by the DSFA. Similarly, while homeless people in hostel accommodation receive a reduced amount of SWA, this is based on an actual calculation of the 'benefits and privilege' provided by the particular hostel and is not an across-the-board set figure like the €19.10 paid to asylum seekers in Direct Provision. FLAC submits that this discrimination contravenes the prohibition in the Equal Status Act 2000 of discrimination in the provision of services on grounds which include race (defined to include national origin). While services with a statutory basis are exempt from the scope of the Act of 2000, FLAC contends that the scheme of Direct Provision is without a legislative basis, as outlined previously.

- Through interviews with asylum-seekers, NGOs and CWOs, the human impact of Direct Provision is assessed. Asylum seeker and refugee support groups are severely critical of the entire concept of Direct Provision, which they say often leaves asylum seekers bored, isolated, socially excluded, impoverished, deprived of services, unaware of their entitlements, demoralised, deskilled and institutionalised.

- The previous and incumbent Ministers for Justice, Equality and Law Reform have repeatedly expressed the view that "the welfare scheme must not act as a pull factor for non-genuine asylum seekers". In its efforts to avoid such a pull factor, the Department – through its current policy and practice – runs the risk of making the experience of asylum-seeking so unbearable that people are effectively forced to abandon their right to seek asylum. The 'magnetic pull theory'[67] refers to asylum seekers not in need of protection as opposed to those in need of protection, therefore the 'pull factor' itself is not quantified. The United Nations High Commissioner for Refugees (UNHCR) has found that "asylum seekers when deciding where to lodge their application are more swayed by the presence of their own community than by the reception standards and benefits".[68]

67 The 'magnetic pull' argument centres around the notion that social welfare benefits in the form of SWA serve as an incentive to asylum seekers to come to Ireland.

68 Europe: Uneven distribution trends. *UNHCR Refugees Daily* (5 October 2000).

Conclusion and recommendations

Direct Provision

- was introduced without statutory basis, instead being based on government policy, dictated by expediency and at cross-purposes to the clear intention of the legislature in the social welfare code.
- unlawfully fetters the discretion of the HB's CWOs in relation to the grant of SWA.
- is discriminatory and may be in contravention of the Equal Status Act 2000 and Article 40.1 of the Constitution.
- fails to respect the principles contained in the NAPS and does not appear to have been poverty-proofed in line with these principles.
- is gravely detrimental to the human rights of a group of people lawfully present in the country and to whom the government has moral and legal obligations under national and international law.

FLAC recommends

- that the scheme of Direct Provision be abandoned immediately and that asylum seekers be dealt with in line with the existing social welfare legislation and, in particular, in line with the original spirit and intention of the social welfare code.
- that Section 13 of the Social Welfare (Miscellaneous Provisions) Act 2003 relating to the entitlement of asylum seekers to rent allowance be repealed.
- that all future measures in relation to asylum seekers be subject to poverty-proofing and equality-proofing.

Appendices

Appendix 1

The following are sample accommodation centre house rules:

- Each Resident will have their own key. If this is lost there will be a charge of €1.90 to get another key.
- For hygiene reasons no food, cutlery, dishes or glasses to be taken to rooms.
- No food to be taken to rooms. There is a fridge available in the kitchen. *[Fridge in hostel in question has sign on it saying "Residents must not store food in fridge".]*
- Residents will be required to keep their room clean. Detergents and hoovers are available at the Information Desk.
- All rooms can be entered by arrangement at anytime for maintenance checks.
- Guests visiting residents are allowed only by prior arrangement. No guests allowed in bedrooms. Common areas only and must leave premises by 10.30pm.
- Music to be played at a reasonable level.
- All litter to be put on rubbish bins.
- No animals allowed.
- The local people and us will be very strict if anyone is caught begging. If this should happen you will be removed to another centre straight away.
- Anyone breaking the law will be dealt with like any other citizen by the police and will be removed from the centre.

Appendix 2

DIRECT PROVISION ACCOMMODATION CENTRES AT 23/05/03

COUNTY	LOCATION	ADDRESS
Carlow	Milverton House	Montgomery Street, Carlow
Clare	Corofin Holiday Hostel	Market Street, Corofin
	Knockalisheen A/S Centre	Limerick Road, Meelick
	Clare Lodge	Summerhill, Carmody Street, Ennis
Cork	An Poc Fada	East Beach, Cobh
	Ashbourne Hse Hotel	Glounthaune, Co. Cork
	Clonakilty Lodge	Dunmore Road, Clonakilty
	Kinsale Rd., Acc. Centre	Kinsale Road, Cork City
	Glenvera Hotel	Wellington Road, Cork City
	Millstreet Accommodation Centre	Millstreet
	North Quay Place	Popes Quay, Cork City
	Slip House (Bantry View)	Newtown, Bantry
Donegal	Cliffview	Coast Road, Donegal Town
	Homefield Hse	Bayview Avenue, Bundoran
	Moville Holiday Hostel	Malin Road, Moville
Dublin	Camden Hall	Camden Street, Dublin 2
	Horse and Carriage	Aungier Street, Dublin 2
	Newlight House	St. Margaret's, Finglas
Galway	Dun Gibbons Inn	Westport Road, Clifden
	Eglinton Hotel	The Promenade, Salthill
	Great Western House	Frenchville Lane, Eyre Square, Galway
Kerry	Atlantic Lodge	Hospital Road, Kenmare
	Atlas House	Cork Road, Killarney
	Ballymullen Barracks	Killorglin Road, Tralee
	Johnston Marina Hotel	Dingle Road, Tralee
	Park Lodge	Cork Road, Killarney
	The Village House	Glenbeigh Village
	Westward Court	Mary Street, Tralee
Kildare	Eyrepowell Hotel	Main Street, Newbridge
	Hillview House	Prosperous, Naas
	Magee Barracks	Dublin Road, Kildare Town
Kilkenny	Ormonde Acc. Centre	John's Green, Kilkenny
Laois	Hibernian Hotel	Main Street, Abbeyleix
Leitrim	Sliabh An Iarainn	Main Street, Ballinamore
Limerick	Clyde House	St. Alphonsus Street, Limerick
	Shannonside Hostel	Old Cratloe Road, Limerick
	Westbourne Holiday Hostel	Courtback Avenue, Dock Road, Limerick
Longford	Richmond Court	Richmond Street, Longford
	Riverbeds Hostel	Great Water Street, Longford

COUNTY	LOCATION	ADDRESS
Louth	Kincora House	Seatown Place, Dundalk
Mayo	The Old Convent	Main Street, Ballyhaunis
	The Quiet Man Hostel	Abbey Street, Cong
Meath	Mosney Accommodation Centre	Mosney
Monaghan	St. Patricks	Drumgoask, Monaghan
Offaly	The Maltings Hostel	Castle Street, Birr
Sligo	Red Cottage	Bundoran Road, Sligo
Tipp. North	Clodagh Bar	Main Street, Borrisoleigh
Tipp. South	Bridgewater House	Main Street, Carrick-On-Suir
Waterford	Atlantic/Coltro	Railway Square, Tramore
	Ocean View	The Esplanade, Tramore
	Viking House	Coffee House Lane, Waterford
Westmeath	Athlone Accommodation Centre	Lissywoolen, Athlone
Wexford	Old Rectory House	Rosbercon, New Ross
Wicklow	Beechlawn B&B	Corballis, Rathdrum
	The Warrens	Kilmartin Hill, Wicklow Town

RECEPTION CENTRES AT 23/05/03

14 Gardiner Place, Dublin 1
Parnell West Hotel, 38 Parnell Square West, Dublin 1
10 North Frederick St., Dublin 1
Kilmacud House, Upr Kilmacud Rd, Stillorgan, Co. Dublin
Balseskin Centre, St. Margarets Rd, Finglas, Dublin 11

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