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An Comhchoiste um Dhlí agus Ceart, Gnóthaí Baile agus Imirce

Tuarascáil maidir leis an nGrinnscrúdú Réamhreachtach ar Scéim Ghinearálta an Bhille um Chosaint Idirnáisiúnta 2025

Nollaig 2025

Joint Committee on Justice, Home Affairs and Migration

Report on Pre-Legislative Scrutiny of the General Scheme of the International Protection Bill 2025

December 2025

34/JC/05

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CATHAOIRLEACH'S FOREWORD

In May 2025, the Minister for Justice, Home Affairs and Migration, Mr Jim O'Callaghan TD, forwarded the General Scheme of the International Protection Bill 2025 to the Joint Committee on Justice, Home Affairs and Migration in accordance with Standing Orders for the purpose of pre-legislative scrutiny.

This General Scheme proposes provisions that will lead to significant changes to the international protection process, bringing the State in line with the EU Pact on Migration and Asylum.

The Committee recognises that Ireland had the option to opt out of the EU Pact on Migration and Asylum under Protocol 21 of the Lisbon Treaty. It further notes that unlike other members states who have opted in to the Pact, Ireland is part of a Common Travel Area with Britain which is outside of the European Union. There is a concern that the General Scheme does not recognise the unique challenges that arise from this situation or take due cognisance of the view that migration matters are better dealt with by an Irish government based on the unique circumstances in this state.

The Committee welcomes certain aspects of this legislation, however, following its hearings on the General Scheme, the Committee wishes to highlight significant gaps in the proposed legislation, such as the placeholder Heads for Legal Counselling, Age Assessments and Alternatives to Detention, which should be addressed before the Bill is published. The Committee also raises its concerns with the provisions within the Scheme around reception and detention of international protection applicants, the conduct of age assessments, and the independence of the Chief Inspector.

In undertaking pre-legislative scrutiny, the Committee has sought to scrutinise the proposed legislation and provide recommendations on areas where it believes change or amendments are warranted. Among the areas identified for further examination within the General Scheme include ensuring the best interests of the child are prioritised, access to healthcare for applicants, the Border Procedure, and legal advice and representation for applicants.

The Committee has serious concerns about the ability of the state to meet the commitments it is making under the EU migration and Asylum Pact and notes that failures to adhere to the commitments under the pact will result in infringements proceedings and hefty fines.

The Committee has deep concerns about the impact that the proposed legislation will have on the Civil Legal Aid Scheme and on Tusla which are currently both stretched to breaking point.

The Committee has made a number of recommendations, and a copy of this report will be sent to the Minister for Justice, Home Affairs and Migration. I would like to express my appreciation to all the stakeholders for their contributions and to the Members of the Committee for their engagement on this subject.



Matt Carthy TD (SF) [Cathaoirleach]
December 2025

COMMITTEE MEMBERSHIP

Joint Committee on Justice, Home Affairs and Migration

Deputies



Matt Carthy TD (SF) [Cathaoirleach]



Tom Brabazon TD
(FF)



Paula Butterly TD
(FG) [Leaschathaoirleach]



Michael Cahill TD
(FF)



Catherine Callaghan TD
(FG)



Gary Gannon TD
(SD)



Alan Kelly TD
(LAB)



Pádraig O'Sullivan TD
(FF)



Mark Ward TD
(SF)

Senators



Robbie Gallagher
(FF)



Garrett Kelleher
(FG)



Michael McDowell
(IND)



Anne Rabbitte
(FF)



Lynn Ruane
(IND)

Notes:

1. Deputies nominated by the Dáil Committee of Selection and appointed by Order of the Dáil on 7 May 2025.
2. Senators nominated by the Seanad Committee of Selection and appointed by Order of the Seanad on 13 May 2025.
3. Deputy Paula Butterly elected as Leas-Chathaoirleach on 27 May 2025.

COMMITTEE RECOMMENDATIONS

During the course of the Pre-Legislative Scrutiny, a number of important points were raised, and based on the Committee's engagement with the witness and written submissions received, the following recommendations are proposed, which are in order of the Head or Part of the General Scheme to which they refer:

1. The Committee recommends that opting out of the majority of the EU Migration and Asylum Pact is reconsidered in light of changing migration landscape within the Common Travel Area and the unique position of Ireland as a member state of the EU which shares a common travel area with a state outside of the EU and therefore outside of the EU Migration and Asylum Pact.

2. The Committee recommends that age-disputed minors should be presumed to be under 18 in the context of the provisions under Head 7 while awaiting an age assessment by the responsible authority while ensuring that those who are in fact adults are not placed in juvenile facilities due to the serious child protection risks that this could present.

3. The Committee recommends that private and confidential spaces are provided for the purpose of taking biometric data under Head 7.

4. The Committee recommends that Head 7, which deals with biometric data, should include a specific provision on the best interests of the child when taking biometric data from those under the age of 18.

5. The Committee recommends that Heads 7, 8 and 9 be amended to ensure that a failure to comply with a request for biometric data does not render the individual's application implicitly withdrawn, nor does it result in *de facto* detention.

6. The Committee recommends that Head 10 be amended to provide for adequate standards of living and reception conditions for screening centres, and all accommodation provided during the international protection process, outlining required on-site supports and facilities, and are regularly monitored and reported on.

7. The Committee recommends that due diligence, vetting and beneficial ownership checks be required in respect of any company or organisation which seeks to secure a contract for the provision of accommodation or services for those in the international protection system.

8. The committee recognising the profiteering which has existed to date recommends that the amount paid per bed per day for accommodation in the international protection system is capped.

9. The Committee recommends that Head 10 be amended to ensure the designated screening centres are adequately resourced, ensure access to healthcare, allow access to organisations who can provide culturally appropriate and trauma informed services, and are staffed by personnel with specialised expertise.

10. The Committee recommends that the screening process should provide for a full vulnerability assessment, as opposed to the vulnerability check provided for in Head 13, and that a mechanism for ongoing vulnerability assessments throughout all stages of the process is included in the General Scheme.

11. The Committee recommends that Heads 15 and 48 be amended to include a clear definition of the role, function, and limitations of cultural mediators, and that it be clarified that cultural mediators must not assume the roles of interpreters or legal representatives.

12. The Committee recommends that Heads 15 and 48 be amended to set out minimum qualifications, training requirements, and ethical standards for any person acting as a cultural mediator, including safeguarding protocols and independence guarantees.

13. The Committee recommends that Head 16 (3) be amended to specify that any accommodation rules must be clearly defined, accessible, available in multiple languages and formats that are able to meet the needs of individual applicants, and applied uniformly across all forms of accommodation, including emergency centres.

14. The Committee recommends that Head 16 (3) be amended so that accommodation rules are developed and periodically reviewed in consultation with applicants, civil society organisations, and relevant stakeholders, and that accommodation rules should also include a right of appeal against any findings of non-compliance with centre rules and an independent complaints mechanism through which residents can challenge enforcement practices or raise issues.

15. The Committee recommends that “acute medical care” as referenced in Head 18 (1) is clearly defined in the legislation or related guidance, and confirmed that it includes mental health and trauma-related needs, and that a provision is also made for essential medical care.

16. The Committee recommends that Head 18 (2) be amended to ensure that medical screening is not limited to a one-time check and that follow-up assessments are permitted where appropriate, as screening for health concerns must be flexible, accessible, and capable of adapting to an applicant's evolving needs, particularly in the case of delayed or non-visible conditions.

17. The Committee recommends that the phrase 'access' in Head 18 (3) is replaced by 'timely and meaningful access', to address transport, childcare, and financial barriers.

18. The Committee recommends that Head 18 be amended to provide a requirement for informed consent before sharing medical information with authorities, except where required under existing public health legislation, or if necessary for immediate medical emergencies.

19. The Committee recommends that Head 18 be amended to ensure applicants are provided with information on the health check including on their right to refuse, with their informed consent confirmed before a preliminary health check is carried out.

20. The Committee recommends that the General Scheme contains a provision ensuring that applicants, including those subject to return, can access medical services and treatments at all stages of the procedure, and that life-sustaining medications, emergency care, maternity care and healthcare for communicable diseases be guaranteed for individuals subject to deportation orders, and that a care coordination plan is in place before they have left the country.

21. The Committee recommends that Head 19 be amended to clarify that vulnerability screening must be an ongoing and adaptable process, allowing for repeated assessments where necessary, and that applicants or their legal representatives should have a statutory mechanism to request further assessments if new vulnerabilities emerge.

22. The Committee recommends that Head 19 be revised to introduce safeguards, including a requirement that applicants be informed of the purpose and consequences of a vulnerability check in a language they understand and in a manner that is accessible to the individual.

23. The Committee recommends that if due efforts to complete preliminary health and vulnerability checks have not been made within seven days, applicants should be considered potentially vulnerable and therefore be exempt from the Border Procedure.

24. The Committee recommends that, regarding health implications of the transfer of applicants, the General Scheme be amended to:
    - prohibit short notice transfers for people with significant ongoing medical need,
    - require a minimum of 14 days' notice when transfers are necessary for medical cases,
    - create formal mechanisms for accommodation staff to raise medical concerns, and
    - ensure medical records and care coordination before transfers occur.

25. The Committee recommends that the General Scheme provides for the establishment of a State-funded medico-legal assessment service with dedicated practitioners trained in the Istanbul Protocol methodology, ensuring nationwide availability, with the target of ensuring medico-legal reports are available within four to six weeks of request.

26. The Committee recommends that all necessary measures should be taken to ensure that no individual applicant is rendered stateless.

27. The Committee recommends that Head 20 explicitly prohibits the detention of children, including unaccompanied children, and prohibits children from entering the Border Procedure.

28. The Committee recommends that the General Scheme includes a requirement that the best interests of the child be a primary consideration in the implementation of the provisions of the General Scheme in each section relevant to children, in line with EU law and European and international children's rights standards.

29. The Committee recommends that a provision stating that the best interests of the child shall be a primary consideration be included in Head 20 which deals with Guarantees for Minors in the screening process, and Head 50 which deals with Guarantees for Minors when international protection applications are being assessed.

30. The Committee recommends that the General Scheme ensures that children, at all stages of the international protection process, have a right to education, play, and recreation.

31. The Committee recommends that the General Scheme provides for children to be accommodated according to their age, maturity and needs, at all stages of the international protection process, and that such facilities are adequate and avoid a city setting where possible.

32. The Committee recommends that children aged over 16 be placed in small group home environments, and that they must not be treated as ‘de facto’ adults and placed in adult reception centre settings.

33. The Committee recommends that Head 26 includes a requirement for notification to, and involvement of, the Child and Family Agency where an adult who is not a parent, legal guardian, or family member within the expanded definition proposed by the EU Pact seeks to make an application on behalf of a minor.

34. The Committee recommends that Head 26 ensures that any application on behalf of a minor includes an assessment of the child’s best interests and appropriate legal representation.

35. The Committee recommends that Head 47 (5) be amended to provide that where a substantive interview is omitted, the applicant and their legal representative must be notified in writing, including the reasons for the decision, and that the applicant must be afforded the opportunity to submit written observations or alternative forms of evidence.

36. The Committee recommends that Head 48 (6) (b) and (6) (c) be deleted, as it poses an unnecessary restriction on the professional capacity of a legal practitioner, fair procedures, and an applicant’s right to be heard.

37. The Committee recommends that Head 48 be amended to require that all interviewers receive standardised, accredited training in trauma-informed interviewing, cultural sensitivity, and legal procedures relevant to international protection.

38. The Committee recommends that Head 48 (10) be amended to clarify that fitness-to-interview determinations require assessment by medical practitioners with expertise in trauma and mental health, not just general medical practitioners.

39. The Committee recommends that Head 67 includes a discretionary provision allowing the Second Instance Body (SIB) to accept late appeals where there is good cause for delay, particularly in cases involving vulnerability, procedural obstacles, or lack of legal assistance.

40. The Committee recommends that Head 67 specifies that the appeal period only begins once the applicant has received a full copy of the decision and the reasons for it in a language they can reasonably be expected to understand.

41. The Committee recommends that the time to provide notice of appeal under Head 67 should be increased to at least three weeks.

42. The Committee recommends the insertion of saver clauses in Head 91 (6) (d) and Head 91 (10) for cases of domestic violence, divorce, death, or departure of the sponsor, in line with Article 13 of Directive 2004/38/EC.

43. The Committee recommends the provision of Ministerial discretion to extend deadlines under Head 91 (9) and (11) based on humanitarian grounds, exceptional circumstances, or *force majeure*.

44. The Committee recommends that Head 91 (12) (a) (i) be broadened to reflect the expanded definition of family proposed by the EU Pact, including siblings and unmarried partners, and families formed in transit and those where one partner is not the biological parent of the child/children.

45. The Committee recommends that Part 11 be reviewed to ensure the SIB's institutional independence and that arrangements for its governance meet the requirements of external independence under EU law, and that consideration should be given to instead establishing the SIB under the administration and management of the Courts Service.

46. The Committee recommends that Part 11 and/or Part 13 ensures that children accompanied by their family will not be deported while waiting for an appeal decision, as this is contrary to their best interests.

47. The Committee recommends that Part 12 be amended to exempt the following categories of applicants from the Asylum Border Procedure: unaccompanied and separated children, victims of trauma or trafficking and persons with disabilities, and persons with serious medical issues, including mental health issues.

48. The Committee recommends that Part 12 allows applicants who arrive without travel documents or with forged documents to be provided with reasonable opportunity to explain their circumstances before a decision is made on the application of the Asylum Border Procedure, and that specialised staff support this determination process.

49. The Committee recommends ensuring within Part 12 that the Asylum Border Procedure is implemented in a protection-sensitive manner and does not lead to *de facto* detention.

50. The Committee recommends that a clear provision be made under Head 110 that exempts age-disputed minors from the Asylum Border Procedure while awaiting an age assessment.

51. The Committee recommends that Head 111 adheres to the requirement in the EU Pact that Member States ensure that families with children reside in reception facilities in the Border Procedure that are appropriate to their needs after assessing the best interests of the child, and that such facilities ensure a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

52. The Committee recommends that Head 115 be amended to ensure that, as the General Scheme proposes detention may be imposed as a measure of last resort, the unavailability of adequate facilities does not constitute a last resort, and that the 'individual assessment' provided for is clarified in the Head.

53. The Committee recommends that Head 122 explicitly prohibits the detention of children, including unaccompanied children.

54. The Committee recommends that detention should only be used as a last resort and only when there is reasonable suspicion that an individual has committed an arrestable offence.

55. The Committee recommends that the principle of family unity be applied at all times, particularly where movement is restricted.

56. The Committee recommends the exclusion of mainstream prisons from the list of acceptable detention centres for immigration purposes under Head 122.

57. The Committee recommends that Head 122 be amended to ensure organisations working on their behalf, family members, legal advisers and other persons concerned have the ability to communicate with and visit detained applicants in conditions which respect privacy.

58. The Committee recommends that the General Scheme includes explicit healthcare standards for any detention facilities provided for, and that a new Head is added under Part 14 to:
    - establish minimum healthcare standards,
    - ensure access to registered medical practitioners, including mental health professionals,
    - provide for independent medical assessments,
    - guarantee the continuity of medication when moving to/from detention,
    - protect medical confidentiality from detention/immigration staff,
    - provide for trauma-informed care protocols, and
    - ensure clear medical exemptions from detention (survivors of trauma/torture, pregnancy, mental illness, physical conditions).

59. The Committee recommends that Head 122 be amended to ensure that any designated detention centres are adequately resourced, ensure access to healthcare, allow access to organisations such as Safetynet Primary Care who can provide culturally appropriate and trauma informed services, and are staffed by personnel with specialised expertise.

60. The Committee recommends that under no circumstance should any designated asylum border facilities or detention facilities be operated by private entities. These facilities instead should be operated and maintained by the State.

61. The Committee recommends that the General Scheme be amended to provide a guarantee that free legal assistance will be available to applicants in detention.

62. The Committee recommends that detention facilities and accommodation facilities are adequately resourced and are located in an area that ensures access to healthcare and health promotion by organisations such as Safetynet Primary Care.

63. The Committee recommends that any site or location being considered for a detention facilities or accommodation facility should be subject to a human rights assessment.

64. The Committee recommends that Head 115(1) be amended so that it sets out the criteria for the individual assessment would be used to ascertain if detention may be imposed for applications under the border procedure.

65. The Committee recommends that Head YY (alternative to detention) establishes clear guidelines and processes for appeal for those who have been placed in detention for the reason that less coercive measures cannot be applied.

66. The Committee recommends that Part 15 be amended to provide for an independent monitoring mechanism that is independent from Government, empowered to investigate all allegations of rights violations, adequately resourced in an independent manner, and as recommended and prescribed by European Union Agency for Fundamental Rights.

67. The Committee recommends that the International Protection Bill should be enacted at the same time as the full ratification of the Optional Protocol on the Convention Against Torture (OPCAT).

68. The Committee recommends that Head 125 be amended to comply with the requirements under the Screening Regulation to monitor compliance with EU and international law, including the Charter of Fundamental Rights, in particular as regard access to the Asylum Border Procedure, the principle of non-refoulement and the best interests of the child.

69. The Committee recommends that the General Scheme includes a provision to ensure that the Chief Inspector has the power to refer cases for the initiation of civil or criminal justice proceedings for failure to respect or enforce fundamental rights.

70. The Committee recommends that Head 129 be amended to include as members of the Advisory Board a non-governmental organisation, an immigration/asylum law expert that specialises in child rights, and representatives with lived experience of the international protection process.

71. The Committee recommends that the mandate of HIQA to monitor compliance of accommodation centres with the national standards is expanded to include all accommodation centres operating under the new reception system from June 2026.

72. The Committee recommends that Head 141 includes a provision to protect the unaccompanied minor against all forms and risks of violence and exploitation, and a provision to support unaccompanied minors to enrol in education and access healthcare services.

73. The Committee recommends that Head 141 (13) be amended to reduce the maximum number of unaccompanied minors a representative or provisional representative shall act for.

74. The Committee recommends that Head 141 be amended to ensure that legal advisers can assist an unaccompanied child in cooperation with the appointed representative.

75. The Committee recommends that a medical assessment should only be used for the purpose of determining an applicant's age, and carried out by the appropriate bodies, and only as a last resort.

76. The Committee recommends that the following safeguards when carrying out age assessments should be included in the General Scheme:
    - the multidisciplinary age assessment procedure is undertaken and carried out by qualified professionals,
    - the assessment of age shall not be based solely on the applicant's physical appearance or behaviour, and

- if the results of the age assessment are inconclusive the applicant shall be assumed to be a child but that safeguarding of children should be paramount to ensure that no adult is placed in accommodation with children as a result of an inconclusive age assessment.

77. The Committee recommends that age assessments should be conducted where there is a multidisciplinary procedure in place.

78. The Committee recommends that when carrying out age assessments, the least invasive option must always be followed, and the individual's privacy and dignity must be respected at all times.

79. The Committee recommends the inclusion of a provision for an independent appeal on initial age assessment determinations as well as provisions to support the applicant to make the appeal, including with legal assistance.

80. The Committee recommends the inclusion of a provision for the results of both the determination of the age assessment and an independent appeal to be communicated to the individual both verbally in a language they understand and in writing.

81. The Committee recommends that age assessments should take place in a prompt manner according to the UN Committee on the Rights of the Child and the Council of Europe.

82. The Committee recommends that the General Scheme includes an explicit provision guaranteeing access to free legal assistance and representation by a qualified legal practitioner for all applicants including children at all stages of the asylum process including any appeal stage or should an applicant be detained.

83. The Committee recommends that, where the General Scheme provides for "legal counselling", this should be defined as legal advice, a professionally regulated role, carried out only by qualified professionals registered with the appropriate legal authority.

84. The Committee recommends that "legal counselling" be provided as an additional service to assist applicants in lodging their application for international protection. It should not under any circumstances be provided in place of, or in the absence of legal advice or services as defined in statute by a person other than those recognised under section 2 of the Legal Services and Regulation Act 2015.

85. The Committee recommends that the Legal Aid Board is provided with significantly more resources and capacity to ensure it can meet the demands for legal advice and representation by June 2026 to deal with the expedited timeframes.

86. The Committee recommends that the General Scheme provides for all applicants to be informed of their right to legal assistance in a language they understand.

87. The Committee recommends ratification of the Council of Europe Convention for the Protection of the Profession of Lawyer.

88. The Committee recommends that the General Scheme sets out explicitly and in detail the alternatives to detention that are referenced by way of placeholder Head YY.

89. The Committee recommends that the General Scheme be amended so that Guardian Ad Litem services may take on a representative role for children, unaccompanied and age-disputed minors.

90. The Committee recommends that facilities established for the purpose of Screening and Border Procedures are located in an area that does not limit the applicant's ability to access legal assistance, attend appointments, maintain family connections or participate in community life.

91. The Committee recommends that the principle of equity of care between unaccompanied children seeking international protection and Irish resident children must continue, and that consideration should not be given to reducing the rights of unaccompanied children in the General Scheme.

92. The Committee recommends that the best interests of the child shall be a primary consideration for the competent authorities in the General Scheme, when applying Article 22 of the Asylum Procedures Regulation, Article 13 of the Screening Regulation, Article 26 of the Reception Conditions Directive, Article 14 of the Eurodac Regulation, Article 23 of the Asylum and Migration Management Regulation, and Article 20 of the Qualification Directive.

CHAPTER 1 - Introduction

This is the report on pre-legislative scrutiny of the International Protection Bill 2025, which was approved by the Government on 29 April 2025.

The proposed legislation meets the Programme for Government commitment to introducing a new International Protection Act to implement the EU Migration and Asylum Pact. It provides for significant changes to the international protection process in the State.

Purpose of the Bill

The General Scheme consists of 21 Parts, comprising 163 published Heads and refers to a number of placeholder Heads. Among a wide range of proposed reforms, the Heads provide for changes to the reception of international protection applicants in the State, the potential detention of applicants in limited circumstances, the establishment of a Chief Inspector of Asylum Border Procedures, and changes to the appeals process.

Procedural basis for scrutiny

Pre-legislative consideration was conducted in accordance with Standing Order 181, which provides that the General Scheme of all Bills shall be given to the Committee empowered to consider Bills published by the member of Government.

Engagement with stakeholders

The Joint Committee on Justice invited submissions from stakeholders on the International Protection Bill 2025.

On 14 October 2025 and 21 October 2025, the Committee held public engagements with several of these stakeholders, as laid out in the table below:

Table 1: List of witnesses that attended the public engagement on 14 October 2025

Organisation/ Individual	Representative(s)	Capacity
Tusla	Mr Gerry Hone, Interim Director of Services and Integration	**Witness**
	Ms Lorna Kavanagh, Interim Service Director (Separated Children Seeking International Protection)	**Witness**
Doras	Mr John Lannon, CEO	**Witness**
	Ms Donnah Vuma, Migrant Victim Support Programme Coordinator	**Witness**
Irish Human Rights and Equality Commission (IHREC)	Mr Liam Herrick, Chief Commissioner	**Witness**
	Mr Stephen Collins, Senior Solicitor	**Witness**
Ombudsman for Children's Office (OCO)	Dr Tricia Keilthy, Head of Policy	**Witness**
	Ms Nuala Ward, Director of Complaints and Investigations	**Witness**
Department of Justice, Home Affairs and Migration	Ms Tracy O'Keeffe, Principal Officer, Civil Policy	**Advisor**
	Ms Kerry Doyle, Assistant Principal, Civil Policy	**Advisor**

Table 2: List of witnesses that attended the public engagement on 21 October 2025

Organisation/ Individual	Representative(s)	Capacity
Children's Rights Alliance (CRA)	Ms Tanya Ward, CEO	**Witness**
	Ms Lianne Murphy, Senior Equality Officer	**Witness**
UN High Commissioner for Refugees Ireland (UNHCR)	Ms Maria Hennessy, Government Liaison Officer	**Witness**
	Ms Caroline Stephens, Legal Associate	**Witness**
Safetynet Primary Care	Ms Nicola Perry, CEO	**Witness**
	Dr Angela Skuce, Medical Director	**Witness**
Nasc	Ms Fiona Hurley, CEO	**Witness**
	Mr Kostas Kapantais, Casework Manager	**Witness**
The Bar of Ireland	Ms Patricia Brazil SC	**Witness**
	Ms Siobhan Clabby BL	**Witness**
Irish Refugee Council	Mr Nick Henderson, CEO	**Witness**
	Mr Alan O'Leary, Policy and Advocacy Officer	**Witness**
Department of Justice, Home Affairs and Migration	Ms Tracy O'Keeffe, Principal Officer, Civil Policy	**Advisor**
	Ms Kerry Doyle, Assistant Principal, Civil Policy	**Advisor**

The primary focus of both meetings was to allow for an engagement between the Members and the stakeholders to discuss the General Scheme.

This report summarises the engagements and the key points considered by the Committee when drafting the recommendations set out in this report.

A link to the full transcript of the engagement on 14 October 2025 can be found here.

A link to the full transcript of the engagement on 21 October 2025 can be found here.

CHAPTER 2 - Summary of Written Submissions

This note summarises the key issues raised in the submissions received in relation to the General Scheme.

The Committee received submissions from the following stakeholders:

- Nasc
- Safetynet Primary Care
- Tusla
- David Leonard BL
- The Bar of Ireland
- Irish Human Rights and Equality Commission (IHREC)
- Children's Rights Alliance (CRA)
- Doras
- Law Society of Ireland
- Irish Refugee Council
- Enda O'Neill and Maria Hennessy, UNHCR
- The Ombudsman for Children's Office (OCO)
- Irish Red Cross

Key Issues raised in the submissions

The following issues were common to multiple submissions received:

1. Detention (multiple Heads).
2. Legal counselling and legal representation (multiple Heads).
3. Appeals (Heads 67, 68, 69, 73).
4. Unaccompanied minors (multiple Heads).
5. Conduct of age assessments (Head YY).

1. Detention (multiple Heads)

- The Bar of Ireland pointed to a lack of clarity and precision in provisions within Head 12 regarding the maximum period of detention.

- In response to Heads 115 and 122, The Bar of Ireland called for an evaluation of available alternatives to detention of international protection applicants where possible, and reiterated the importance of the right to liberty.

- The Bar of Ireland outlined any mechanism (as per Head 121) to review the restriction of movement by an applicant, or compliance with reporting requirements, should be set out clearly within the General Scheme.

- In relation to Head 122, the Bar of Ireland believed that it is at least arguable that a requirement that a person resides in a particular accommodation centre and cannot leave it, or can only move around within a very limited geographical area, could amount to 'detention'. Other stakeholders such as IHREC and the Irish Red Cross have highlighted this as an area of concern, and have warned against *de facto* detention.

- IHREC noted that the General Scheme greatly expands on the use of detention relative to the current system, which was also highlighted by the Irish Refugee Council. IHREC believes this gives rise to human rights and equality considerations, and underlined its concern that under provisions within the Scheme, children can be arrested without warrant and detained.

- IHREC is concerned that the introduction of such a broad suite of detention provisions through the General Scheme will lead to the effective criminalisation of applicants for international protection in some circumstances, or at least the perception of criminalisation.

- IHREC also underlined that Ireland is the only country governed by the EU Migration and Asylum Pact that has not yet ratified the Optional Protocol on the Convention Against Torture (OPCAT). IHREC called for the enactment of the International Protection Bill at the same time as the full ratification of OPCAT.

- Children's Rights Alliance (CRA) stated that Head 122 should not include any provision for detention of children, and believed that the General Scheme should outline how the limits on the detention of children will be strictly enforced in practice and how detention will remain an absolute exception only to be used as a measure of last resort and for the shortest appropriate period of time.

- CRA underlined that the General Scheme should list the alternatives to detention for families with children in accordance with the principle of family unity. The Irish Red Cross called for this principle to be applied at all times, particularly where restriction of movement is proposed.

- Where detention is used, CRA called for the General Scheme to outline how children will have access to education as required under the Reception Conditions Directive.

- Doras believed that the absence of provisions and clarity regarding places of detention in the General Scheme is worrying. This belief was shared by the Irish Refugee Council, stating that it was unclear whether applicants will be detained in purpose-built detention centres or in the general prison population. The Irish Red Cross called for the express exclusion of mainstream prisons from the list of acceptable detention centres for immigration purposes.

- Doras outlined its concerns regarding the increased powers under Head 122 (2) for immigration officers to arrest without warrant and detain, and stated that detention should only be used as a last resort and only when there is reasonable suspicion that an individual has committed an arrestable offence.

- Regarding the provision within Head 122 (4) for an assessment of the vulnerabilities of persons arrested, Doras called for safeguarding measures to ensure that vulnerable applicants and people with special reception needs are not detained and that alternative measures are applied. The Irish Red Cross believed detention should explicitly be referenced as a last resort, particularly with respect to those who are vulnerable and have special reception needs.

- UNHCR underlined that restrictions on movement must adhere to the principle of minimum intervention, avoid punitive measures, and be carefully applied to prevent *de facto* detention, and that all such measures must be subject to regular review and judicial oversight to ensure compliance with applicants' rights.

- UNHCR stated that detaining children is never in their best interests and should not occur for immigration-related purposes under any circumstances. This belief was shared by the Ombudsman for Children's Office (OCO) and the Irish Red Cross.

- The OCO highlighted that there is a lack of clarity as to what will happen to a child, and the principles that will govern decisions made about a child, in the event that Tusla is notified, under the provisions of Head 12 (10).

- The OCO called for additional safeguards for children in the General Scheme to ensure detention or *de facto* detention does not take place in the Asylum Border Procedure.

- The Irish Red Cross stated that access to 'places of detention' should be granted to international organisations for the purpose of providing humanitarian assistance and for family tracing purposes.

2. Legal counselling and legal representation (multiple Heads)

- As noted by several stakeholders, the process for 'legal counselling' has not yet been dealt with in the General Scheme, with a placeholder (Head YY) being referenced throughout the Scheme.

- The Bar of Ireland outlined concerns with restrictions on 'legal advisers' in conducting personal interviews under Head 48 (6) (b) and (c), conflicting with the Bar of Ireland's Code of Conduct (§2.6).

- The Bar of Ireland highlighted that the General Scheme currently guarantees access to legal representation only in the context of withdrawal of international protection [Head 77 (8)] and the detention of an applicant [Head 112 (13) and (14)].

- The Bar of Ireland, the Irish Refugee Council and UNHCR called for free legal assistance for international protection applicants through both the application and appeals process.

- IHREC considered that solicitors and barristers could not provide legal counselling under existing professional, ethical and regulatory rules, and believed it is unclear that legal protections like confidentiality and legal privilege would apply during legal counselling.

- The OCO emphasised that ensuring free, quality legal advice and representation for migrant, asylum-seeking and refugee children is in their best interests.

- CRA called for free legal assistance and representation to be provided for all children, including unaccompanied minors for both the first instance and the appeal procedure.

- The Law Society stated the concept of 'legal counselling' is distinct from the right to legal assistance and the right to legal representation, and considered that 'legal counselling' would involve more than provision of information but less than legal assistance or representation.

- The Law Society highlighted that a failure to provide effective 'legal counselling' could compromise the ability of the applicant to support their claim at first instance and could lead to a situation that is incompatible with the principle of non-refoulement.

- The Law Society submitted, in relation to the provision of 'legal counselling', assistance and representation, that qualified and enrolled legal professionals such as solicitors or barristers are best suited to carry out these activities.

- UNHCR discouraged making free legal assistance conditional on the merits of the case, and stated exceptions to the provision of free legal aid should only be made where the applicant has adequate financial resources to afford it.

3. Appeals (Heads 67, 68, 69, 73)

- In relation to Head 67, several stakeholders believed that the five-day appeal deadline in some cases is too short to ensure effective access to legal advice or prepare a meaningful appeal.

- CRA underlined that the estimated minimum time for an applicant to prepare an appeal is at least 30 days, and called for the time to provide notice of appeal under Head 67 to be increased to at least three weeks, a period echoed by the Law Society in its submission, while the Bar of Ireland called for the period to be extended to 20 working days, with a shorter timeframe for the initial steps in processing the application.

- The Irish Refugee Council stated its fundamental opposition to non-suspensive appeals, as per Head 68, and considered it extremely challenging for international protection applicants to access effective remedies when subjected to Return Order.

- The Bar of Ireland and Nasc noted that the position adopted in the General Scheme regarding oral hearings at the appeal stage is highly restrictive, and that Head 69 (1) introduces what amounts to a presumption against oral hearings.

- UNHCR outlined its concerns that the short timeframes for lodging appeals may not comply with EU law, while Nasc noted that the lack of a mechanism for challenging a refusal to grant an oral hearing may also place the State at odds with EU law.

- The Irish Refugee Council submitted that, in relation to the Second Instance Body (SIB) outlined in Part 11, there are various examples in the General Scheme where the Minister, and the Director of the SIB have significant and decisive powers that could be considered to undermine the SIB's independence. UNHCR shared these concerns regarding the perceived independence of the appeals process.

- While UNHCR welcomed that the proposed appeal procedure allows for 'a full and *ex nunc* examination of both facts and points of law', the Bar of Ireland believed that Head 73 (1) provides no clarity as to what constitutes same, leaving applicants, their legal representatives, and decision-makers in a precarious and uncertain position, and that there are no procedural safeguards for applicants seeking an oral hearing.

- The Bar of Ireland outlined that to adopt the current draft of the General Scheme would contradict the well-established right to an effective remedy, the aims of the Asylum Procedures Regulation, and result in unnecessary and likely extensive litigation, as arose in relation to the Refuge Act 1996.

- The position of The Bar of Ireland is that the General Scheme would, if adopted in its current form, preclude legal practitioners from providing effective representation for applicants at the appeal stage.

4. Unaccompanied minors (multiple Heads)

- Tusla called for an explicit statement to be included in Heads 26 and 50 that an unaccompanied minor can make an application for international protection on their own behalf.

- Tusla requested clarification on the role of 'Child and Family Agency representative' as set out in Head 50, and if this is a reference to the representative provided for at Head 141.

- Regarding Head 110, Tusla called for clarification on which competent authority will provide care and accommodation to unaccompanied minors who are in the Border Procedure.

- In relation to Head 141 (1) and (2), Tusla noted that a conflict of interest may arise if it is also designating an organisation as a representative organisation or designates itself, which was also pointed out by the Bar of Ireland in its submission.

- Tusla stated that consideration may be required to be given to ensuring in the General Scheme that unaccompanied minors are not treated less favourably than other children in the State without there being specific legal provision and lawful justification for that difference in treatment.

- The Bar of Ireland called for greater clarity in Head 140 regarding the qualifications and expertise required of a "representative" assigned to assist unaccompanied minors, noting that the provision as drafted is unclear on the basis on which the representative will exercise legal capacity.

- The Bar of Ireland believed that there may be concerns surrounding the definition of 'unaccompanied minor' in Head 140, as it may allow for children who have been trafficked for the purposes of exploitation to be deemed to be in the company of an adult responsible for them, even when there is no legal basis for that role/relationship.

- While CRA believed that the provision of a representative for an unaccompanied minor in Head 141 is a welcome development, its submission outlined that the Head does not include any specific provisions to protect unaccompanied minors against all forms and risks of violence and exploitation, or any provisions to support unaccompanied minors to enrol in education or access healthcare services.

- Regarding the provision in Head 141 (13) that a representative shall act for no more than 30 unaccompanied minors at the same time, CRA noted that 30 unaccompanied minors is much higher than the current maximum in many EU countries.

- The OCO underlined the importance of representatives of unaccompanied minors having the necessary understanding of the immigration and asylum system.

- The OCO noted that the General Scheme is ambiguous as to who is responsible for making an application for international protection on behalf of an unaccompanied child.

- UNHCR believed that Head 141 (12) fails to address the role of administrative, or judicial authorities in the supervision of the proper performance of tasks by representatives and their role in reviewing complaints lodged by unaccompanied children.

5. Conduct of age assessments (Head YY)

- As noted by several stakeholders, the process for age assessment has not yet been dealt with in the General Scheme, with a placeholder (Head YY) being referenced throughout the Scheme.

- Noting that unaccompanied minors are exempt from the truncated 12-week Asylum Border Procedure, IHREC believed it to be deeply concerning, therefore, that the General Scheme provides no clarity on what is envisaged under the new system with regard to age assessments.

- IHREC and the OCO have called for clarity with regard to the respective roles of the International Protection Office and Tusla in relation to age assessment.

- IHREC and OCO are concerned that children will not be afforded the presumption of minority. IHREC highlighted that with no credible age assessment process in place, such children will be treated as adults and enter the truncated 12-week Asylum Border Procedure, and that any such failure by the State will end up in litigation and will not serve the best interest of the children involved.

- IHREC outlined its concerns at the current lack of legal representation for children generally during the age assessment process, and proposed that the General Scheme should include the right of an age disputed minor to legal representation throughout the age assessment process.

- UNHCR stressed the importance of having a clear transparent framework and procedural safeguards in place for age assessment procedures, stating that medical examinations must only be used as a measure of last resort, and used to complement other primary methods of age assessment, within a multidisciplinary and child-sensitive framework.

- Safetynet Primary Care outlined a number of areas of concern, where there is doubt about the age of an unaccompanied minor, including the vulnerability of and damage caused to young people accommodated with adults and without adequate support, lack of access to education, and extreme difficulty in accessing secondary healthcare, especially psychiatric care.

- Safetynet Primary Care called for a solution whereby young people are given the care they might plausibly need, while protecting other young people.

- The Bar of Ireland called for the General Scheme to establish a clear and transparent framework for age assessments and their review, in order to ensure legal practitioners can provide accurate advice and that Tusla and relevant representatives can operate within a defined and lawful process.

- The Irish Refugee Council underlined that the Asylum Border Procedure should not be applied where there is a reasonable dispute as to a person’s

age, and that such persons should be accommodated in alternative suitable special purpose accommodation facilities for the duration of the determination process.

CHAPTER 3 - Summary of Oral Evidence

In the course of both public hearings, a number of important points were raised.

A summary of the main areas discussed in evidence to the Committee follows.

1. Legal Counselling and Representation (Head YY)

- Members of the Committee and witnesses agreed that the Head on Legal Counselling should have been included in the General Scheme, rather than later on in the legislative process. Concerns were raised about the effectiveness on pre-legislative scrutiny in the absence of this Head and other placeholder Heads in the General Scheme, such as that on Age Assessments and Alternatives to Detention.

- There was confusion during the public hearings as to whether the current system where legal advice and representation are afforded to international protection applicants would remain in place along with the right to seek legal counselling, or whether the current provision for legal advice and representation would be replaced by legal counselling. Witnesses agreed that the provision of legal advice and representation to international protection applicants should remain.

- The Department clarified to the Committee that it is not intended that there will be any change in the current arrangements under which applicants for international protection can obtain legal advice, that legal counselling will be an additional service that will be made available to applicants, and that the details of how it will be provided for will be in the published Bill.

- The Department stated that under the current situation, an applicant can apply to the Legal Aid Board in accordance with the Civil Legal Aid Act for legal advice and legal aid, which will not change, and should an applicant wish to engage their own legal advice, there is nothing to prevent that either. The Department told the Committee that it is engaging on an ongoing basis with the Legal Aid Board regarding all matters relating to legal assistance, legal advice and legal counselling.

- The Department added that it is still examining the exact categories of people who will provide legal counselling, as the EU Pact on Migration and Asylum does not specifically require that it be solicitors, barristers or similar professionals.

- From its analysis of the General Scheme, IHREC believed that shortly after arrival in Ireland, applicants will get legal counselling before their first instance interview, and not legal advice and representation. IHREC was of the view that legal counselling cannot be provided by solicitors or barristers because of

their professional codes of ethics, which require them to provide only confidential advice.

- Nasc believed the General Scheme, in effect, proposes a two-tier system, with a second category of “legal counsellor” not subject to regulation under the Legal Services Regulation Act 2015, raising serious concerns around confidentiality, oversight and the effective vindication of applicants’ rights.

- The Bar of Ireland shared Nasc’s concerns about the creation of a two-tier system of legal advice and legal counselling. The Bar of Ireland submitted that there is a concern about the quality and the standard of what will be provided through this legal counselling mechanism, to what extent it will be adequately tailored to the situation of individuals in extremely truncated timescales, and should that violate the right to an effective remedy would potentially give rise to litigation. The Bar of Ireland emphasised the importance of the Scheme avoiding those risks in so far as possible, and that one way to do that is to ensure that those who do provide legal counselling are qualified to do so.

- IHREC underlined that the State must demonstrate, if it is to persist with this approach of legal counselling, what necessary expertise will be required, how these counsellors will effectively support applicants and how they might be regulated. IHREC called on the Government to provide legal advice at first instance, as it does currently, and as the Pact permits it to do. IHREC added that legal advice, as it is currently constituted, can encompass counselling as well.

- Following the Department’s evidence to the Committee, IHREC stated that if it is the case that people are going to be able to access legal advice at first instance and at all the key stages in the process, and legal counselling is supplementary to that, it had no difficulty with that in principle.

- UNHCR called for the inclusion of an explicit provision guaranteeing access to free legal assistance and representation for all applicants at all stages of the asylum process, to ensure effective access to the Asylum Border Procedure and better-quality decisions, and to reduce the volume of appeals.

- The Bar of Ireland told the Committee it was struggling with the concept of legal counselling, and that the expedited and truncated international protection process seems to be quite reliant on legal counsellors throughout the initial phases of the General Scheme. The Bar of Ireland noted that there seems to be no provision made for legal representation during the Screening Procedure, and called for legal assistance to be brought into a consistent, clearly signposted framework with the provision of effective legal representation at every stage of the process.

- The Irish Refugee Council stressed the importance of providing the Legal Aid Board with more resources and capacity, and noted that the European Commission states that if a Member State is already providing free legal

assistance and representation during the administrative phase, adjustments to its system is not necessary, which was echoed by UNHCR.

- UNHCR believed that it is really critical that there is early legal advice for international protection applicants who, under the proposed legislation, may go into a Border Procedure, inadmissibility proceedings or general procedure. UNHCR stated these procedures require communication and confidentiality with a legal representative to ensure a person is able to disclose the information they need, and to help identify which is the appropriate procedure.

- Nasc supported better resourcing of the Legal Aid Board to ensure it can actually provide legal advice and representation by June 2026 to deal with the expedited timeframes. Nasc highlighted that people who come to its offices cannot get access to solicitors, and that the Cork office of the Legal Aid Board is struggling to deal with the number of cases coming to it and to find practitioners through the private panel.

2. Reception, Detention, and the Border Procedure (multiple Heads)

- Witnesses at the public hearings called for the detention of children to be prohibited in the General Scheme.

- The Department told the Committee that any provision in the proposed legislation relating to detention will be in full compliance with the requirements of the Pact measures, in particular the Reception Conditions Directive. The Department added that the detention of children in certain circumstances is not expected to happen, except in the absolute rarest of circumstances, which would include a child's parents being detained for a very serious reason, such as cases involving serious national security or crime issues.

- The OCO highlighted that children are not currently detained in the State, called for the explicit ban on the detention of children, and believed that the EU Pact does not require any provisions for children to be detained. The OCO considered it crucial that children's rights still apply, while they are in the Asylum Border Procedure or in this State.

- When asked by Members whether designated asylum border facilities under Head 123 will be State-led, and not be a privatised function, the Department stated that it is not envisaged that private detention facilities would be put in place.

- The Department informed the Committee that detention would continue to be a last resort in respect of international protection applicants, and that restrictions on movement, as envisaged in the Reception Conditions Directive, encompass various measures such as reporting to a centre or Garda station.

- Nasc commented that despite the General Scheme treating Screening and Border Procedures as separate stages, it is likely they will be carried out in the same facilities and under similar conditions in practice, and could include the restriction on movement. Nasc outlined that individuals subject to these restrictions may not be permitted to leave a defined geographic area without prior permission, limiting their ability to access legal assistance, attend appointments, maintain family connections or participate in community life, and that failure to comply could carry serious consequences for an applicant's case.

- In response to the basis for detention as outlined in Heads 110 to 112, Nasc believed that there is no requirement for detention to be preceded by an individualised assessment, nor any obligation to exhaust less coercive alternatives first. Nasc also pointed to the absence of a provision for judicial authorisation or automatic review of detention orders, or a guarantee of access to free legal assistance, despite these being minimum standards under Article 11(2) of the Reception Conditions Directive.

- Nasc highlighted that those detained may face limited access to legal representatives, family and psychosocial supports, and that vulnerable applicants, including children, survivors of torture or trafficking, people with disabilities, or those with serious physical or mental health needs, face a heightened risk in these environments.

- Doras set out its belief that it is not appropriate for vulnerable people to be placed in the Border Procedure, and underlined its concern that victims of sexual violence, unaccompanied children, and victims of torture could be fast-tracked through it.

- This was echoed by UNHCR, which underlined that such procedures are not suitable for unaccompanied children, trafficking and torture survivors and other vulnerable persons, who should be explicitly exempted and channelled into the regular procedure. UNHCR submitted that any restrictions of movement envisaged in the Border Procedure should not amount to *de facto* detention.

- Doras pointed to gaps in the legislation regarding reception conditions, stating that when reception conditions do not accommodate special needs, interviews suffer, credibility is unfairly questioned, and appeals increase. Doras considered that appropriate reception facilities with national standards and independent monitoring, as well as contingency planning, should be central to the asylum process.

- CRA outlined its concern that despite the provision in the Pact for an adequate standard of living and reception conditions, this is not repeated in the General Scheme. CRA pointed to a two-tier system where there is a considerable variation in the quality of services and standards between designated accommodation that applies to HIQA national standards, and emergency accommodation procured from private providers. Doras emphasised that accommodation provided to refugees should be in compliance with human rights standards at the very least.

- The Bar of Ireland referenced recent High Court judgments which found repeated breaches of fundamental rights arising from the State's failure to meet reception standards. The Bar of Ireland submitted that the legislation should specify enforceable obligations, clear duties to designate proper accommodation, and mechanisms for urgent complaint and redress.

- Doras expressed its concern that the Border Procedure is 12 weeks, and called for the application of Border Procedures to be the exception rather than the norm. Doras indicated that in the General Scheme, there no opportunity to request a review of a decision to refer an applicant to the Border Procedures. Doras asserted that the proposed legislation should not cause a situation where vulnerable people would end up in a 12-week process where the State has inadequate capacity.

- The Irish Refugee Council was concerned that should an applicant in the Asylum Border Procedure receive a negative decision and lodge an appeal, that appeal will not or may not have a suspensive effect, severely undermining the right to an effective remedy and the credibility of the appeal process. The Council went on to highlight that such an applicant will likely not have access to an in-person appeal, and believed that this provision is not compliant with EU law and is not required by the EU Pact. The Council conveyed its concerns that the General Scheme has failed to transpose many protections from the EU Pact text itself.

- The Irish Refugee Council called for sound removal, return and deportation decisions, noting that there will be a group of people who are required to return to their country through forced deportation, and called for a greater emphasis on voluntary return. The Council outlined its concern that rather than a European Union approach aiming for the ceiling and having a common set of rights and entitlements, there would be a rush to the floor.

- Nasc underlined a lack of consultation with people currently in the international protection process, suggesting that these are the individuals most directly affected by the proposed reforms, yet their voices have been largely absent from the process to date.

- UNHCR welcomed the codifying of solidarity under EU law for the first time under the Pact, and the provision within the General Scheme for the audio recording of interviews for reunification including dependent family members as well.

- Doras noted the reference to cultural mediators in the screening process, and the fact that what they are expected to do is quite broad. Doras underlined that these mediators should not take the place of legal advisers or be tasked with communicating matters of law to applicants, that this needs to be done by suitably trained personnel, and called for appropriately trained interpreters to be put into place.

3. Access to Healthcare (multiple Heads)

During the public hearing on 21st October 2025, Members and witnesses discussed access to healthcare within the context of the General Scheme.

- Safetynet outlined that Head 18(5) of the General Scheme allows for medical information to be shared without consent. Safetynet called for informed consent to be required before sharing medical information, as it has seen multiple cases of people concealing HIV diagnoses because they fear discrimination in their protection application, whose disease progressed significantly as they went without life-preserving medication for months.

- Safetynet informed the Committee that an international protection applicant immediately loses access to their medical card when they receive a deportation order, and therefore lose access to medication. Safetynet was of the view that this is not acceptable from a humane perspective, that it is vastly inefficient from a health systems perspective, and recommended guaranteeing continued healthcare access for individuals subject to deportation orders, at a minimum in cases of life-sustaining medications, communicable diseases and emergency and maternity care.

- Safetynet gave an example to the Committee of one person with schizophrenia who lost their medical card and medication and became unwell, becoming an inpatient for four months before they were discharged. Safetynet underlined the huge cost to the applicant and the State of the four months in hospital, which was directly as a result of the applicant losing their medical card because of a deportation order.

- Significant challenges arising from short-notice transfers was highlighted by Safetynet, and called for formal mechanisms for accommodation staff to raise concerns about residents' medical needs before transfers.

- Safetynet also spoke about medico-legal assessment capacity, stating that applicants would benefit from reports based on the Istanbul Protocol standard, and that the capacity for provision is severely limited as it is currently not possible for applicants to obtain a compliant report within three months. Safetynet's position was that funding should be ramped up to organisations such as Spirasi, and called for the consideration of a State-funded medico-legal assessment.

- Safetynet told the Committee that the vast majority of people on deportation orders who their GPs see have significant psychological problems, and may have suicidal ideation or mental health crises where they have to be referred to the emergency department. Safetynet stated that many are prescribed medication and are all referred for counselling because they require it due to the thought of being returned home, as they feel it is not safe for them.

- When Members raised concerns that organisations such as Safetynet would not have access to places of detention for health intervention, Safetynet believed there would be capacity issues with being able to provide detained

applicants with healthcare, and emphasised that there would be significant problems if it fell into mainstream health services, as organisations such as it can provide services that are culturally appropriate and trauma informed.

- Safetynet considered that when people are put into places, such as detention centres and accommodation centres, their health becomes worse, and referenced cases where patients were put into rooms that have no windows, ventilation or natural light and in which there is mould.

- Members agreed that the State should continue to have a duty of care towards applicants until such a time as they are no longer within the boundaries of this State, even if they have not been approved and have to leave the State.

- Safetynet told the Committee that it sees between 2,000 and 3,000 people a year, that it does not have the capacity at the moment to provide a medical exam to 20,000 or 30,000 people, and that to be able to fulfil what is in the proposed legislation, Ireland would need to start recruiting and training doctors now.

4. Unaccompanied Minors and Best Interests of the Child (multiple Heads)

Committee Members and witnesses discussed how the General Scheme deals with unaccompanied minors and the best interests of the child during both public hearings on the Scheme.

- Tusla believed that clarity is required on whether legislation will designate it as the providing Agency of material reception conditions for unaccompanied children, and that without a clear determination of roles and applicable legislation, there may be a concern that an *ad hoc* system will be put in place in relation to reception conditions for unaccompanied children that is reactive.

- Tusla stated that it received additional funding that enabled it to increase the number of residential beds for separated children from 70 beds in 2022 to in excess of 400 beds in 2025, although demand is such that, even with this growth, there continues to be a requirement for special emergency arrangements. CRA underlined its opposition to the accommodation of unaccompanied minors in unregistered accommodation facilities.

- Tusla told the Committee that the main role of a representative under the EU Pact is to guarantee the best interests of the unaccompanied child and represent, assist or act on their behalf, and that there is specific legal requirement for the representative to be independent. Tusla asserted that as provider of material reception conditions for unaccompanied children, it would not be sufficiently independent to be tasked with the role of representative or to be involved in the designation of representative agencies or representatives.

- CRA also remarked on the lack of independence of Tusla and asked whether the guardian *ad litem* service that is being developed by the Department of Children, Disability and Equality had the potential to take on the role of representative.

- The OCO called for the General Scheme to set out explicitly how the State intends to apply the legal instruments affecting children in line with Ireland's obligations under the Charter of Fundamental Rights of the European Union, the UN Convention on the Rights of the Child, and the European Convention on Human Rights. This was echoed by CRA, who relayed its concerns if the principle of the best interests of the child was not transposed in the General Scheme, and stated that it would be out of kilter with how children's rights have been transposed or implemented in legislation more broadly.

- The OCO believed that the best interests principle is not properly incorporated throughout the legislation, and called for this principle to be considered throughout all processes of international protection and that clear guidance is given as to how that is operationalised. The OCO underlined that children have a right to education and to play and recreation, no matter where they are, and that those rights continue regardless of their status.

- When Members enquired about statistics on unaccompanied minors being accommodated in the State, Tusla informed the Committee that up to half are Ukrainian, the vast majority of children who arrive are 17 years of age, and that the percentage of children aged between seven and 14 is in single figures.

- IHREC set out its belief that the legislative basis for the protection of separated children in the State is deficient, and that there is an over-reliance on private providers. IHREC drew attention to the lack of provision of aftercare, stating that when these children turn 18, they are very often cut off from other supports they might have had, concerns that were echoed by CRA.

- The OCO spoke about its experience of working with unaccompanied minors for a long time, and indicated that Ireland was one of the best countries in Europe in terms of how the rights of children are protected. The OCO highlighted the opportunity arising from the review of the Child Care Act 1991, which it believed was silent on the issue of unaccompanied minors, and emphasised that there is now an opportunity to ensure there is sufficient protection and provision for unaccompanied minors across the General Scheme and the Child Care Act.

- The Bar of Ireland submitted that the General Scheme's approach to vulnerability and children falls short, and stressed the importance of ensuring clear procedural safeguards, including mandatory qualifications for those representing unaccompanied minors, and a transparent framework for reviewing vulnerability and age determinations.

- CRA called for Tusla to provide a range of different accommodation solutions for children based on their age, maturity and needs, stating that the majority of children should be accommodated with foster care parents, while older children and young people are more semi-independent and may benefit from good residential facilities where they have care workers onsite to support them.

- CRA expressed its concern that some accommodation facilities could be in the city setting and may not be the most appropriate setting, as there might be other facilities in a city setting where people could exploit children.

- CRA noted that the EU Pact requires that Member States ensure that families with children reside in reception facilities in the Border Procedure that are appropriate to their needs after assessing the best interests of the child and that such facilities ensure a standard of living adequate for the child's physical, mental, spiritual, moral and social development, and called for this to be included in Head 111.

- Members agreed that the best interests of the child should be considered and examined in the context of the General Scheme, particularly when it comes to unaccompanied minors in the State.

- The Irish Refugee Council stated that it was deeply concerned about the idea of schoolchildren being taken from their place of residence as they prepare for school to a deportation flight, the welfare and well-being of the child, and about the welfare of people in the international protection process who have experienced increased racism and hatred.

- When Members asked Tusla whether it believed some of the minors who enter the State have been victims of trafficking, the Agency told the Committee that it did. Tusla informed the Committee that it screens for indicators of trafficking, although only An Garda Síochána can determine if a child has been trafficked. Tusla indicated that it does regular audits, and that some young people are vulnerable to labour exploitation. Tusla further noted that most children who arrive would have had some assistance, that it is considered smuggling as opposed to trafficking, which is a crime against the State as opposed to a crime against the person, and that the Agency liaises very closely with An Garda Síochána.

5. Age Assessments (Head YY)

- As was the case with the placeholder Head on Legal Counselling, the Committee and witnesses outlined their dissatisfaction that a Head was not included on Age Assessments in the General Scheme.

- Tusla believed that the current lack of an age assessment process in place by immigration authorities at the preliminary stage prior to notification of a separated child seeking international protection to the Agency creates a significant possibility of adults being placed with children, as well as consequential safeguarding risks, and that there is a concern that, without a robust assessment process, adults may be referred to Tusla.

- Tusla emphasised that it is outside of its statutory remit to undertake age assessments for the purpose of international protection, and that while it welcomes that the Head being worked on clarifies that immigration authorities, as the determining body, will be responsible for arranging and commissioning multidisciplinary age assessments, the Agency requested sight of the full statutory process, which outlines how immigration authorities will undertake age assessments prior to notification to the Agency.

- When Members asked whether those involved in child protection were consulted as part of proposed multidisciplinary age assessments, Tusla confirmed that it had been in consultation with the Department regarding the development of that new process.

- Tusla stated that the EU Pact sets out three stages of determination of age; documentary analysis, including the taking of biometric data for children aged six years and up; a psychosocial assessment; and a medical assessment, which the Agency has cautioned against.

- IHREC highlighted that the taking of biometric data from children would raise significant issues in terms of the rights to privacy of children and the particular sensitivities regarding children as vulnerable people more generally. IHREC stated that the issue of age assessment is of grave concern to it, and that there is a heightened risk that children will be inappropriately assessed as adults, meaning they will be put into the Border Procedure, and subject to processing and deportation within a very short period of time.

- CRA believed that biometric measures should only be used as a last resort for age assessments, that such assessments should be psychosocial in approach and delivered by a social worker-type service. CRA outlined its concern that authorities could use force to obtain biometric data from children, which does not respect their dignity and rights.

- Doras underlined its concern that as a vulnerability check is provided for, rather than a vulnerability assessment, children could potentially enter into the Border Procedures, where they are extremely vulnerable, and end up in

reception conditions being shared with adults and in situations and environments where they should not be.

- When Members asked the Department if the State currently has a clear framework for conducting age assessments, the Department stated that the determining authority with responsibility for undertaking multidisciplinary age assessments will be the Minister for Justice, Home Affairs and Migration, and that the requirements will be in the published Bill. The Department underlined that under these multidisciplinary assessments, appearance alone will not be sufficient, and that assessments will take other matters into account.

- When Members questioned the Department as to whether it is confident that the collection of biometric data from children as young as six is in accordance with the rights of the child, the Department outlined that the change to the minimum age is required under the 2024 Eurodac regulation, which specifically provides for the age to be reduced to six.

6. Independent Monitoring Mechanism (Part 15)

- Doras outlined serious concerns about the absence of a credible independent monitoring mechanism (IMM) in the proposed legislation, and that without such oversight, applicants' fundamental rights are even more likely to be curtailed through this process.

- IHREC noted that under the EU Pact, the IMM should be independent from Government, empowered to investigate all allegations of rights violations, and adequately resourced in an independent manner. IHREC told the Committee that the General Scheme provides for a Chief Inspector who is appointed by, funded by, and who can be removed by the Minister for Justice, Home Affairs and Migration, and that it understood that the Chief Inspector and staff will not be warranted or empowered to conduct investigations into instances of death or serious harm.

- IHREC expressed its view that as a result, the Chief Inspector cannot be considered a credible IMM as recommended and prescribed by the European Union Agency for Fundamental Rights. IHREC informed the Committee that it is currently considering whether it is appropriate for it to sit on the proposed advisory board, and observed that Ireland is the only EU member state that is implementing the EU pact that has not ratified the Optional Protocol to the UN Convention against Torture (OPCAT), so there is no IMM for places of detention more generally.

- The OCO echoed IHREC’s concerns that the role of the Chief Inspector being an IMM is not fully in line with the Fundamental Rights Agency guidelines. The OCO told the Committee that it is also named as part of the advisory board and would be reticent to engage with it until it was fully compliant with those guidelines.

- UNHCR stressed the importance of the Chief Inspector's operational autonomy and independence being fully guaranteed in law and practice. The Bar of Ireland considered it always best practice to safeguard independence to the highest extent possible.

- When Members asked the Department whether it feels that the proposed Chief Inspector of the Asylum Border Procedures is in accordance with the minimum standards of the EU Agency for Fundamental Rights for independence, the Department told the Committee that it consulted with the Office of the Attorney General during the drafting process, and that regard has been had to the Fundamental Rights Agency's guidance.

APPENDICES

APPENDIX 1- ORDERS OF REFERENCE OF THE COMMITTEE

Standing Orders 102, 103 and 104 – scope of activity and powers of Select Committees and functions of Departmental Select Committees

Scope and context of activities of Select Committees.

102.(1) The Dáil may appoint a Select Committee to consider and, if so permitted, to take evidence upon any Bill, Estimate or matter, and to report its opinion for the information and assistance of the Dáil. Such motion shall specifically state the orders of reference of the Committee, define the powers devolved upon it, fix the number of members to serve on it, state the quorum, and may appoint a date upon which the Committee shall report back to the Dáil.

(2) It shall be an instruction to each Select Committee that—

*(*a) it may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders;

(*b*) such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil;

(*c*) it shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under Standing Order 134(1); and

(*d*) it shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—

(i) a member of the Government or a Minister of State, or

(ii) the principal office-holder of a State body within the responsibility of a Government Department, or

(iii) the principal office-holder of a non-State body which is partly funded by the State,

Provided that the Committee may appeal any such request made to the Ceann Comhairle, whose decision shall be final.

(3) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice to the Business Committee by a Chairman of one of the Select Committees concerned, waives this instruction.

Functions of Departmental Select Committees.

103. (1) The Dáil may appoint a Departmental Select Committee to consider and, unless otherwise provided for in these Standing Orders or by order, to report to the Dáil on any matter relating to—

(*a*) legislation, policy, governance, expenditure and administration of—
(i) a Government Department, and
(ii) State bodies within the responsibility of such Department, and

(*b*) the performance of a non-State body in relation to an agreement for the provision of services that it has entered into with any such Government Department or State body.

(2) A Select Committee appointed pursuant to this Standing Order shall also consider such other matters which—

(a) stand referred to the Committee by virtue of these Standing Orders or statute law, or
(b) shall be referred to the Committee by order of the Dáil.

(3) The principal purpose of Committee consideration of matters of policy, governance, expenditure and administration under paragraph (1) shall be—

(*a*) for the accountability of the relevant Minister or Minister of State, and
(b) to assess the performance of the relevant Government Department or of a State body within the responsibility of the relevant Department, in delivering public services while achieving intended outcomes, including value for money.

(4) A Select Committee appointed pursuant to this Standing Order shall not consider any matter relating to accounts audited by, or reports of, the Comptroller and Auditor General unless the Committee of Public Accounts—

(a) consents to such consideration, or
(b) has reported on such accounts or reports.

(5) A Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann to be and act as a Joint Committee for the purposes of paragraph (1) and such other purposes as may be specified in these Standing Orders or by order of the Dáil: Provided that the Joint Committee shall not consider—

(a) the Committee Stage of a Bill,
(b) Estimates for Public Services, or
(c) a proposal contained in a motion for the approval of an international agreement involving a charge upon public funds referred to the Committee by order of the Dáil.

(6) Any report that the Joint Committee proposes to make shall, on adoption by the Joint Committee, be made to both Houses of the Oireachtas.

(7) The Chairman of the Select Committee appointed pursuant to this Standing Order shall also be Chairman of the Joint Committee.

(8) Where a Select Committee proposes to consider—

(a) EU draft legislative acts standing referred to the Select Committee under Standing Order 142, including the compliance of such acts with the principle of subsidiarity,
(b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
(c) non-legislative documents published by any EU institution in relation to EU policy matters, or

(d) matters listed for consideration on the agenda for meetings of the relevant Council (of Ministers) of the European Union and the outcome of such meetings, the following may be notified accordingly and shall have the right to attend and take part in such consideration without having a right to move motions or amendments or the right to vote:

(i) members of the European Parliament elected from constituencies in Ireland,
(ii) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
(iii) at the invitation of the Committee, other members of the European Parliament.

(9) A Select Committee appointed pursuant to this Standing Order may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department consider—

(*a*) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and
(*b*) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select: Provided that the provisions of Standing Order 139 apply where the Select Committee has not considered the Ombudsman report, or a portion or portions thereof, within two months (excluding Christmas, Easter or summer recess periods) of the report being laid before either or both Houses of the Oireachtas.

Powers of Committees.

104. Unless the Dáil shall otherwise order, a Committee appointed pursuant to these Standing Orders shall have the following powers:

(1) power to invite and receive oral and written evidence and to print and publish from time to time—

(a) minutes of such evidence as was heard in public, and
(b) such evidence in writing as the Committee thinks fit;

(2) power to appoint sub-Committees and to refer to such sub-Committees any matter comprehended by its orders of reference and to delegate any of its powers to such sub-Committees, including power to report directly to the Dáil;

(3) power to draft recommendations for legislative change and for new legislation;

(4) in relation to any statutory instrument, including those laid or laid in draft before either or both Houses of the Oireachtas, power to—

(*a*) require any Government Department or other instrument-making authority concerned to—

(i) submit a memorandum to the Select Committee explaining the statutory instrument, or
(ii) attend a meeting of the Select Committee to explain any such statutory instrument: Provided that the authority concerned may decline to attend for reasons given in writing to the Select Committee, which may report thereon to the Dáil, and

(*b*) recommend, where it considers that such action is warranted, that the instrument should be annulled or amended;

(5) power to require that a member of the Government or Minister of State shall attend before the Select Committee to discuss—

(a) policy, or
(*b*) proposed primary or secondary legislation (prior to such legislation being published),

for which he or she is officially responsible: Provided that a member of the Government or Minister of State may decline to attend for stated reasons given in writing to the Select Committee, which may report thereon to the Dáil: and provided further that a member of the Government or Minister of State may request to attend a meeting of the Select Committee to enable him or her to discuss such policy or proposed legislation;

(6) power to require that a member of the Government or Minister of State shall attend before the Select Committee and provide, in private session if so requested by the attendee, oral briefings in advance of relevant meetings of the Council of the European Union to enable the Select Committee to make known its views: Provided that the Committee may also require such attendance following such meetings;

(7) power to require that the Chairperson designate of a body or agency under the aegis of a Department shall, prior to his or her appointment, attend before the Select Committee to discuss his or her strategic priorities for the role;

(8) power to require that a member of the Government or Minister of State who is officially responsible for the implementation of an Act shall attend before a Select Committee in relation to the consideration of a report under Standing Order 204;

(9) subject to any constraints otherwise prescribed by law, power to require that principal office-holders of a—

(*a*) State body within the responsibility of a Government Department or

(*b*) non-State body which is partly funded by the State,

shall attend meetings of the Select Committee, as appropriate, to discuss issues for which they are officially responsible: Provided that such an office-holder may decline to attend for stated reasons given in writing to the Select Committee, which may report thereon to the Dáil; and

(10) power to—

(*a*) engage the services of persons with specialist or technical knowledge, to assist it or any of its sub-Committees in considering particular matters; and

(b) undertake travel;

Provided that the powers under this paragraph are subject to such recommendations as may be made by the Working Group of Committee Chairmen under Standing Order 130(5)(*a*).

APPENDIX 2 - LIST OF STAKEHOLDERS AND SUBMISSIONS

Attached are links to submissions received by the Committee from the following stakeholders:

- Nasc
- Safetynet Primary Care
- Tusla
- David Leonard BL
- The Bar of Ireland
- Irish Human Rights and Equality Commission (IHREC)
- Children's Rights Alliance (CRA)
- Doras
- Law Society of Ireland
- Irish Refugee Council
- Enda O'Neill and Maria Hennessy, UNHCR
- The Ombudsman for Children's Office (OCO)
- Irish Red Cross

[Submissions are available in the online version of the Committee's Report, which will be accessible at https://www.oireachtas.ie/en/committees/34/justice-home-affairs-and-migration/].

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