DÁIL ÉIREANN

AN COMHCHOISTE UM DHLÍ AGUS CEART, GNÓTHAÍ BAILE AGUS IMIRCE

JOINT COMMITTEE ON JUSTICE, HOME AFFAIRS AND MIGRATION

Dé Máirt, 14 Deireadh Fómhair 2025

Tuesday, 14 October 2025

Tháinig an Comhchoiste le chéile ag 3 p.m.

The Joint Committee met at 3 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	**Seanadóirí / Senators**
Tom Brabazon,	Robbie Gallagher,
Michael Cahill,	Michael McDowell,
Gary Gannon,	Anne Rabbitte,
Alan Kelly,	Lynn Ruane.
Mark Ward.	

I láthair / In attendance: Deputy Fionntán Ó Súilleabháin.

Teachta / Deputy Matt Carthy sa Chathaoir / in the Chair.

General Scheme of the International Protection Bill 2025: Discussion

An Cathaoirleach: Cuirim fáilte go dtí an cruinniú tábhachtach seo roimh gach duine. Apologies have been received from Deputies Callaghan and Butterly and Senator Kelleher. I remind members and witnesses to turn off their mobile phones or switch them to flight mode. The purpose of today's meeting is an engagement with a number of stakeholders as part of the committee's scrutiny of the general scheme of the international protection Bill 2025. This is a substantive heads of Bill document that has been circulated to members and is potentially very substantive legislation.

We are delighted to welcome a number of witnesses to today's hearing. From Tusla we have Mr. Gerry Hone and Ms Lorna Kavanagh. From Doras we have Dr. John Lannon and Ms Donnah Vuma. From the Irish Human Rights and Equality Commission, IHREC, we have Mr. Liam Herrick and Mr. Stephen Collins. From the Ombudsman for Children's Office, we have Dr. Tricia Keilthy and Ms Nuala Ward. Attending as observers are officials from the Department of Justice, Home Affairs and Migration. They are here to assist the committee if clarification is needed on the general scheme. They are Ms Tracy O'Keeffe and Ms Kerry Doyle. They are all welcome.

Before I invite the witnesses to make opening statements I advise the following in respect of parliamentary privilege. Witnesses and members are reminded of the long-standing parliamentary practice that they should not criticise or make charges against any person or entity, by name or in such a way as to make him, her or it identifiable or otherwise engage in speech that might be regarded as damaging the good name of the person or entity. Therefore, if their statements are potentially defamatory in relation to an identifiable person or entity they will be directed to discontinue their remarks. It is imperative that they comply with such a direction.

I will invite each organisation in turn to make an opening statement to a maximum of three minutes. Once all the opening statements have been delivered, I will call on members of the committee in the order in which they indicate to me to put questions. The committee operates a rota system, which ensures we can provide approximately seven minutes in the first round and if time permits, we will have second or subsequent rounds. Please note that the duration of the meeting is limited, and we ask that times be strictly adhered to.

I invite Mr. Gerry Hone on behalf of Tusla to deliver his opening statement.

Mr. Gerry Hone: I thank the Chairperson and committee for the opportunity to provide observations on the general scheme of the International Protection Bill 2025 on behalf of Tusla, the Child and Family Agency. I am joined by Lorna Kavanagh, interim service director and Ruth Fanning from our office of legal services, who is sitting at the back.

Tusla’s separated children seeking international protection service has grown exponentially following Covid-19 and the commencement of the war in Ukraine. The agency has had to rapidly scale up services to respond to an almost 500% increase in referrals. Throughout 2024, 900 children and young people were in care or accommodated by Tusla’s separated children seeking international protection service. The demand for the service has continued to grow throughout 2025 with the service providing placements for over 1,000 people by the end of

September 2025. We anticipate that placements will be provided to over 1,200 young people by the end of this year.

The increased arrivals of separated children have required increased services and supports. In collaboration with officials from our parent Department and the Minister for Children, Disability and Equality, we have received significant additional budget which has enabled us to increase the number of residential beds for this cohort of children and young people from 70 beds in 2022 to in excess of 400 beds today. Demand is such that, even with this growth, there continues to be a requirement for special emergency arrangements. When enacted, this Bill will have a significant impact on children making international protection claims in Ireland.

The Bill makes four references to age assessments. However, a head specifically outlining the age assessment procedure was not initially included. Under current legislation, the duty to undertake age assessments rests with the International Protection Office. However, in practice, age assessments are not done prior to immigration authorities notifying Tusla in accordance with section 14 of the International Protection Act 2015. 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 Tusla creates a significant possibility of adults being placed with children, as well as consequential safeguarding risks. There is a concern that, without a robust assessment process, adults may be referred to Tusla. A head on age assessment has been drafted but will need to clearly set out responsibilities if children are to be protected.

Once a person is referred to Tusla by an immigration official under section 14, a presumption of minority applies. This means the person must be accommodated in a registered children's centre or approved fostering placement. If Tusla has doubts that the person referred is in fact an adult, it is challenging for the agency to rebut the presumption of minority. It is important to emphasise that it is outside the statutory remit of Tusla to undertake age assessments for the purpose of international protection. The agency is aware that a draft head on age assessments is currently being worked on, and we welcome the fact that it is intended to clarify that immigration authorities, as the determining body, will be responsible for arranging and commissioning multidisciplinary age assessments. Tusla would welcome sight of the full statutory process, which outlines how immigration authorities will undertake age assessments prior to notification to the agency.

I move to Tusla as provider of reception conditions. General clarity is required in relation to the definition and role of the competent authorities referred to under various parts of the Bill. Clarity is required in particular on whether legislation will designate the agency as the provider of material reception conditions for unaccompanied children. The Bill sets out that the Minister for justice will allocate an accommodation centre to be the location at which material reception conditions shall be made available to an applicant. However, details regarding the provision of accommodation that will meet material reception conditions for unaccompanied children is not set out in the Bill. 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, as opposed to establishing a robust legal framework for the provision of reception conditions to unaccompanied children.

I turn to conflict of interest. The main role of a representative under the pact is to guarantee the best interests of the unaccompanied child and represent, assist or act on their behalf. There

is specific legal requirement for the representative to be independent. As provider of material reception conditions for unaccompanied children, Tusla 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. Tusla's relationship with the unaccompanied child is one of a service provider and, in that, the child must be able to independently assert their needs to the provider. They must be able to articulate if those needs are not being satisfied or be able to understand, through their independent representatives, alternatives, remedies and solutions, acceptance or both. There is also a potential conflict of interest in the provision for the agency's chief executive officer to be on the advisory board for the chief inspector of asylum border procedures in circumstances where Tusla is likely to be the competent authority for provision of material reception conditions to unaccompanied children who are not excluded from the border procedure in accordance with head 63. As an agency we are committed to providing high-quality, safe and effective services, and to collaboration with other State agencies to promote the safety and well-being of children and young people who arrive unaccompanied into Ireland seeking international protection. I thank members for the opportunity for this discussion with the committee and all stakeholders.

Ms Donnah Vuma: I thank the committee for the opportunity to address it. Doras wants to highlight seven key areas of concern. The right to independent legal advice and representation throughout the protection process is not upheld. The legislation permits restrictions on freedom of movement and detention. It fails to uphold the best interest of the child. There is excessive use of border procedures. In-person appeals are not maintained. There are gaps in the legislation regarding reception conditions. There are insufficient safeguards to protect vulnerable applicants. We will focus on the last two points.

To illustrate these, I would like the committee to imagine Leila, a person seeking asylum who arrives at Dublin Airport from a country that Ireland considers safe. Leila belongs to an ethnic minority group and has fled because of persecution. Within hours, she enters the screening phase. It includes a preliminary vulnerability check intended to identify people with additional needs. The interpreter assigned to her is from her country, but from the majority ethnic group, and speaks a different dialect. Leila feels intimidated, and she is afraid to disclose the sexual violence that she experienced. In practice, this step is decisive. It is when trust must be built so that a person can safely make a disclosure, yet that will not be possible with the current seven-day screening process and in the absence of trauma-informed practices. Because of her nationality, and because there was not enough time to make a full disclosure, Leila is channelled into the asylum border procedure. She now has just 12 weeks from registration to a final decision. That timeline only works fairly if essential safeguards are in place from the start, especially early legal advice and quality interpretation. Compressed timelines mean a late disclosure looks like inconsistency and not trauma.

Because the preliminary vulnerability check is insufficient, Leila believes she will have a second chance to tell her full story, but that never happens. She asks herself if she will meet a solicitor and if anyone will check what help she needs. Under the proposed legislation, this is not guaranteed. Access to legal representation, proper interpretation and trauma-informed supports from the outset are crucial, otherwise we hard-bake errors into the outcome, potentially leading to costly litigation. As the weeks pass, Leila is less in shock and starts to feel she can speak to people, but this takes time. She is told she must remain in a shared room with three other adults, until her application is processed. Her movement is restricted. Her

ongoing night terrors and panic symptoms worsen in this time. It is not appropriate for people like Leila to be placed in the border procedure, yet, unless the general scheme is amended, victims of sexual violence, unaccompanied children, and victims of torture could be fast-tracked through it.

When reception conditions do not accommodate special needs, interviews suffer, credibility is unfairly questioned and appeals increase. If trauma is missed or disclosed late, credibility is questioned. If it is identified early, the facts surface sooner, and the first decision is more reliable. Appropriate reception facilities with national standards and independent monitoring, as well as contingency planning, should be central to the asylum process, but this remains one of several gaps in the text and we do not know if or when there will be pre-legislative scrutiny of any amendments introduced to address these.

We have serious concerns about the absence of a credible independent monitoring mechanism in the proposed legislation. Without such oversight, applicants' fundamental rights are even more likely to be curtailed through this process.

Mr. Liam Herrick: I thank the committee for the opportunity to address it today. By 12 June 2026, Ireland must implement the EU migration and asylum pact in a manner consistent with EU and human rights law. Having reviewed the general scheme, as it is available at this point in time, we are concerned that Ireland will not do so. A major problem is ambiguity around the Government's intentions, due to incompleteness and lack of clarity in the general scheme of the Bill. This poses a fundamental challenge not just to the Irish Human Rights and Equality Commission and various experts who could contribute meaningfully to pre-legislative scrutiny of the Bill, but it also of course impacts on the ability of Oireachtas Members to effectively scrutinise what is fundamentally important legislation.

As a general observation, our initial view is that the Bill goes further than the pact requires in restricting rights and freedoms, and not as far as the pact requires to protect them. This is particularly evident in the way the Bill treats vulnerable people including victims of trafficking, disabled people, and children.

Two issues potentially affect the rights of all international applicants. The first, which has just been referred to, is the question of access to justice. The Bill provides that, shortly after arrival in Ireland, applicants will get legal counselling before their first instance interview, and not legal advice and representation, as currently prevails. The Bill does not define legal counselling. We do not know what it is but we do know what it is not. It is not legal advice. This is a backwards step from the current situation. Ireland has opted for a minimalist approach here without clearly explaining why. People seeking international protection, many of whom are vulnerable and traumatised, will have to navigate the critical first stage of the process, and the committee has just heard what that looks like to an individual person, without the support and protection of independent and confidential legal advice. The Bill says that legal counsellors will be engaged but it is not clear who they will be. We are clear 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.

In our view, this approach raises grave questions about access to justice and the right to an effective remedy. We call on the Government to provide legal advice at first instance, as it does currently, and as the pact permits it to do. There is no requirement that Ireland add an

additional layer of undefined legal services. 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. None of these questions have been answered to date.

The second issue which affects all persons within the process is that the pact requires an independent monitoring mechanism, IMM, which we understand will be achieved through a chief inspector of border procedures. Under the pact, the IMM should meet the standards that have been set out in detail by the European Union Agency for Fundamental Rights, which earlier this year published a detailed set of requirements of how IMMs at the national level should be independent from Government, empowered to investigate all allegations of rights violations, and adequately resourced in an independent manner. In contrast, the general scheme provides for a chief inspector who is appointed by, funded by and who can be removed by the Minister for justice. We understand that the chief inspector and staff will not be warranted or empowered to conduct investigations into instances of death or serious harm. In our view, therefore, the chief inspector cannot be considered a credible independent monitoring mechanism as was recommended and prescribed by the Fundamental Rights Agency.

Based on those concerns, the Irish Human Rights and Equality Commission is currently considering whether it is appropriate for us to sit on the proposed advisory board and I listened with great interest to our colleagues in Tusla in the same vein. These are only two out of our many concerns about the Bill. Others include detention, age assessments, vulnerability assessments and the treatment of victims of trafficking. If the Bill is published in line with the general scheme and enacted in this form, the system that will prevail will greatly undermine fundamental rights and create significant legal uncertainties. We welcome the opportunity to discuss these and other important issues with committee members later.

Dr. Tricia Keilthy: I thank the committee for inviting the Ombudsman for Children's Office, OCO, here today to provide our observations on the general scheme of the new international protection Bill. Migrant children are among the most vulnerable children in the State who face multiple barriers to the realisation of their rights. The implementation of the EU pact on migration and asylum will directly affect migrant children arriving in Ireland. It is crucial that the implementation of the pact takes due account of European and international children's rights standards that Ireland has an obligation to uphold. This means the State should set out explicitly how it intends to apply the legal instruments affecting children in line with Ireland's obligations under the Charter of Fundamental Rights of the European Union, CFREU, the UN Convention on the Rights of the Child, UNCRC, and the European Convention on Human Rights, ECHR. This intention should also be set out clearly in the new international protection Act.

We have significant concerns that the general scheme, as it is currently drafted, does not provide sufficient safeguards for the rights of migrant children as required by international human rights law and the pact's legislative framework. The OCO also wishes to highlight its concern that a number of placeholders are found throughout the general scheme, making it impossible to fully scrutinise its provisions, especially in areas that contend with fundamental rights such as age assessments, legal advice and representation and alternatives to detention. We recommend that adequate time be given to the committee and key stakeholders to examine

draft provisions in these areas as part of the pre-legislative scrutiny of the general scheme. Such provisions should not be introduced at a later stage of the legislative process.

Some of the key changes we need to see, which are outlined in our submission, include: the need to include a requirement that the best interest of the child be a primary consideration in all aspects of the legislation, as required by EU law and international children's rights standards; an explicit ban on the immigration detention of children; an independent guardian system for unaccompanied children; access to free legal advice and representation; a presumption of minority and age assessments that comply with international human rights standards; and an independent monitoring mechanism whose remit covers screening procedures, as well as the asylum border procedure and that is fully in line with the guidelines of the European Union Agency for Fundamental Rights.

There is an opportunity for legislators to ensure sufficient safeguards are in place for children and that our legal framework is in line with international human rights obligations in order that we can be confident that the rights of children on the move will be fully respected, protected and fulfilled.

An Cathaoirleach: I thank Dr. Keilthy. Are any members indicating? For the first round, interactions will be limited to seven minutes each in the hope that we will have time for further interactions. I call Deputy Gannon, who will be followed by Senator Ruane.

Deputy Gary Gannon: Is it okay to ask questions of the Department?

An Cathaoirleach: Yes.

Deputy Gary Gannon: Excellent. I thank everyone for their contributions. To the Department, the previous legislation banned the detention of children. Am I correct that this safeguard is now removed under this?

Ms Tracy O'Keeffe: Any provision in the Bill relating to detention will be in full compliance with the requirements of the pact measures, in particular the reception conditions directive. While some of the measures of the pact envisage the detention of children in certain circumstances, in operational reality, that is not expected to be something that will happen, except in the absolute rarest of circumstances.

Deputy Gary Gannon: What sort of circumstances?

Ms Tracy O'Keeffe: What is envisaged in the pact is that it would be in the context of a child's parents being detained for a very serious reason. It is a limited set of circumstances.

Deputy Gary Gannon: For what reasons would a child's parents be detained? That would be rare.

Ms Tracy O'Keeffe: It would be in cases involving serious national security or crime issues.

Deputy Gary Gannon: I thank Ms O'Keeffe. I have another question for the Department. Do we currently have a clear framework for conducting age assessments, as called for by IHREC and the Ombudsman for Children's Office? If not, will the Department provide a timeline for when such a framework will be implemented?

Ms Tracy O'Keeffe: The asylum procedures regulation requires that a clear and specific age assessment framework be put in place. Under the Bill, the determining authority with responsibility for undertaking multidisciplinary age assessments will be the Minister for Justice, Home Affairs and Migration. The requirements will be set out clearly in the Bill. We recognise there is a gap. While work was ongoing in this regard in relation to the general scheme, it was not concluded in time to be included in the published general scheme, but it will be in the published Bill. The Department is in ongoing, extensive consultation and co-operation with the Department of Children, Disability and Equality and Tusla as to how best to make provision for it. That work is ongoing and it will be in the Bill.

Deputy Gary Gannon: There are repeated references in this Bill to cases where an officer can reasonably believe someone is not under the age of 18 and then treat them as an adult. What are the reasonable grounds for this determination?

Ms Tracy O'Keeffe: The asylum procedures regulation provides for multidisciplinary assessments. It is clear that appearance alone will not be sufficient. The assessment will take other matters into account.

Deputy Gary Gannon: What other matters?

Ms Tracy O'Keeffe: The exact details are being worked out. As I said, it will be a multidisciplinary assessment involving professionals across the relevant disciplines.

Deputy Gary Gannon: I understand how appearance might be one such assessment. I do not understand a single other-----

Ms Tracy O'Keeffe: It could relate to things such as any documentation that is available or if the person has presented in another member state that has information indicating they are over the age of 18. A lot will be dependent on the individual case.

An Cathaoirleach: The officials are here to provide clarity on the Bill. They are not responsible for any deficiencies in the heads of the Bill. It is just to make that point.

Deputy Gary Gannon: I am just trying to understand more.

An Cathaoirleach: I am just making that clear to members.

Deputy Gary Gannon: Will the IHREC or the Department of justice explain to the committee what is actually meant by legal counselling? IHREC has referenced this. Can the Department explain legal counselling and how it differs from legal representation?

Mr. Liam Herrick: We are at a certain disadvantage in that regard because no definition has been provided to date. We understand that it will not be confidential, individual legal advice as currently prevails. Rather, it may be collective and provided by people who are not legally qualified. In our view, that is not regulated or permitted under Irish law at present and we do not understand any way in which it can be permissible under Irish law.

Our analysis is clear that at present, at first instance, people are provided with legal advice. We believe that is valuable, essential and necessary. There is no reason Ireland is required to create a new system of legal counselling. Legal advice, as it is currently constituted, can encompass counselling as well. We are concerned there will be a significant diminution of

rights in this respect. We also think that this could create great legal uncertainty, potentially even an increased level of litigation into the future.

Deputy Gary Gannon: Will the Department clarify what legal counselling means, by its understanding?

Ms Tracy O'Keeffe: In relation to legal advice, it is not intended that there will be any change in the current arrangements under which applicants for international protection can obtain legal advice. Legal counselling is an additional thing. It is a new concept for Ireland that was introduced in the asylum procedures regulation. It is very much focused on information provision at an early stage to assist an applicant in progressing his or her application. The details of how it will be provided for in the Bill are still under active consideration. It is an important matter and it will be in the published Bill.

Deputy Gary Gannon: I only have a couple of seconds left so I will not ask any more questions. I have significant concerns. I am not sure how a country like ours, with a legacy of incarceration, detention and the failures that go with it, can go down this road on which we have so little clarity and so little access to further information. Heads of Bill are being developed as we go through pre-legislative scrutiny. This undermines the work of the committee. It is an affront to the history of this country. We need to be very cautious about how we proceed when so many questions remain unanswered.

Senator Lynn Ruane: I very much agree with Deputy Gannon in this regard for many reasons, and not only the uncertainties we are discussing. Under the general scheme, the Minister can enter contracts for services related to any of his functions under the Act. This means that there is no guarantee that detention facilities or designated asylum border facilities under head 123 will be State-led. What I am looking for is the Department to clarify whether anything that is put in place will be State-led and will not be a privatised function? Based on that answer, I might go to the witnesses from IHREC for their view. We already have a privatised system of asylum and IPAS centres and everyone in this country profiting off how we treat people, so I want to be sure that this does not mean the Minister can make a sweeping contract, in a privatised way, for border facilities.

An Cathaoirleach: Can Ms O'Keeffe provide that information?

Ms Tracy O'Keeffe: It is not intended or envisaged that private detention facilities would be put in place.

Senator Lynn Ruane: If that is the case, is somebody's movement is prohibited, how do we propose to prohibit that movement? Are we saying there will be more public service prisons to detain people who do not have movement?

Ms Tracy O'Keeffe: Again, it is envisaged that detention would be a last resort in respect of international protection applicants, as it is under the current system. Restrictions on movement, such as are envisaged in the reception conditions directive, encompass various measures such as reporting to a centre or Garda station. Detention in a closed facility would continue to be only used in exceptional cases.

Senator Lynn Ruane: We have here something that has to be in place by July 2026, yet we do not know how people will be held, where people will be held and who will run the facilities. We are carrying out pre-legislative scrutiny on something that is quite fictional in a sense. Do

the witnesses have any concerns about how detention will play out? We have the places of detention Bill and the Optional Protocol to the Convention against Torture, OPCAT. People held in detention have the right to education and recreation. We do not know what any of this looks like. Do the witnesses from IHREC have any concerns they would like to note in terms of those human rights?

Mr. Liam Herrick: We do not have any more information on this than the Senator has. I would make the observation that Ireland is the only EU member state that is implementing the migration pact without already putting OPCAT in place. We are the only EU state that has not ratified that, so there is no independent monitoring mechanism for places of detention more generally.

Senator Lynn Ruane: There is no inspector.

Mr. Liam Herrick: Whereas it was the Government's intention to publish that legislation before the end of this year, we now understand that this will not happen. There is a system of safeguards in other states that we do not have. We have heard that it is meant to be detention as a last resort, and there is reference to alternatives to detention, but we understand that they will not be set out in the Bill. They will be operational matters for the Department so we do not have sight of what they might be. It is reasonable to assume that alternatives that might include tagging or surveillance would be quite complex to put in place because there would be data protection and surveillance issues. The Senator is right about the timeline. We are talking about next June and we know how long it takes to furnish, establish and regulate places of detention more generally, so it is not clear to us at this stage how this work in practice.

Senator Lynn Ruane: In terms of the presumption of minority, the Department mentioned a multidisciplinary approach to assessing the age of a minor. Were those involved in child protection consulted as part of that definition?

Ms Lorna Kavanagh: We have been in consultation with the Department regarding the development of that new process.

Senator Lynn Ruane: What preferred process is Tusla communicating to the Department that it would hope to see as the definition?

Ms Lorna Kavanagh: The pact sets out that there are three stages of determination of age. The first is documentary analysis. Under the pact, there will be the taking of biometric data for children aged six years and up. That would open up records of any country they have entered. That might give a definite date of birth. The second is the psychosocial assessment, which is multidisciplinary. That would be the piece we would like to see developed under the Minister. The third step, which is cautioned against, is medical assessment.

Senator Lynn Ruane: Does IHREC have any view on the taking of biometric data from children?

Mr. Liam Herrick: That would raise significant issues in terms of the rights to privacy of children and the particular sensitivities regarding children as vulnerable people more generally. The issue of age assessment is of grave concern to us. In our legal work, we are involved in a number of cases, under the current legal regime, relating to people who have been assessed as adults and are asserting they are children, and we are supporting them. We are now talking about greatly compressing the time in which those assessments are made. We have no visibility

on what the multidisciplinary mechanism will be. It is obvious to us that there is a very heightened risk that children will be inappropriately assessed as adults and there might be an increase in that category. That will mean that they will be put into the border procedure, which means that they will be subject to processing and deportation within a very short period of time.

Deputy Mark Ward: I thank the witnesses for their opening statements. I agree with Mr. Herrick when he spoke about ambiguity, incompleteness and lack of clarity. That seems to be the common theme of the speakers. We do not know what we are signing up for. I believe we need an international protection system that is enforced, effective and not rushed, as is happening today. I have significant concerns about the capacity of the system to meet the requirements of this Bill, but I also believe that the EU migration pact undermines Irish sovereignty. Sinn Féin has been very open about opposing this pact and will continue to oppose it because it undermines Irish sovereignty. We are handing over more powers to the EU, which impedes our ability to make decisions for ourselves, such as on migration.

We have signed up to the migration pact. Is there anything in this legislation that we would have been able to do without signing up to the pact? Under the legislation that is currently in place, is there anything we would not have been able to do?

Ms Tracy O'Keeffe: Without getting into the merits of the policy behind the Government decision to opt in to the pact or, indeed, its approval by the Oireachtas, which I do not feel I can get into, the pact will provide for convergence across the EU regarding migration and asylum. It is a challenge across the EU that requires sharing responsibilities and stronger governance. It is a transnational issue that affects all member states. Ireland is already participating significantly in European migration policy. We have already participated in some of the previous measures. They have been replaced twice since they were implemented. We are already in the 2005 asylum procedures regulation, Eurodac, Dublin III and the 2013 reception conditions directive. We are already deeply involved in the common European asylum system.

Deputy Mark Ward: Ms O'Keeffe mentioned the 2005 and 2013 Acts and previous Acts. Would the Acts that were there previously not allow us to go through this process without signing up to the EU migration pact?

Ms Tracy O'Keeffe: The decision has been made to-----

Deputy Mark Ward: I am aware of the decision but I am asking for clarity. The decision was made and signed off on by the Government and was passed in the Houses of the Oireachtas, so it is agreed. We all know that. There have been pacts and legislation previously, though. Would they not allow us to deal with this legislation rather than signing up to the EU migration pact?

Ms Tracy O'Keeffe: The reality is that all the other EU member states are participating in it and have signed up for it. Not signing up for it would have left us as an outlier with a different legislative framework in view of the common issues that Europe was dealing with in that space.

Deputy Mark Ward: I am looking for clarification on a couple of more issues. I have huge concerns about the capacity of the current system to deal with the implications of this legislation. Will the officials clarify whether the general scheme deals with what will happen if it is not possible to hire the number of staff required to meet the timeframes for processing

applications and appeals? Will they also clarify the timeframes for the processing of applications and appeals that are set out under the general scheme?

Senator Anne Rabbitte: Through the Chair, are we not asking questions about children here? Is that not the focus of today's event?

An Cathaoirleach: No. We are dealing with the heads of the Bill.

Senator Anne Rabbitte: I know, but are they not specifically to do with children or have I misunderstood?

An Cathaoirleach: No. We are dealing with the heads of the international protection Bill.

Senator Anne Rabbitte: All right.

Ms Tracy O'Keeffe: The general scheme of the Bill will not provide for the details of staff allocations and so on. Those are operational matters, the details of which would not be something for inclusion in the legislation.

Deputy Mark Ward: Will Ms O'Keeffe clarify whether the general scheme deals with circumstances in which the State would face penalties from the EU and whether the penalties are outlined in the legislation?

Ms Tracy O'Keeffe: In the event that it emerged there was serious non-compliance with the pact measures, that would bring the question of infringing proceedings into play, but any such procedure would follow an extensive process of engagement with the Commission with a view to remedying issues. There would be ongoing engagement. At this stage, it is impossible to tell what the nature of any such proceedings might be. Should things go that far, it would be a matter for the Court of Justice of the EU to make decisions in relation to the consequences of a significant failure to comply with the requirements.

An Cathaoirleach: I call Senator Gallagher, followed by Senator Rabbitte.

Senator Robbie Gallagher: I thank all the witnesses for taking time out to be here with us this afternoon and, indeed, for their work in this particular area.

I am startled at the outset by the increase in the number of children coming here. Mr. Hone said that, in 2022, there were approximately 70 unaccompanied children or thereabouts and that, so far this year, in the region of 400 have arrived. I have a couple of questions in relation to that. The first is open to everyone to make a comment. Have we any idea why that is so? Why the sudden increase in two or three short years? Will the witnesses give us an idea of the ages of the children? Do they have any data on, say, the youngest as opposed to the eldest?

Ms Lorna Kavanagh: One of the big reasons for the increase is the war in Ukraine. The team for separated children also deals with children arriving unaccompanied from Ukraine, who are beneficiaries of temporary protection. Other international protection applicants are mainly from Somalia and Afghanistan. There are obvious reasons why they would be seeking-

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Senator Robbie Gallagher: I am sorry to cut across Ms Kavanagh. What percentage of that total are Ukrainian?

Ms Lorna Kavanagh: Currently, up to half are Ukrainian. It was around a third for a long time, but the number of Ukrainian arrivals increased during the summer. Following Ukraine, Somalia and Afghanistan are the countries that are represented most. We have seen a slight increase in arrivals from Vietnam. We do not know what that is about because there had not been arrivals from Vietnam in a very long time. The remainder of the young people are from 20 or so other countries, such as Congo, Egypt, Eritrea and Pakistan.

In terms of the ages, the vast majority of children who arrive are 17 years of age. Some 316 children are aged 17, 127 are 16 and we have 36 15-year-olds. The percentage of children aged between seven and 14 is in single figures. The youngest child we have in our care today is seven years old. That is the age range. The youngest child did not arrive unaccompanied, but-----

Senator Robbie Gallagher: Did or did not?

Ms Lorna Kavanagh: Did not, but was brought in by somebody who was not their parent. That child is now in our care.

The reason for the increase is obviously the war and the situation in Afghanistan following the fall of Kabul. Obviously, the situation in Somalia is dire. We also see secondary movement. We would see children arriving when there have been legislative changes in other member states. For example, Sweden made some changes to its legislation, after which we saw an increase in arrivals of Somali children from Sweden. There can be multiple geopolitical reasons that cause young people to arrive, but some of it can be down to legislative changes in other European countries. We suspect that the Rwanda Act, when that was on the table in the UK, saw many young people routing through Ireland. Ireland was a transit country to the UK and that impacted on numbers as well.

Senator Robbie Gallagher: With regard to the secondary movement that Ms Kavanagh refers to, we have no mechanism as the law exists to address that.

Ms Lorna Kavanagh: There is a mechanism for it under Dublin III, but it is quite lengthy. The pact should make it much more efficient.

Senator Robbie Gallagher: Okay.

As for the concerns many of our witnesses have voiced, is there a system anywhere in the EU, for example, that they would say was best practice in relation to this particular area, as much as there is best practice? Are they aware of any countries that have systems that would be superior to what we are proposing in this legislation? That is open to anybody who wants to answer.

Mr. Liam Herrick: Is the Senator speaking specifically about the question of separated children?

Senator Robbie Gallagher: Yes.

Mr. Liam Herrick: I refer the Senator to a report published last week by the group EPIC, which works with children in care and has looked particularly at the situation of children coming in under the current system. There are many challenges in the current system as set up by our colleagues in Tusla. The huge increase has obviously put a large strain on resources within the system, but the legislative basis for the protection of separated children in Ireland is

deficient. There is an over-reliance on private providers because of the increase in numbers and the lack of provision of aftercare. When these children turn 18, they are very often cut off from other supports they might have had. That is an analysis of the problems we have at the moment. I do not know if there is any one model in Europe but there are definitely other countries that are doing better than us, I am sure. One of the challenges we all face with this legislation is that no other EU state has transposed the migration pact yet. It is not as if we have precedent to rely on or look to at this point in time. Other member states are in the same position.

Ms Nuala Ward: We have obviously worked with unaccompanied minors for a long time and ironically, Ireland was one of the best. I used to go to European conferences and I heard Irish examples and heard from Ms Kavanagh and her team because we used to take unaccompanied minors into State care. They got social workers and they were placed in foster care and residential centres. Ironically, we were - I hope we still are, in some ways - one of the best in Europe in terms of how we protect the rights of children.

On the detention of children, we currently do not detain children in Ireland. It is something we are very proud of. It is part of our legislation so we do not want to go backwards. We do not have to do this. There is no requirement in any sort of rhetoric that the EU pact says we have to. No, we do not. That is our decision, as a State. I just want to make that clear.

An Cathaoirleach: We will give opportunities to come back later on but I want to ask Tusla a very quick follow up to Senator Gallagher's questions. In respect of children coming from other member states or Britain, which are areas with special travel arrangements, how are airlines allowing unaccompanied minors to board a flight and come to Ireland?

Ms Lorna Kavanagh: Children can fly unaccompanied at age 16. Our children could fly unaccompanied at age 16. Some of the children would be put on the aeroplane by an agent. Sometimes, they may have paperwork when they get onto the aeroplane and then do not have paperwork on arrival. There are various situations.

Senator Anne Rabbitte: I thank the witnesses for their opening statements. It is a pity it is a bit rushed because it would be nice to get into the understanding behind it and so on. To be fair to Ms Ward, she has nearly answered it but I want to go back to it again. We have always provided support for undocumented migrants who have been coming in. Ms Kate Duggan was before the Traveller committee last week and she said that as of August this year, 570 children have come to Ireland thus far this year who were unaccompanied minors. However, I want to understand what do we do at the moment in terms of providing care. I think it is important for people listening in and others to know. How is it done by Tusla?

Ms Lorna Kavanagh: Every child who arrives is met on the day they arrive and accommodated on the day they arrive. Sometimes, up to 15 children arrive on any one day so that is a considerable pressure on the service. The priority is to provide for the child's immediate needs such as somewhere to sleep, someone to look after him or her and food and clothes. We have had to rely on special emergency arrangements, SEAs, where we have agency staff looking after children in rented properties. We have opened a huge amount of additional capacity in terms of residential beds to reduce our reliance on special emergency arrangements. We try to keep children's placements in those SEAs as short as possible so they move very quickly into registered centres. To some extent, we benefit from the fact that a lot of the

children who arrive and are aged 17 age out, which creates capacity. That then brings us to Mr. Herrick's issue in IHREC in relation to aftercare.

Senator Anne Rabbitte: Has the assessment been completed on age before we have reached the aftercare piece?

Ms Lorna Kavanagh: Yes, it has. Once an immigration official refers somebody to us where they believe the young person to be an unaccompanied minor, the presumption of minority must apply. We have to treat that child as a child.

Senator Anne Rabbitte: Is there a capacity issue at the moment? I can talk about the lived experience in Galway where a girl was in the university hospital for a certain number of weeks because a determination could not be made about the child's age.

Ms Lorna Kavanagh: Yes. There are capacity issues. One of the issues that can arise is that our team is located in Dublin. That can create challenges around getting people out to where a child is perhaps-----

Senator Anne Rabbitte: How could it take a double digit number of weeks before an age assessment can be done? Why would a child be left in a hospital bed - an acute bed in a level 4 hospital - before a determination could be made? The system must be failing there somewhere.

Ms Lorna Kavanagh: The sheer volume of cases is causing delays in relation to the completion of assessments.

Senator Anne Rabbitte: Of the 570 here at the moment, how many are provided with support from Tusla agency staff and how many are put in residential purchased care, as I would call it, that might not have the wraparound services that would be required for an undocumented minor? It is a hugely traumatic experience for somebody to have left their family and arrive here. They might not be getting the wraparound support.

Ms Lorna Kavanagh: We have 400 mainstream residential beds. There are in excess of 400 children in what we would know as children's residential centres with support staff.

Senator Anne Rabbitte: Is that Tusla's whole residential bed capacity?

Ms Lorna Kavanagh: It is for separated children seeking international protection, SCSIP. It has its own provision because the children's needs are slightly different so it is a specialism, as such. Of the 570 young people we have, the vast majority are in registered children's centres. There is a small number in SEAs and we are really working hard to try to get those numbers down. There is a small number within family placements, such as the little ones aged seven to 14. We would normally place them in foster families and supported lodgings providers who are recruited and trained as providers for separated children.

Senator Anne Rabbitte: As this Bill is being debated and making its way through the Houses, what is Tusla doing in the interim? Are there learnings the Department of justice can take from that which are not already there and could be implemented?

Ms Lorna Kavanagh: At the moment, we carry out what we call an eligibility assessment because there is no provision in law for us to undertake an age assessment. We carry out an eligibility for services assessment, which is what the young girl in Galway was waiting for. We

have worked with that for the past four years. It has been problematic. There have been 13 judicial reviews on that work. We are working very closely with our colleagues in the IPO in relation to them developing this new age assessment process. Some of their staff have come to our training events. There has also been one case where the IPO had recently conducted an age assessment as part of a settlement of a judicial review.

There is a lot of joint working and we are looking at what it would eventually look like under the pact. Will it be that some of our people might be seconded over to assist in getting this process up and running because it is that multidisciplinary assessment? We are very open to assisting with it but the age assessment is not Tusla's work. We carry out this eligibility assessment and it is problematic.

Dr. Tricia Keilthy: I just wanted to highlight there is an opportunity now because of the review of the Child Care Act, which is silent at the moment on the issue of unaccompanied minors. There is now an opportunity for this committee to engage with the children's committee on that to ensure there is sufficient protection and provision for unaccompanied minors across those two vital items of legislation.

More broadly, the big gap we see in the international protection scheme is the fact that the best interest principle is not properly incorporated throughout the legislation. It is there in parts but not in all parts. We see that as a major gap. There is now an opportunity to really strengthen that to ensure the best interests of the child, whether accompanied or unaccompanied, are considered throughout all processes of international protection and that clear guidance is given as to how that is operationalised as well.

Senator Anne Rabbitte: What engagement has the Department of justice had with the Department of children?

Ms Tracy O'Keeffe: The Department of Justice, Home Affairs and Migration is engaging very extensively with the Department of Children, Disability and Equality and with Tusla on issues around the age assessments and unaccompanied minors. That engagement is ongoing and will continue.

Deputy Alan Kelly: I apologise that I was late but I was watching some of it. I might jump around a few different issues because I do not want to repeat questions that have already been asked. I will start off with a pretty generic question for whoever wants to answer it. We are one of the first countries to really go at this. Obviously, it has to be done at the same time across Europe. We have a history of transposing directives in a pretty excessive way. Sometimes, it can be a little bit too excessive. I used to be an MEP as well and I saw it from both sides. This is such important legislation. Does anyone want to take on the question as to whether the manner in which it has been drafted may be in some ways a little excessive? Are there differing views? Mr. Herrick might want to kick it off.

Mr. Liam Herrick: Just to say at the outset that there are areas where the general scheme goes further than is required by the pact in ways that we believe will diminish people's rights. There are other areas where it does not go far enough, and there are large and very fundamental areas on which it is silent but will have to address. For example, as the Deputy has just heard, there is the question of setting out what the mechanism for age assessment will be, who will carry it out and be responsible for it. That is fundamental. I think it is a mixture. All EU states are going to have to transpose by June next year so it is a challenge for everybody.

One of the difficulties is the late publication of the general scheme as well. It has not made this easy. We understand the pressures the Department is under. This is a very complex and wide-ranging piece of legislation, one of the largest that this Government is going to have to try to bring forward. There is a short window now for the committee to do some work on identifying some key issues, which hopefully can be resolved by the time the Bill is published. We understand the intention is to publish the Bill by the end of the year, so the time is pretty short.

Dr. John Lannon: We would agree with the commission, particularly when it comes to many of our concerns on safeguards but also on the excessive use of border procedures. We see there are gaps. There is too stringent an interpretation and in fact we go further than the pact permits, as Mr. Herrick said. There are other cases where we are not implementing many of the safeguards the pact permits. Looking at the reception conditions directive and the asylum procedures regulations, there are aspects that we would very much like to see incorporated into the Bill. On the other hand, in other places it is looking like there will be excessive powers being used such as, for example, mandatory use of border procedures in certain conditions, which we would be opposed to.

Mr. Liam Herrick: The reception conditions directive is key to a lot of parts of this and the general scheme is silent. We do not know when the Government will declare its intentions with regard to that part.

Deputy Alan Kelly: It is quite obvious that there is need for a legislative provision on age assessment. I think we are all certain on that. The timelines for doing so are pretty endemic to the whole basis of what we are talking about. What are the Department officials' views on that?

Ms Tracy O'Keeffe: It is a very demanding timeframe to have everything in place by June 2026. The Minister has stated that the intention is to publish the Bill before the end of the year, the hope being that it will be enacted in sufficient time in the first half of 2026 to enable commencement and to the extent that any secondary legislation is required in relation to matters of operational detail that are provided to be prescribed under the Bill. If we just have to get all that done by June 2026----

Deputy Alan Kelly: I am sorry for interrupting, I have little time. Is it fair to say that a lot of this hangs on provision being made on this issue? It is completely endemic to it, so it has to happen, timelines or no timelines. Is that fair to say?

Ms Tracy O'Keeffe: That is correct. The reception conditions directive has to be implemented.

Deputy Alan Kelly: I know, but in relation to age verification?

Ms Tracy O'Keeffe: That will be included in the Bill.

Deputy Alan Kelly: I have a concern in relation to timelines on that. There are numerous issues here concerning definitions. A lot of stuff is left very loose. From a departmental point of view, some of these definitions really need an awful lot of work. I am homing in on the issue of legal counsellors, which has been highlighted by a number of people. That is a huge change. How it is defined and interpreted is a critical component of this. I have a big concern about it. It is a step change that we do not fully yet understand. It seems to be undermining. Does anyone have an opinion or differ from my views? I thought not. My last question is

about the role of the chief inspector being a credible IMM. The way in which it is proposed is quite problematic. Does anyone share those concerns?

Dr. Tricia Keilthy: Our main concern is that it is not fully in line with the Fundamental Rights Agency guidelines. We are also named as part of the advisory board so we would be reticent to engage until it was fully compliant with those guidelines.

Mr. Liam Herrick: That is our position as well.

An Cathaoirleach: Does Deputy Brabazon want to come in? No. I will make a few comments and ask a few questions myself. It is clear that Government has got itself into a strange position. The asylum and migration pact was signed up to as a political gesture to say the Government was doing something in respect of migration. In doing so, it tied its own hands and those of future Governments behind their back in respect of the flexibility to deal with future challenges or issues as they arise. Of course there are some areas that we need to operate on a pan-EU basis, such as sharing of information and right of return. We need to be part of the elements of the pact that deal with them. However, to put in place binding obligations on a Government that cannot even meet those obligations beforehand is nonsensical.

For Tusla, how many children up until now have gone missing from its care who had arrived seeking international protection originally?

Ms Lorna Kavanagh: Today there are 19 children who are still missing. I have the breakdown of children who have gone missing over a year. Within SCSIP, we have had 28 children who have gone missing and 19 remain missing.

An Cathaoirleach: So that is 28 in total?

Ms Lorna Kavanagh: No. The number who were reported missing in the year 2025 to date is 69. Of those, 48 have been accounted for. Two turned 18 and 19 remain missing. That is today. We are seeing an increase year on year of the number of young people who go missing. Not all, but part of the trend as we see it is that there has been a lot of young people arriving into Ireland and using it as a transit country, where they say it is never their intention to be here and they have moved on.

An Cathaoirleach: Of the 48 who are accounted for, would I be correct in saying a number of them had left the State?

Ms Lorna Kavanagh: Yes, and a number also aged out. They turned 18. They are still a missing person.

An Cathaoirleach: Of the 19 who are still missing, what age profiles would they have?

Ms Lorna Kavanagh: They are generally in the older age range, 16 and 17 in the main.

An Cathaoirleach: Any younger than 16?

Ms Lorna Kavanagh: It was in the media and I think the Cathaoirleach will have seen that there was a 12-year-old and a 14-year-old who were missing and unaccounted for. They had actually presented to UK and were in the care of UK social services eight days after they left this jurisdiction. There just had not been the appropriate follow-up, which we own. They were the younger children and they are all accounted for and in care.

An Cathaoirleach: These are aged 12 and 14.

Ms Lorna Kavanagh: They were 12 and 14 when they went missing. They are now 14 and 16 and they are in the UK.

An Cathaoirleach: Without dealing with the specific cases, these are 12- and 14-year-olds who came to Ireland unaccompanied, were in our system, and subsequently went to Britain. There are adults who would not manage that, in terms of the logistics of understanding the system. Is it fair to say that there is a very good chance there are guiding hands in a lot of these other companies?

Ms Lorna Kavanagh: Yes. In that instance they arrived with adults on a ferry. The minors were taken and brought to our care. We suspect there was a plan to move on then with the other people they arrived with.

An Cathaoirleach: Does Tusla have a fear that some of the minors who enter into Ireland have been victims of trafficking?

Ms Lorna Kavanagh: Yes we do. Obviously we screen for indicators of trafficking. We cannot determine that a child has been trafficked but the legislation is going to change in that respect whereby Tusla will be part of the national referral mechanism on trafficking. At the moment where there are indicators of trafficking we refer to An Garda Síochána, which investigates. Only it can determine if a child has been trafficked.

An Cathaoirleach: Of the 19 children who are still missing, does Tusla have evidence or any way of knowing how many of them, if any, are victims of trafficking or whether there are other-----

Ms Lorna Kavanagh: No. We do regular audits, however, and on analysis there is a sense that the profiles of those young people are such that they potentially would be vulnerable to labour exploitation, because they were older boys in the main. That would be a concern. Most of the young people who go missing express an intention to travel on. They may have relatives in the UK but we have no way of finding them unless they contact us and let us know where they are. A lot of them are intercepted in Northern Ireland. Our colleagues in Northern Ireland and ourselves have weekly communication and reporting mechanisms in relation to children who have left our care and who may arrive there.

An Cathaoirleach: But we know there are 19 children missing. We know there is a risk, at least, that they are being trafficked or exploited in other ways. What level of co-ordination is taking place between services, here or beyond our shores, to find these kids?

Ms Lorna Kavanagh: The interaction happens at the level of An Garda Síochána where they engage with border patrol, the immigration services, and with Interpol to see if the children surface in another member state or in the UK. We are reliant on information coming to their attention that way in relation to the missing child.

An Cathaoirleach: So if a child is under Tusla care and goes missing, it then becomes a matter for the Garda.

Ms Lorna Kavanagh: The child is a missing person. We do not have the mechanisms to look for them. For an Irish child in the care of Tusla who goes missing it is a very different situation because we would know that they normally hang around with a certain friend or they

might go to their granny's or they might go to their aunty. In the case of separated children who do not have links in the community, and they frequently go missing shortly after arrival, there are no known places where they might turn up so it is very difficult to try to locate them. We immediately report them to An Garda Síochána. If there is any information we got at the intake stage that we can pass to An Garda Síochána or if we can follow up with social services in another country, we do that to try to locate them.

An Cathaoirleach: In terms of the guiding hands that I spoke about, namely, the facilitators or the traffickers depending on the motivation behind them, what are the efforts to hold them accountable for bringing unaccompanied minors into the State?

Ms Lorna Kavanagh: Most children who arrive would have had some assistance and in general it is considered smuggling as opposed to trafficking, which is a crime against the State as opposed to a crime against the person, and we do liaise very closely with An Garda Síochána. If we can identify-----

An Cathaoirleach: Have any convictions arisen out of any of that?

Ms Lorna Kavanagh: No. If the young people were from a certain nationality and they were telling a very similar story it might indicate that there was organised smuggling and we would liaise with our colleagues in An Garda Síochána on those matters.

An Cathaoirleach: Thank you. I have no other members indicating for our first round. I have a non-member, Deputy Ó Súilleabháin for five minutes and then I will open it up for a second round of questions.

Deputy Fionntán Ó Súilleabháin: I thank the witnesses for their presentations and for coming here today. Some of my questions were covered in relation to unaccompanied minors. I understand that 38 had gone missing last year and 29 of them had been separated children. Obviously there is massive pressure on Tusla, including lack of resources. Kate Duggan had mentioned about 570 this year coming in as unaccompanied minors. I was also aware that HIQA had done inspections and found that Tusla was not following the national protocols for cases involving minors. What has Tusla done to fix that? The Cathaoirleach has asked how many children are still missing. Ms Kavanagh clarified that it is 19. Do the witnesses fear the children had possibly been trafficked or involved in sexual exploitation? Has the Garda identified any trafficking rings? A 2023 report by Dr. Mary Canning from UCD found that gangs are clearly targeting children in care, sometimes in the lobbies of IPAS centres. She also pointed out that a lot of the staff in the IPAS centres are quite young and they did not have the necessary training on how to handle this and how to challenge the situation. Is that still an issue? That UCD report was from 2023, so obviously children were being trafficked and targeted for sexual exploitation. Do the witnesses believe that this is still going on?

Ms Lorna Kavanagh: Unaccompanied minors would not be in IPAS accommodation. Any unaccompanied minors are accommodated by Tusla. I do not know whether they were targeting children with their families in those IPAS centres.

Deputy Fionntán Ó Súilleabháin: Possibly in Tusla centres.

Ms Lorna Kavanagh: I think the research was mainly focusing on Irish children in residential care. I think that Operation Cosnaím has been dealing with that situation. Certainly we have not had that situation arise in relation to separated children being targeted for sexual

exploitation. In general we would be more concerned about labour exploitation. I am not saying that boys could not be exploited sexually either but the vast majority of unaccompanied minors are boys. It has not been something that we have been concerned about. We do liaise with the Garda in relation to labour exploitation and it has advised us that it is not aware of any organised labour exploitation of children at the moment. We meet the Garda regularly, with the trafficking unit, to flag issues and to try to track concerns.

Deputy Fionntán Ó Súilleabháin: Given what was identified in that report to do with sexual predators, would Tusla have a concern that it is still ongoing? Obviously there were concerted gangs targeting children in care, in whichever setting, be it Tusla care or IPAS centres.

Mr. Gerry Hone: Where we have concerns of child sexual exploitation, and this is mainly with our own children in Ireland who are in residential care, that is reported to the Garda any time we see that indicated. The Garda follow up on any concerns we present in respect of that for all our children in care. As pointed out by my colleague, it is not the case that we are seeing this with unaccompanied minors at this stage. We cannot say for definite that it is not happening but we are not seeing it and we are not seeing the evidence for that with unaccompanied minors at the moment. We do have a concern around trafficking. This whole situation with unaccompanied minors is ripe for trafficking. We have trained our staff and IHREC has helped us with that training to help identify all the indicators of trafficking. All our staff who work in this field get that training. It has been really helpful. We are then able to notice the indicators in our assessments at an early stage and pass on any concerns to the Garda around that.

Deputy Fionntán Ó Súilleabháin: Would Tusla be happy that the staff in those centres are sufficiently trained now to identify the problem, to manage it and to deal with it?

Mr. Gerry Hone: Yes.

Ms Lorna Kavanagh: The awareness has very much developed in recent years. We have had MECPATHS in, whose team are specialists in the area of training on trafficking. There is much more awareness around it. We also do joint training with our residential providers where we bring them into our training sessions so it is more integrated in terms of what those indicators are.

Deputy Fionntán Ó Súilleabháin: Is Tusla happy now that the problem that was identified in 2023 no longer exists in the care centres?

Ms Lorna Kavanagh: In terms of the sexual exploitation of children in the care centres?

Mr. Gerry Hone: If we notice any evidence to suggest that existed at all, we should be confident that the matter is being dealt with between us and the Garda and is being followed up. There is always a danger of child sexual exploitation for children and young people in the care system. We have to be aware of that all of the time. Our systems are more finely tuned now and our staff are trained in noticing that and referring it to the Garda, as and when.

An Cathaoirleach: Judging by the numbers and indications, I think we can allow four minutes each in the second round. Senator Ruane will be followed by Deputy Gannon. Other members may wish to indicate.

Senator Lynn Ruane: This is potentially a "Yes" or "No" question for the Department. It relates to offshore processing, which is allowed for in the pact. Has the Department been discussing introducing a head on the offshore processing of applicants?

Ms Tracy O'Keeffe: No, that is not something that is planned.

Senator Lynn Ruane: Great. I wonder then about the whole legal fiction around non-entry. The witnesses from IHREC, or others, may have a comment to make on that. We are creating the potential for a no-man's land in which obligations do not have to be fulfilled. We are potentially creating a scenario where people are left temporarily stateless. What concerns do the witnesses have in relation to that?

The next question is for the Department to think about as well. Under the asylum border procedures, the inspection applies only to screening centres, border procedure centres and return borders and we are not applying them, under what would be OPCAT, to places of detention. That is really scary considering it is accepted that in some cases children could be detained with their families. What does that even look like? Are we saying there will be a family detention centre created for those scenarios and that there will be no role then for inspection of such a facility? It is extremely alarming and concerning that it would be proposed that any family unit would be in a detention facility. If anyone wants to pick up on any of those points, it would be great.

Dr. Tricia Keilthy: On the issue of detention, obviously we want to see the safeguard on the explicit banning of the detention of children put back in. What we are speaking about here are alternatives to detention or de facto detention that may arise when we do not have clarity, from the heads of Bill, regarding what the alternatives to detention might be. However, for us, it is crucially important that children's rights still apply and do not go away while they are in the asylum border procedure or in this State.

Senator Lynn Ruane: Could this increase the number of scenarios in which there are unaccompanied minors because people will want to find a way to get their children to safety in a country that appears more hostile? With the increased measures, we might actually see an influx of cases involving the thing people think they are advocating against.

Dr. Tricia Keilthy: That is why it is so important that we properly embed the best-interest principle in the legislation, so that we can be confident that, no matter what stage they are at, that is the paramount consideration. Children have a right to education and to play and recreation, no matter where they are. Those rights continue regardless of their status.

Senator Lynn Ruane: Does anyone else have a comment on any of those questions?

Ms Lorna Kavanagh: I have a comment on the right to recreation and education. Our Tusla education support services are there to help identify school placements but it is about what the education provision will be within the border procedure.

Senator Lynn Ruane: Does Mr. Herrick have a comment on the legality of the non-entry piece?

Mr. Liam Herrick: Not in detail at this stage. It is an issue that our colleagues in other EU member states are also concerned with. It is not something we have addressed in detail in our submission but we are happy to come back to the Senator on that.

Senator Lynn Ruane: Does Ms Vuma or Dr. Lannon have any concluding comments to make on anything that has come up today?

Dr. John Lannon: If I could come in while Ms Vuma is thinking about the other parts, another area about which we have a concern is in relation to the screening process and cases where age is disputed. Due to the manner in which the very short seven-day screening is being done now, the fact that it is a vulnerability check rather than a vulnerability assessment means we could potentially have children entering into the border procedures, where they are extremely vulnerable, ending up in reception conditions being shared with adults and in situations and environments where they should not be. Again, we must bear in mind that no provision is made here for ongoing vulnerability assessment. Therefore, if that is not caught at the initial seven-day screening, it will not be caught later. Even worse, the legislation would allow for people to proceed into the border procedures after seven days even if a vulnerability or health check had not been done.

Senator Lynn Ruane: I thank the witnesses.

Deputy Gary Gannon: We are doing a number of things today but what we are effectively doing is scrutinising the expansion of the powers of detention within this State, which will now include children. We are going to do all of that without any sort of independent monitoring framework under OPCAT. That is effectively correct, is it not? Does anyone dispute that?

Mr. Liam Herrick: All we can say is that the European Union Agency for Fundamental Rights sets out standards for what an independent monitoring mechanism should be and in our view, what is proposed does not meet that standard. That was the standard that was meant to be put in place under the pact and we do not believe it meets that.

Deputy Gary Gannon: Can I ask the Department how that was that factored in to the crafting of the heads of Bill?

Ms Tracy O'Keeffe: Regarding the detention of minors, by way of clarification, the reception conditions directive, which makes provisions for detention of applicants, provides that, as a rule, minors should not be detained but that it could happen in very limited, stringent and restricted circumstances. It is not something we envisage will happen under the new system. It does not happen at present.

Deputy Gary Gannon: I ask the same question of Dr. Keilthy.

Dr. Tricia Keilthy: It is important to point out that the pact sets out minimum standards that the member state must have in place, but that does not preclude Ireland from retaining additional safeguards or putting them in. That is where we are calling for the explicit ban on the detention of children.

Deputy Gary Gannon: Also, to get clarity from the Department, when I asked a question earlier, the Department said that, in the first instance, migrants would be afforded the same entitlement to legal advice as they have now. Is that the case?

Ms Tracy O'Keeffe: Under the current situation, somebody can apply to the Legal Aid Board for legal advice and legal aid. That will not change. If somebody has the means to engage their own legal advice, there is nothing to prevent that either. Legal counselling will be in addition to any legal advice that the applicant obtains.

Deputy Gary Gannon: Am I to understand that, from the Department's perspective, migrants who come here and have their own means to avail of legal advice will have the same standards but, otherwise, that will not be the case?

Ms Tracy O'Keeffe: No, an applicant can apply to the Legal Aid Board in accordance with the Civil Legal Aid Act. That is open to applicants also, and will continue to be.

Deputy Gary Gannon: Regarding the legal counsellors, is it the expectation of the Department that they will be barristers or solicitors?

Ms Tracy O'Keeffe: That work in examining the exact categories of people who will provide legal counselling is still under examination. The pact measures do not specifically require that it be solicitors, barristers or similar professionals.

Deputy Gary Gannon: Has the Department engaged with the Legal Aid Board on whether it will be able to provide such a service?

Ms Tracy O'Keeffe: The Department is engaging on an ongoing basis with the Legal Aid Board regarding all matters relating to legal assistance, legal advice and legal counselling.

Deputy Gary Gannon: The Ombudsman for Children pointed out that the Bill allows a single representative to act for up to 30 unaccompanied minors at once. Do we have any sense from anybody, including from the Department, how that number was arrived at? It seems to be far above the maximum in many other EU countries.

An Cathaoirleach: Does someone want to answer that, very briefly?

Ms Tracy O'Keeffe: I would just mention that it is provided in the reception conditions directive as a maximum. That is where the number came from.

An Cathaoirleach: I call Senator Rabbitte who will be followed by Deputy Ward.

Senator Anne Rabbitte: I want to go back to the process that we have at the moment, the engagement we have with the Department and what best practices can be taken from the process, with the recommendations of the witnesses, to ensure we do not have detention. We need to focus on that part. Nobody wants detention. We also need to focus on what we do well and could be incorporated into the scheme of the Bill. I want to look at two elements. One is the children who turn 18 and how transition planning can be best incorporated into the Bill. The other element is ensuring that children have the right to a home link support via fostering, within their culture if possible. What are the best practices the witnesses' organisations have taken from that? I do not mind who answers. I know there is expertise on this matter present.

Ms Lorna Kavanagh: We are looking to increase our number of family placements, those being, fostering and supported lodgings.

On the nature of the countries that children come from, there are not very established communities, like Afghani families, who are settled and might be in a position to take on a child. However, we could recruit foster carers and supported lodging providers who could offer a Muslim-friendly placement, so they would be from that faith. There are options that we can explore more fully and we are looking at doing that.

In terms of the increased numbers and upscaling, it can take a year to recruit and assess a foster carer, so we have had to focus on the residential provision but we are committed to increasing our provision of family placements.

On aftercare for children on reaching 18, we are subject to the provisions on the entitlement to aftercare. Under the strategy for aftercare, the child has to be in Tusla care for 12 months. All young people arriving at 17 years of age do not have an entitlement because they will not have been here for a year. Where children have not had their status determined, they transition to IPAS accommodation when they reach 18. That is really quite difficult but we advocate and lobby for them as much as we can to try to keep them in the areas where they live. That is not always possible but we undertake to do that.

Where young people have their status before 18 but do not have an entitlement to aftercare, we are holding on to those young people and engaging with the local authority on accommodation for them to move on to. No child is being discharged into homelessness with the emergency number. They are going into homeless services but it is all negotiated and named placement. We support them through our aftercare duty clinic and an aftercare support worker. As to the full aftercare package, though - a moving in allowance, a rent allowance and all of that support - there are clear rules around entitlements under that. We would like to see some changes. We looked to see that there was provision for aftercare where children had been with us under section 5, which is not in care as such. We are looking at whether there is capacity to develop a different funding stream around supporting their integration so that they get more support than they are currently.

Deputy Mark Ward: Turning to the Department, I seek a clear and concise definition of the term "legal counselling" that is used in the Bill we are talking about. I am still trying to work out an exact definition. Has the Department got one?

Ms Tracy O'Keeffe: Legal counselling will be provided for in accordance with the requirements of the asylum procedures regulation. The exact mechanism for how it will be made available is still being discussed.

Deputy Mark Ward: I am trying to see the difference between legal advice and legal counselling. Mr. Herrick mentioned that the IHREC had concerns about it. Are there international examples of the term "legal counselling"? I ask because this is the first time that I have heard of "legal counselling" in this Bill.

Mr. Liam Herrick: Our view is that it does not exist in Ireland at present. The fundamental human rights question here is that, if everybody who needs to access legal advice and legal representation in a process that is critical to his or her legal status, he or she should be able to get them. 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, for example, age assessment and so on, and the legal counselling is supplementary to that, then there is no difficulty with that in principle.

Deputy Mark Ward: But instead of.

Mr. Liam Herrick: That is not clear in the general scheme as it currently stands. It does not make clear that legal advice will be made available, as it is ordinarily understood at present, at all of the crucial stages in the process. If we get clarification on that question when the Bill is finally published, that will be very welcome. It is absolutely essential to the access to justice

and to the whole operation of the migration pact system. What is very important to understand is that Ireland is not required to put in place legal counselling instead of the legal advice that currently prevails. If we are currently providing legal advice, then there is no need for us to complicate and interfere with that system

Deputy Mark Ward: Is there any clarification on who or what agency will provide this legal counselling?

Mr. Liam Herrick: No. I think that has just been confirmed by the Department.

Dr. John Lannon: There are a number of related areas of concern for us. Turning to the issue of vulnerability, we need greater clarity around who is defined as vulnerable.

One of the other aspects of the screening process is the reference to cultural mediators and the fact that what they are expected to do is quite broad. It is not appropriate in the context of the screening process and they should not take the place of legal advisers or be tasked with communicating matters of law to applicants. That needs to be done by suitably trained personnel. There also need to be appropriately trained interpreters in place. We have concerns that there is too much being lumped into the role of cultural mediators. They do not always have the cultural competency or cultural literacy to be able to support the determining authority as well as the applicant. The consequences of incorrectly noting details on the screening form has, as we said in our opening statement, very dire consequences for people along the line, so it is fundamentally important that that initial stage be got right.

An Cathaoirleach: I have a couple of questions to round out this discussion. I will ask the departmental officials to clarify something. I may have missed it in the general scheme, but is there any outline of the interaction between the EU asylum and migration pact and the common travel area?

Ms Tracy O'Keeffe: No. The general scheme specifically deals with issues relating to the common travel area.

An Cathaoirleach: So, there are no issues specific to the common travel area. Is that correct?

Ms Tracy O'Keeffe: It is not something that the pact measures specifically deal with.

An Cathaoirleach: Therein lies the lunacy of the Government's approach, although I know the officials cannot comment on that. We have been told by the Minister that the majority of people seeking international protection who enter this State come from the common travel area rather than the EU framework yet we are devising an entire immigration system and Bill in the context of the latter rather than the former.

On the stipulation, will the Department officials clarify whether the general scheme is pointing to maximum periods for processing applications and appeals? If that is the case, what will those limits be?

Ms Tracy O'Keeffe: The asylum procedures regulation is quite prescriptive in relation to timeframes for processing applications of first instance. It also sets out ranges of timeframes for the making of appeals. On first instance applications to the Minister, the timeframes are very specific. There is not-----

An Cathaoirleach: What are the timeframes for processing?

Ms Tracy O'Keeffe: It depends on the process that the-----

An Cathaoirleach: What is the maximum?

Ms Tracy O'Keeffe: The maximum, under the standard procedure, would be six months.

An Cathaoirleach: What is the maximum timeframe for the processing of appeals?

Ms Tracy O'Keeffe: There is not a specific timeframe provided for.

An Cathaoirleach: On the six months, the current median processing time is 14 months. Is there something big happening in the Department? Is there a new building under construction that will cater for all the staff that will be in a position to change the median time? This is the median time, so we have to assume a number of applications are taking much longer than 14 months. We should bring the maximum time down to six months.

Ms Tracy O'Keeffe: Work is ongoing on the operational side to reduce processing times for applicants. There has been significant investment in resources and digitisation in the International Protection Office and in the International Protection Appeals Tribunal. We are aware that issues still exist and we are hoping new efficiencies that will be provided for under the pact will address some of the issues. The hope is that the international protection system will come more in line with our counterparts in Europe and become more streamlined, more efficient and fairer and a system where protection needs are identified earlier in the procedure. The hope is that this will be a system for the future that will remedy some of the long-term issues with the current system. I can get a note for the committee in relation to this matter.

An Cathaoirleach: I would appreciate that because we have a member of the committee who knows the challenges for a Government of inserting timeframes into legislation without the ability to meet them. I will let Dr. Lannon in in a minute. In fact, I would describe it as the height of legislative stupidity. We are doing this because, as I said, a Government made a decision to sign up to a pact to which there is no logic to signing up to. I fear what the consequences of this will be. I do not know if Ms O'Keeffe can provide clarification in this regard. Deputy Ward asked earlier what infringement proceedings we are leaving ourselves wide open to and what the financial implications might be. In terms of those people seeking international protection as well, for whom we are putting in place maximum processing times we will not meet, what recourse will that allow them? Could we have a situation where somebody refused international protection will be able to legally challenge it on the basis that the decision was not made within the legally-set timeframe? Can Ms O'Keeffe answer this question?

Ms Tracy O'Keeffe: In situations where people go into the border procedure and the timeframe elapses without a decision being made, there is a possibility for them to be readmitted into the standard procedure. Regarding resources and the preparation ongoing in the Department to be ready by 11 June for the pact measures to come into operation, I can get a note on that for the committee setting out the preparations.

An Cathaoirleach: I would appreciate that. I thank Ms O'Keeffe and I do appreciate that my comments are broadly political, so I do not expect her to touch on them.

Senator Anne Rabbitte: I thank the Chair for acknowledging that point. His comments are broadly political and as the Chair, he is supposed to be impartial. I apologise for interrupting, but I just have to say that. It has been happening all afternoon. I am just saying that.

An Cathaoirleach: I will come back to that. Dr. Lannon wanted to touch on a point.

Dr. John Lannon: While the standard procedure is six months, we do need to recognise as well that the border procedure is 12 weeks. We have major concerns about this. The application of border procedures should be the exception rather than the norm. It is all very well to aim for faster processing, but the system has to be one in which there is integrity and fairness. There is potential for a wide use of the border procedure in the proposed legislation we have and this has significant impact. There is currently no opportunity to request a review of a decision to refer an applicant to the border procedures. At the other end of the procedure, an applicant is likely, based on the current legislation, not to be granted an oral appeal, which is of major concern as well.

Specifically on how it is supposed to work now, the border procedure is used to an extent where anybody who comes to what is defined as an "external border crossing point" - which is quite broad in its definition and is essentially a screening centre - comes through a screening process. With that situation where, essentially, screening applies to virtually all applicants, with certain exceptions, too many people will end up in that process. When we consider we have people who may be victims of trafficking, victims of sexual violence or under 18 if the appropriate age assessment has not been done and that there is no ongoing assessment of the vulnerability, we have not got sight reception conditions and do not know if or how the reception conditions directive will be transposed, this is very concerning. While it may be all very well in the short term for a Government or officials to say they will not be putting significant numbers of people through border procedures, we cannot rely on that. The legislation cannot leave us in a situation where vulnerable people would end up in a 12-week process where we have inadequate capacity. We are forcing decisions that are not in the best interest of individuals and we are denying them the protection they deserve here.

An Cathaoirleach: We have a couple of minutes if any member wishes to come back in. I call Deputy Ó Súilleabháin.

Deputy Fionntán Ó Súilleabháin: I am sorry to be returning to that UCD report, but it grabbed my attention. The report is only from two years ago. It drew parallels regarding what was happening in Ireland with the infamous scandals in Rotherham and Rochdale in Britain, which happened from the 1980s up to 2010. That was a scathing indictment of the authorities in the UK. Basically, the authorities said they knew about it but felt uncomfortable acting on it for particular reasons. I am wondering about those parallels drawn by the UCD report, which was undertaken by Dr. Mary Canning and others. Is there a fear Ireland could potentially face a similar charge in future that the authorities failed to act?

Mr. Gerry Hone: The concerns raised in the UCD report have resulted in quite significant changes in terms of how we actually investigate child sexual exploitation and the indicators around it. With the Garda, Operation Cosnaím deals specifically with this matter in terms of a specialist project to respond to this. We have specialist procedures as well for reporting child sexual exploitation to the Garda and we have particular ways of assessing it. It is specialised in how we do it and how we report on it. I think, therefore, that in terms of the services currently

provided there is very good co-operation between Tusla and the Garda in actually addressing this concern. I would be confident at the moment that we are operating well in that space.

Deputy Fionntán Ó Súilleabháin: I thank Mr. Hone.

An Cathaoirleach: On that note, I thank all our witnesses for being here. I understand there are constraints in dealing with a general scheme of a Bill that is so wide in scope. We will be back next week to agree it. I propose that we publish all the opening statements on the committee's website. Is that agreed? Agreed.

I will clarify one point. My role as Chair is to ensure that all members get the equal opportunity to ask any questions and make any comment. There is no obligation on me not to have an opinion and I am entitled to use my time to express that opinion, especially one I think is important in respect of the advancement of legislation, as with any other legislation.

On behalf of the committee once again, I thank all the witnesses and the officials from the Departments. We need to deal with a couple of things in private session. Is it agreed that we will go into private session to deal with a couple of housekeeping matters? Agreed.

The joint committee went into private session at 4.59 p.m. and adjourned at 5.16 p.m. until 3 p.m. on Tuesday, 21 October 2025.