

Submission to the Department of Health public consultation on access to contraception:

*Realising the reproductive rights of migrants,
asylum seekers and refugees*

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About Nasc

Nasc, the Migrant and Refugee Rights Centre is a non-governmental organisation based in Cork. Nasc, the Irish word for 'link', empowers migrants to realise and fulfil their rights. Nasc works with migrants and refugees to advocate and lead for change within Ireland's immigration and protection systems, to ensure fairness, access to justice and the protection of human rights.

Nasc has almost two decades of experience supporting refugees, asylum seekers and ethnic minority communities in Ireland. Through our free legal service, Nasc provides information, advice and support to over 1,300 people annually. Our policy and campaigning work are directly informed by our day-to-day experiences working with migrants, refugees, asylum seekers and ethnic minorities living in Ireland. In 2018 Nasc provided over 600 consultations to asylum seekers on issues ranging from living conditions and the right to work to residency applications. Nasc also conducts outreach to the five direct provision centres in Cork City and County.

Nasc was a member of the Working Group on the Protection Process and Direct Provision. The subsequent report, the Working Group Report on the Protection Process (McMahon Report) contained 173 recommendations to improve the asylum process and the reception conditions to residents in direct provision accommodation including recommendations on reproductive health. Nasc was an expert member of the Standards Advisory Group and advised on the development of National Standards for Accommodation offered to those in the Protection Process (National Standards).

Background

Nasc welcomes the opportunity to make a submission to the Department of Health on the important issue of accessing contraception and we welcome the Government's commitment to improving access to sexual and reproductive health services to all people who wish to avail of them. This submission is based on our experiences working with migrant and ethnic minority communities through our legal clinics, outreach and advocacy services. Nasc, as an NGO working to advance human rights, believes that all individuals should have access to health services that are available, accessible, affordable and of good quality, and this includes sexual and reproductive health services.

Several key groups have already made public recommendations on contraception access in Ireland. The Joint Committee on the Eighth Amendment of the Constitution recommended: “The introduction of a scheme for the provision of the most effective method of contraception, free of charge and having regard to personal circumstances, to all people who wish to avail of them within the State.” Similar recommendations were also issued by the Citizen’s Assembly when considering the Eight Amendment, and the National Sexual Health Strategy (2015-2020) recommends the provision of “universal access to sexual health services for all service users and prospective service users.”¹ Nasc believes that particular attention should be paid when implementing the recommendations of the Joint Committee to ensure that migrants, asylum seekers, refugees and persons of ethnic minorities have full access to sexual and reproductive health services in the State.

Access to contraception: comments and recommendations

- 1. The State must ensure that contraceptive information and services of good quality are available, accessible and acceptable for persons in the international protection process.**

The McMahon Report² Final Report of the Working Group to Report to Government on Improvements to the Protection Process, including Direct Provision Supports to Asylum Seekers (highlighted existing barriers for people living in Direct Provision. The Irish Family Planning Association (IFPA) highlighted that women and girls living in Direct Provision had difficulties in accessing sexual and reproductive health services.³ In the report, the Working Group identified challenges that Direct Provision residents faced when accessing health services, in particular prescription charges,⁴ language barriers when accessing health services⁵ and delays in getting medical cards.⁶ In its report, the Working Group recommended several measures to improve access to health services⁷ for those living in Direct Provision including:

- Exempting Direct Provision residents from prescription charges.
- Putting in train an initiative to facilitate access by persons in the system to information and services concerning sexual and reproductive health and family planning.

¹ See more information in the Background to the public consultation on Access to Contraception, Department of Health available at <https://health.gov.ie/wp-content/uploads/2019/07/Background-note-for-website.pdf>

² See Final Report of the Working Group to Report to Government on Improvements to the Protection Process, including Direct Provision Supports to Asylum Seekers, Final Report, June 2015 available at <http://www.justice.ie> [hereinafter McMahon Report].

³ See McMahon Report, para. 5.97.

⁴ Ibid., para. 5.91.

⁵ Ibid., para 5.98.

⁶ Ibid., para. 5.99.

⁷ Ibid., para 5.100.

- Putting in place an adequately trained and resourced interpreting service where the demand exists and encouraging General Practitioners to offer interpreting services to persons in the protection system.
- Provision of appropriate transport or financial assistance to ensure attendance at medical appointments and safe return to centres.

The progress on the implementation of the McMahon report recommendations has been slow and piecemeal, but we recognise that some improvements have been made.⁸ Most relevant to the consultation on contraception, the Health Service Executive (HSE) implemented the recommendation to exempt Direct Provision residents from prescription charges in June 2016.⁹ Other recommendations related to access to health were either in progress or unverified. Interpreting provision and resourcing remains a key issue and a barrier to accessing health services.¹⁰ In our experience there is some access to interpreting services in secondary care services (hospitals and clinics), but there is little access to interpreting services in primary health care services. It is our understanding that GPs practices face significant barriers to access interpreting services, which results in interpreting services generally not being available for patients who require them. Most recently, we have raised concerns in relation to protection applicants that are dispersed to emergency accommodation or direct provision centres outside urban area prior to obtaining Temporary Resident Cards (TRCs)¹¹. Applicants are required to provide TRCs to obtain a public services number (PPS number), and without a PPS number a protection applicant cannot avail of the daily expenses allowance or apply for a medical card. All these issues currently represent significant barriers to access health services, including access to contraception, for international protection applicants residing in Direct Provision.

Contraceptive services must also consider the needs of protection applicants that do not reside in Direct Provision accommodation. The McMahon report provided a comprehensive set of recommendations to improve the conditions of protection applicants living in Direct Provision. However, it must be noted that international protection applicants are not obligated to live in Direct Provision and some live in private accommodation, either independently or with family or friends. In our experience, persons in the protection process living outside Direct Provision face additional

⁸ See Nasc Working Paper on the Progress of Implementation of the McMahon Report, December, 2017 available at <https://nascireland.org/sites/default/files/Nasc-Working-Group-Report-Dec-2017.pdf> [hereinafter Nasc Working Paper on McMahon].

⁹ See *ibid.*, page. 66.

¹⁰ See *ibid.* page 24.

¹¹ See Nasc's Submission to the Joint Oireachtas Committee on Justice and Equality on Direct Provision and the International Protection Application Process, June, 2019 available at <https://nascireland.org/sites/default/files/Submission%20on%20direct%20provision%20and%20the%20international%20protection%20process.pdf> [hereinafter Nasc's JOC Submission on Direct Provision], page 8.

barriers in accessing health services as they do not immediately qualify for medical cards. International protection applicants living in private accommodation must satisfy the means test and provide evidence of their income, for which they are required to provide evidence of their employment or self-employment and bank statements.¹² Protection applicants face difficulties in accessing employment and opening bank accounts.¹³ These difficulties and the fact that some of the international protection applicants that live outside of direct provision are supported by family or friends, make it difficult for them to satisfy the documentary requirements of a medical card means test.

2. The State must ensure that contraceptive information and services of good quality are affordable and accessible to all migrants regardless of their immigration status.

The cost of contraceptive methods and of accessing a GP to obtain a prescription are barriers to accessing contraception that disproportionately affect migrants, particularly those with precarious immigration status. Research carried out by the former Crisis Pregnancy Programme Report have highlighted barriers to access contraception in the general population¹⁴ and among non-Irish nationals and ethnic minority women living in Ireland.¹⁵ Among the barriers reported by non-Irish women and ethnic minority women were the issues of cost, lack of information, problem when changing GPs and conscientious objection.¹⁶ A recurring issue we encounter in our service is that a significant number of our clients have difficulties in navigating Irish systems, and this also extends to difficulties in navigating the health system.

Providing free contraceptive services only to medical card holders excludes migrants with precarious immigration status. The issue of cost is a recurring one when it comes to accessing contraception, both the cost of contraception itself but also the cost of attending a General Practitioner (GP) to obtain a prescription in the cases of those that do not have medical cards.¹⁷ Some migrants cannot apply for medical cards despite living on low incomes. Some migrants and their family members are restricted

¹² See Medical Card application form, Health Service Executive available at <https://www2.hse.ie/file-library/medical-cards/medical-card-application-form-english.pdf>, page 12.

¹³ See Nasc's JOC Submission on Direct Provision, page 16.

¹⁴ See Crisis Pregnancy Programme Report No. 24, Irish Contraception and Crisis Pregnancy Study 2010 (ICCP-2010) A Survey of the General Population, Orla McBride and others, available at https://www.sexualwellbeing.ie/for-professionals/research/research-reports/iccp-2010_report.pdf [Hereinafter Crisis Pregnancy Report No. 24], page 22.

¹⁵ See Crisis Pregnancy Programme Report No. 25, Attitudes to Fertility, Sexual Health and Motherhood amongst a Sample of Non-Irish National Minority Ethnic Women Living in Ireland, Catherine Conlon and others, available at https://www.sexualwellbeing.ie/for-professionals/research/research-reports/migrant-women-report_.pdf [Hereinafter Crisis Pregnancy Report No. 25].

¹⁶ Ibid., page 107.

¹⁷ See Crisis Pregnancy Report No. 24, page 68; Crisis Pregnancy Report No. 25, page 18.

in their access of social supports because of the conditions of their immigration permissions, this includes international students, persons granted residence under the Syrian Humanitarian Admission Programme, employment permit holders and their family members. For migrants in these groups, being issued a medical would result in breaching the conditions of their immigration permissions with the possible consequence of having their immigration permission revoked. Undocumented migrants are at an even greater disadvantage as they may fear approaching the Department of Employment Affairs and Social Protection (DEASP) to obtain a PPS number which is required for a medical card application. More recently, in its National Assessment Guidelines for Medical Card and GP Visit Card the HSE stated that they may contact immigration services to verify a person's eligibility for a medical card or GP visit card.¹⁸ This measure discourages those with precarious immigration status from applying for medical cards, particularly undocumented migrants, who are reluctant to engage with government departments out of fear of risking deportation.¹⁹ No person should go without health care, including contraceptive services, because they cannot afford them. And no migrant should go without access to sexual and reproductive health services because they fear deportation.

Requiring a prescription from a GP presents additional barriers. Requiring a GP consultation to access contraception is an affordability barrier but also one of general access. We have increasingly seen clients having difficulties seeing a GP as an increasing number of practices are not taking new patients. The difficulty in accessing primary healthcare is heightened for those that live in remote rural areas, without good access to public transport, living in Direct Provision or working long hours. The Committee on Gynecologic Practice of the American college of Obstetricians and Gynecologists stated that allowing over-the-counter access to oral contraceptives (OCs), is a potential way to improve contraceptive access and use.²⁰ In the Irish context, the Irish Pharmacy Union (IPU) has formally called the government to improve access to contraception by making contraception available through community pharmacies without prescription and without charge, regardless of eligibility.²¹ We support the IPU's position and believe that making short-term contraception available at community level, without prescription or charge, would significantly increase access to contraception and would

¹⁸ See Health Service Executive, National Assessment Guidelines, Medical Card and GP Visit Card, available at - <https://www2.hse.ie/file-library/medical-cards/medical-cards-national-assessment-guidelines.pdf> page 7 ["If you are a non EU/EEA or Switzerland: We may contact the Irish Naturalisation and Immigration Service (INIS) to get copies of documents that prove: you and your dependants are ordinarily resident or your visa permits you to apply for a Medical Card or GP Visit Card."]

¹⁹ Crisis Pregnancy Report No. 25, page 33.

²⁰ See The American College of Obstetricians and Gynecologists, Committee on Gynecologic Practice, Committee Opinion, Over-The-Counter Access to Oral Contraceptives, No. 544, December 2012 (Reaffirmed 2016) available at <https://www.acog.org/Clinical-Guidance-and-Publications/Committee-Opinions/Committee-on-Gynecologic-Practice/Over-the-Counter-Access-to-Oral-Contraceptives?IsMobileSet=false>.

²¹ See, Irish Pharmacy Union, Pharmacists call for easier access to contraception, available at <https://ipu.ie/home/pharmacists-call-for-easier-access-to-contraception/>.

help address some of the health inequalities as highlighted in the Second National Intercultural Health Strategy 2018-2023.²²

In relation to cost, access to condoms is another issue of concern. The cost of condoms is not included under the medical card;²³ someone who wishes to use condoms have to purchase them out of pocket regardless of their income unless they have access to condoms through the National Condom Distribution Service (NCDS). With regards to the NCDS, we are concerned that the terms and conditions of the service may be perceived as too onerous, deterring groups and organisations that work with populations that experience health inequalities from requesting condoms for distribution. The State must ensure access to the full range of modern contraception, and condoms are an important component of the contraceptive offer. Aside from vasectomies, male condoms are the only contraceptive method available for cisgender men and, along with female condoms, they are the only contraceptive methods that prevent the transmission of sexually transmitted infections. A concerted effort must be undertaken to increase access and availability of condoms for those who need them.

Lastly, the consultation document asks about the importance of investing in a scheme “for the provision of the most effective method of contraception, free of charge and having regard to personal circumstances, to all people who wish to avail of them within the State” given that the health budget is limited and there are competing demands for resources. We believe that investing in providing free contraceptive services to all of those who wish to avail of contraceptive services is a cost-effective measure, and that the cost of preventing unintended pregnancies and the transmission of sexually transmitted diseases is lower than the social cost of not preventing them. Most importantly, as a human rights organisation we believe that access to sexual and reproductive health services in general, and to contraceptive information and services in particular, is essential to enable and empower individuals to plan if and when they have children and to allow them to enjoy the highest

²² See Health Service Executive, Second National Intercultural Health Strategy 2018-2023, available at <https://www.hse.ie/eng/about/who/primarycare/socialinclusion/intercultural-health/intercultural-health-strategy.pdf>, page 28. [The Second National Intercultural Health Strategy – 2018-2023 includes as one of its strategic objectives to “address health inequalities relevant to service users in relation to ... sexual health, reproductive health,” and among the strategic actions of this objective it includes: supporting access to culturally appropriate information on contraception and services, with a particular focus on women living in accommodation centres and women in the Irish Refugee Protection Programme; addressing medical, cost and information barriers to contraception use and provide health education programmes to minority ethnic groups, refugees and asylum seekers; working to ensure access to the Maternity and Infant Child Scheme for all pregnant women living in Ireland, regardless of immigration status; and, working to ensure that maternity services are responsive to the specific needs of migrant women and women from the Traveller and Roma communities and that they are culturally appropriate.]

²³See Crisis Pregnancy Report No. 24, page 67.

attainable standard of health. It is essential that any scheme to increase access to contraception and health care must be grounded on human rights.²⁴

We recommend that:

- All barrier methods of contraception are provided free-of-charge to all residents of Ireland.
- All short acting hormonal methods are provided free-of-charge to all residents of Ireland, consultation with the relevant health professional should also be free-of-charge.
- All Long Acting Reversible Contraceptive Methods (LARC) are provided free-of-charge to all residents of Ireland, consultation with the General Practitioner should also be free-of-charge.
- Barriers to access to contraceptive services are addressed. Including:
 - Facilitating access to culturally appropriate sexual and reproductive information and services.
 - Ensuring that materials and publications related to sexual and reproductive services are accessible and available in different languages.
 - Ensuring that there is an adequately trained and resourced interpreting service for individuals who require it and develop a clear pathway for general practitioners and community pharmacists in accessing interpretation services.
 - Removing the requirement of PPS numbers to access healthcare services where it deters undocumented migrants and those with precarious immigration permissions from accessing sexual and reproductive health services.
- Improvements are made to increasing access to condoms in Ireland, including evaluating the terms and conditions of the National Condom Distribution Service.
- Pharmacists are allowed to provide contraception directly, without a prescription.
- More doctors and nurses receive training to provide LARC and that pharmacists receive training to provide injectable forms of LARC in addition to doctors and nurses.
- Any scheme to increase access to contraception is one grounded in human rights.

²⁴ The UN Committee on Economic, Social and Cultural Rights developed a comprehensive rights-based framework for understanding the right to the highest attainable standard of health. See General Comment No. 14, UN Committee on Economic, Social and Cultural Rights, dated 11/08/2000 available at <https://www.refworld.org/pdfid/4538838d0.pdf>.