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# Housing Asylum Seekers

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## INTRODUCTION

The reception and integration of asylum seekers in Malta has received extensive attention over the past years from all quarters. Over the last decade, Malta has developed a strong legal, policy and institutional framework to deal with this issue. This report will seek to put under the spotlight a small part of that framework mainly relating to the accommodation of asylum seekers.

The purpose of this report is to provide food for thought for the furtherance of law, policy and practices relating to open centres and migrant accommodation more broadly. It's aim is not to criticise the system by merely to engage therewith, and providing a factual basis for discussions on how the system can be improved. As such, its objective is to stimulate this discussion in view of adopting a more humane and human rights based approach to the services offered to residents.

The first part of this report outlines the main legal provisions on the international, regional and national level relevant to the accommodation of asylum seekers and beneficiaries of international protection. It also provides an overview of the most pertinent policy instruments adopted in Malta. The report then goes on to provide an outline of the practices and policies applicable to open centres whilst providing also some of the most relevant statistics about residents therein. The last part of the report then is dedicated to conclusions and recommendations which seek to address some of the concerns linked to the present structures and systems. The emphasis of the report is on the network of open centres as these are viewed as key in the process of migrant integration and accommodation. Matters ancillary to the centres such as the allowance system and educational services offered therein are also considered in some detail.

The scope of this research is those persons who are or have been through the asylum procedure. As such it deals specifically with the following categories of persons:

1. Asylum Seekers
2. Refugees
3. Persons enjoying subsidiary protection
4. Persons enjoying temporary humanitarian protection
5. Persons enjoying mass influx temporary protection.
6. Rejected asylum seekers (to the extent relevant)

Whilst many of the principles and issues outlined in the report may apply also to other categories of migrants it is acknowledged that in terms of law and policy, asylum seekers, refugees and those enjoying some other form of protection are entitled to special treatment. The research will therefore not deal with the situation of EU Nationals having moved to Malta or to legally residing third country nationals who have not been through the asylum system.

The view of participants compiled in this report are based on residents, official and unofficial of the Marsa Open Centre; one of Malta's largest open centres, targeting adult males. The findings are based on an analysis of the laws and policies as applicable at the end of February 2010. Amendments made after this date have not been considered in the present research, unless otherwise specifically stated.

It is to be noted that the policy of detention are beyond the scope of the present research which focuses on those persons who are out of detention and who have the possibility of integrating into Maltese society. Reference to detention will therefore only be made in so far as they influence the integration-potential of participants.

The author would like to thank all those informants, formal and informal who provided him with useful information for the drafting of this report. In particular, he wishes to thank Mr. Abdul Kadir, cultural advisor at the Marsa Open Centre for his assistance with the organization of the focus group meetings and contact with the residents more broadly. Special thanks also to Mr. Alex Tortel, CEO of AWAS and the staff working at AWAS and at Suret Il-Bniedem for their support and tips. Furthermore, the author wishes to thank his colleagues at The People for Change Foundation for their constant support in the drafting of this report including through endless discussions on a number of points. Last but certainly not least, a note of thanks to those migrants whose stories and experiences form the backbone of this report. I do hope that this report, and the discussions and policy directions that might result from it, do justice to your experiences and to your contributions.

## LEGAL AND POLICY FRAMEWORK

The legal framework surrounding the accommodation of asylum seekers<sup>1</sup> and protected persons<sup>2</sup> is constituted by various international, regional and national legal instruments each of which makes specific provisions often referring to particular categories of persons. It is however possible to establish a clear and direct relationship between these instruments in the sense that they are often derivative of each other and the national legal instruments seek to transpose, ratify or otherwise apply the principles set out in the broader (international and regional) instruments. In a sense therefore, the international law provisions outline principles which are subject to national adaptation and circumstances, whilst national instruments are clearer in their requirements and move towards practical application of the principles also making them directly actionable before a court of law.

### THE GENEVA REFUGEE CONVENTION

On the international level, The Geneva Refugee Convention<sup>3</sup> provides that the:

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<sup>1</sup> I.e. a third country national or stateless person who has made an application for asylum (that is an application which can be understood as a request for international protection under the Convention) in respect of which a final decision has not yet been taken by the Commissioner or the Refugee Appeals Board. Person's who have received a first reject decision from the Refugee Commission but who are still pending the decision of the Refugee Appeals' board are still considered to be asylum seekers.

<sup>2</sup> Includes refugees, persons enjoying subsidiary protection and those who have been granted temporary humanitarian protection.

<sup>3</sup> UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137.

contracting states shall accord to a refugee treatment as favourable as possible, and, in any event not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts in relation to movable and immovable property.

This provision therefore seeks to put refugees on an equal footing with other migrants in the same position (ex. having been in the host country for the same amount of time), thereby eliminating the possibility of refugees being treated less favourably than other migrants (who might be in the country for other, non protection related reasons). The provision however allows for the possibility of general restrictions being applied including, for instance, residency and other financial requirements. These may in some cases be more difficult for refugees to prove or satisfy and may therefore indirectly negatively impact their prospects in this regard. Even so, the importance of the principle of non discrimination as highlighted in this article (as well as other articles in the Convention) cannot be understated. Moreover, the provision would seem to apply to the purchase or lease of property both from the public and from the private sector. It also provides the possibility of a sense of stability.

Article 21 of the same Convention deals specifically with housing and provides that:

The Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible, and in any event, not less favourable than that accorded to aliens generally in the same circumstances.

This provision relates not only to control on the purchase or otherwise but also on the provision of, for instance, social housing to refugees. It is therefore an important provision which grants substantial rights to recognised refugees.

With regards to social welfare and allowances, Article 23 for the Convention goes a step further in placing Refugees on the same footing as nationals of the host country. It provides:

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

This is therefore an important provision which calls for the mainstreaming of the needs of Refugees with those of the Citizens of the host countries.

The application 'rationae personae' of these provisions, is however, limited to those people who are recognised as refugees (according to the stringent criteria established in the Convention) and not persons who are given other, subsidiary forms of protection.<sup>4</sup> Having said this, the Convention, together with international human rights law<sup>5</sup> more broadly, provides strong political and moral support for the extension of such favourable conditions to this second category of persons. Moreover, it can be noted that the wording of these provisions is very general and vague allowing a great deal of discretion to States in deciding how they should be applied on the National level.

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<sup>4</sup> That is persons who are granted subsidiary or temporary humanitarian protection.

<sup>5</sup> Which provides the basis for such other forms of protection

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## EUROPEAN ASYLUM ACQUIS

On the regional level, the European Union Asylum Acquis makes a number of important provisions on the reception and housing of asylum seekers and people enjoying international protection. It is important to note that these take the form of Council directives meaning that Member States of the European Union, unless specifically exempted from so doing,<sup>6</sup> are bound to ensure that national legislation incorporates the requirements emanating there-from.<sup>7</sup>

The Reception Directive,<sup>8</sup> the stated purpose of which is ‘to lay down minimum standards for the reception of asylum seekers in Member States’<sup>9</sup> makes a number of pertinent provisions relating to accommodation, subsistence and matters ancillary thereto. It is important to keep in mind however that this directive, as the name implies, refers exclusively to asylum seekers and as such, its provisions do not apply to persons who have either been granted some form of protection (protected persons) or whose asylum claims have received a final negative determination (rejected asylum seekers).<sup>10</sup>

Article 13(2) provides that:

Member states shall make provisions on material reception conditions to ensure a standard of living adequate for the health of applicants and capable of ensuring their subsistence.<sup>11</sup>

Material reception conditions are in turn defined as:

The reception conditions that include housing, food and clothing, provided in kind, or as financial allowances or in vouchers, and a daily expenses allowance.<sup>12</sup>

Whilst couched in rather general terms this provision is of utmost importance and has serious implications on State obligations towards asylum seekers. For instance, accommodation within centres which may be proven to be detrimental to the health of residents may be found to be in violation of this provision and therefore incur disciplinary measures. There is, thus far, little by way of guidance of what might be considered as acceptable under these provisions and one would have

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<sup>6</sup> These exemptions usually involve the UK, Ireland and Denmark and none of the 12 ‘new’ Member States.

<sup>7</sup> Aside from the obvious political implication of not abiding by these directives, the European Commission is also empowered by the relevant treaties to bring forward infringement proceedings which may result in cases before the European Court of Justice.

<sup>8</sup> Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:031:0018:0025:EN:PDF>

<sup>9</sup> Article 1 of the directive

<sup>10</sup> Article 3 of the Directive in fact provides that: ‘This Directive shall apply to all third country nationals and stateless persons who make an application for asylum at the border or in the territory of a Member State as long as they are allowed to remain on that territory as asylum seekers, as well as to family members, if they are covered by such application for asylum according to the National Law’.

<sup>11</sup> Article 13(2)

<sup>12</sup> Article 2(J)

to wait for a number of test-cases to be brought forward, allowing national courts and the European Court to set guidelines and parameters in this regard.<sup>13</sup>

States are given the option of offering these material reception conditions either in kind or in the form of financial allowances or vouchers, or a combination of these<sup>14</sup> provided that where they are provided in the form of financial allowances or vouchers, the amount thereof shall be such to ensure an adequate standard of living adequate for the health of the asylum seekers and capable of ensuring their subsistence.<sup>15</sup>

In order to curb abuse,<sup>16</sup> and limit State expenditure, the Directive allows Member States to make the provision of these material conditions subject to 'need' meaning that an individual would only be entitled to them if s/he cannot afford to live off his own means. Article 13(3) provides that:

Member States may make the provision of all or some of the material reception conditions and health care subject to the condition that applicants do not have sufficient means to have a standard of living adequate for their health and to enable their subsistence.

Moreover, article 16 (1)(b) allows that State to reduce or withdraw reception conditions

Where an applicant has concealed financial resources and has therefore unduly benefited from material reception conditions

In cases where the asylum seekers are in a position to do so, Member States are not only entitled to withhold assistance but also to require a contribution towards those material reception conditions which the State actually provides. Article 13(4) provides that:

Member States may require applicants to cover or contribute to the cost of the material reception conditions and of the health care provided for in this Directive, pursuant to the provision of paragraph 3, if the applicants have sufficient resources, for example if they have been working for a reasonable period of time.<sup>17</sup>

Moreover, the Directive allows Member States to recover costs incurred when the individual was not entitled to such assistance and allowances:

If it transpires that an applicant had sufficient means to cover material reception conditions and health care at the time when these basic needs were being covered, Member States may ask the asylum seeker for a refund.<sup>18</sup>

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<sup>13</sup> The European Court might be asked to give its interpretation either in cases brought directly before it by the European Commission against an individual member state or through a reference from the Courts of the Member States.

<sup>14</sup> Article 13(5)

<sup>15</sup> Proviso to Article 13(5)

<sup>16</sup> The preamble provides that 'The possibility of abuse of the reception system should be restricted by laying down cases for the reduction or withdrawal of reception conditions for asylum seekers'.

<sup>17</sup> Article 11 (2) provides that 'if a decision at first instance has not been taken within one year of the presentation of an application for asylum and this delay cannot be attributed to the applicant, Member States shall decide the conditions for granting access to the labor market for the applicant.

<sup>18</sup> Proviso to Article 16(1)(b)



The Directive also makes specific reference to housing of asylum seekers (specifically when accommodation is provided in kind), within the broader context of these provisions. Whilst allowing Member States a wide degree of discretion on the choice of form of that housing (ranging from accommodation centres to private flats and hotels)<sup>19</sup> it sets out a number of important safeguards most notably relating to the individual's right to family life (placing an obligation for family units to be kept together) and to access to entities (UNHCR, lawyers and NGOs) who might be of assistance with one's asylum claims as well as communication with relatives.<sup>20</sup> This is particularly relevant when one speaks of detention of asylum seekers where access to certain services might not always be the norm. Another safeguard relates to the movement of persons between centres, whereby, Article 14(4) provides:

Member States shall ensure that transfers of applicants from one housing facility to another take place only when necessary. Member States shall provide for the possibility for applicants to inform their legal advisers of the transfer and of the new address.

Within the context of the Directive's provisions on housing,<sup>21</sup> minors receive particular attention, in line with the obligations emanating from international legal provisions including the Convention on the Rights of the Child. In fact, the Directive makes provisions both with regards to those who arrive accompanied and those who arrive separated from their families. On accompanied children, Article 14(3) provides that:

Member States shall ensure, if appropriate, that minor children or applicants who are minors are lodged with their parents or with the adult family member responsible for them whether by law or by custom.

This provision, especially when read together with the duty to keep the best interest of the child as a primary consideration when implementing the Directive,<sup>22</sup> indirectly requires that family units are kept in places of accommodation which are appropriate for the most vulnerable in the unit, most probably the children. It is also in line with the requirement of assuring the right to family life as outlined above.

With regards to unaccompanied minors, Article 19(2) provides that

Unaccompanied minors who make an application for asylum shall, from the moment they are admitted to the territory to the moment they are obliged to leave the host

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<sup>19</sup> Where housing is provided in kind, it should take one or a combination of the following forms: (a) Premises used for the purpose of housing applicants during the examination of an application for asylum lodged at the border (b) Accommodation centres which guarantee an adequate standard of living; (c) Private houses, flats, hotels or other premises adapted for housing applicants.

<sup>20</sup> Article 14(2) reads: 'Member States shall ensure that applicants provided with the housing referred to in paragraph 1(a), (b) and (c) are assured: (a) Protection of their family life and (b) The possibility of communicating with relatives, legal advisors and representatives of the United Nations High Commissioner for Refugees (UNHCR) and non-governmental organizations (NGOs) recognized by Member States.

<sup>21</sup> As incorporated in Article 14

<sup>22</sup> Article 18 (1) provides that: 'The best interests of the child shall be a primary consideration for Member States when implementing the provisions of this Directive that involve minors.'

Member State in which the application for asylum was made or is being examined, be placed:

- (a) With adult relatives
- (b) With a foster-family
- (c) In accommodation centres with special provisions for minors
- (d) In other accommodation suitable for minors

A possible exception to the above is provided with regards to minors over the age of 16, who may be placed in centres used for adults. This exception allows for a safety feature especially when considering the 2 year margin of error in the bone density testing used to verify the age of asylum seekers. Safeguards must, however, be put in place as otherwise States risk falling short of other legal obligations as arising from international and regional instruments with regards to the treatment of children.

Moreover, also in line with the right to respect for family life, the Directive provides that, as far as possible, siblings should be accommodated together.<sup>23</sup> This, is however not an absolute obligation and is made subject to considerations of the best interest of the minor concerned and, in particular, his or her age and degree of maturity.<sup>24</sup> Furthermore, in order to guarantee some form of stability in the lives of applicants, the Directive provides that:

Member States shall ensure that transfers of applicants from one housing facility to another take place only when necessary. Member States shall provide for the possibility for the applicants to inform their legal advisors of the transfer and their new address.<sup>25</sup>

Article 14(8) provides specific situations in which the conditions outlined above with regards to housing can be postponed. These must, however, be narrowly interpreted and the different modalities should only be applied for the shortest possible period of time. The restrictive nature of the article is reflective of the exceptional nature of the provisions contained therein. Article 14 (8) provides that:

Member States may exceptionally set modalities for material reception conditions different from those provided for in this Article, for a reasonable period which shall be as short as possible, when:

- An initial assessment of the specific needs of the applicant is required,
- Material reception conditions, as provided for in this Article are not available in a certain geographic area
- Housing capacities normally available are temporarily exhausted
- The asylum seeker is in detention or confined to border posts

These different conditions shall cover, in any case, basic needs.

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<sup>23</sup> Proviso to Article 19(2)

<sup>24</sup> IBID

<sup>25</sup> Article 14(4)

Aside from these requirements, the Directive also makes a number of important provisions which deal directly with the management of accommodation centres. The first places an obligation to ensure adequate training for staff employed at the centres. It provides that:

Persons working in accommodation centres shall be adequately trained and shall be bound by the confidentiality principle as defined in the national law in relation to any information they obtain in the course of their work.<sup>26</sup>

Another important provision relates to the possible<sup>27</sup> role of residents in the centres in the management of the centre, through, for instance resident councils. Article 14(6) provides for this possibility in stating:

Member States may involve applicants in managing the material resources and non-material aspects of life in the centre through an advisory board or council representing residents.

It is important to note that this Directive provides minimum standards meaning that Member States may introduce or maintain more favourable provisions. They are not, however, allowed to go below the minimum thresholds set in the Directive. Malta's transposition of these obligations will be discussed below.

Another key component of the European Union's Asylum Acquis is Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted<sup>28</sup> also known as the Qualifications Directive. Amongst other things, the Directive makes provisions as to the rights and obligations which should be associated with the protection granted by Member States,<sup>29</sup> including, inter alia, issues of residence, travel, employment, education and social welfare as well as access to accommodation and integration facilities. The scope '*rationae personae*' of the Directive, therefore, includes recognised refugees and those who are granted Subsidiary protection<sup>30</sup> but excludes asylum seekers<sup>31</sup> and rejected asylum seekers.<sup>32</sup>

With regards to accommodation, the Directive provides that:

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<sup>26</sup> Article 14(5)

<sup>27</sup> As opposed to the provision on training the Directive uses the term 'may' and not 'shall' in this context allowing for the possibility but not obliging states to take this on.

<sup>28</sup> Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML>

<sup>29</sup> The Directive applies to all Member States including the UK and Ireland but excluding Denmark.

<sup>30</sup> Article 20(2) in fact reads: 'This chapter shall apply both to refugee and persons eligible for subsidiary protection unless otherwise indicated'.

<sup>31</sup> covered by the above described reception directive

<sup>32</sup> The only reference made in the EU's asylum acquis to rejected asylum seekers is within the context of the Returns Directive. As such, no acknowledgment is presently made of the situation of rejected asylum seekers who, for practical or other reasons, it might not be possible to return home. As such, their situation remains regulated mainly under the strength of the provisions of international human rights law.

The Member States shall ensure that beneficiaries of refugee or subsidiary protection status have access to accommodation under equivalent conditions as other their country nationals legally resident in their territories.<sup>33</sup>

This provision is quite general, in sharp contrast to the specific obligations included under the Reception Directive,<sup>34</sup> but is in line with the requirements emanating from the Geneva Convention. Just like the latter, this article simply provides for non discrimination between beneficiaries of protection and other legally residing third country nationals. It does not directly oblige States to provide accommodation. Having said this, Article 28, which refers to social welfare provides, again in line with the requirements of the Geneva Convention, that:

Member States shall ensure that beneficiaries of refugee or subsidiary protection receive, in the Member State that has granted such statuses, the necessary social assistance, as provided to nationals of that Member State.

This article would extend to the provision of social housing and other related assistance to beneficiaries of international protection. The same article however makes the following proviso:

By exception to the general rule laid down in Paragraph 1, Member States may limit social assistance granted to beneficiaries of subsidiary protection status to core benefits which will then be provided at the same levels and under the same eligibility conditions as nationals.

It is interesting to note that the Directive does not define 'core benefits' however a general interpretation would include access to basic accommodation within this terminology, especially when persons are at risk of destitution. Such an interpretation is further supported by the acknowledgment in the preamble to the same Directive that:

Especially to avoid social hardship, it is appropriate, for beneficiaries of refugee or subsidiary protection status, to provide without discrimination in the context of social assistance the adequate social welfare and means of subsistence.<sup>35</sup>

Whilst shying away from imposing a direct responsibility for housing, this Directive therefore calls for the integration of the needs of protected persons within the mainstream welfare services of a State. This ensures the long term sustainability of the system and can be seen as a positive suggestion towards the integration of protected persons. It also ensures that tried and tested systems of 'means testing' and 'abuse curbing' can also be applied to beneficiaries of protection.

Beyond the obvious welfare concerns, the Directive also makes direct reference to access to integration facilities, which are considered as a crucial next step after the grant of protection. Article 33(1) provides that:

In order to facilitate the integration of refugees into society, Member States shall make provision for integration programmes which they consider to be appropriate or create pre-conditions which guarantee access to such programmes.

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<sup>33</sup> Article 32

<sup>34</sup> discussed above

<sup>35</sup> Preamble Para 33

This is an important provision which reflects the durable nature of the protection granted and the need to ensure the integration of refugees within the host communities. It is to be noted however that, the obligation on States is placed only with regards to Refugees with the option of extending these to beneficiaries of subsidiary protection.<sup>36</sup>

Beyond the *Asylum Acquis*, it is pertinent to look also at the provisions of the Race Equality Directive<sup>37</sup> especially considering that the vast majority of protected persons hail from ethnic minorities. The Directive prohibits direct<sup>38</sup> and indirect<sup>39</sup> discrimination on the basis of racial or ethnic origin in a wide spectrum<sup>40</sup> of areas including, *inter alia*, access to and supply of goods and services which are available to the public, including housing.<sup>41</sup> It is important to note however that the Directive, does not cover differences of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and residence of third-country nationals and stateless persons on the territory of Member States, and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned.<sup>42</sup>

The interpretation of this proviso should be a restrictive one, and therefore, whilst the Directive may not be taken to apply to, for instance, decisions on whether to extend the provisions on social welfare to person with Subsidiary protection, it cannot be excluded from covering cases of discrimination against migrants generally in the private rental market. Another key concern which is likely to negatively impact the effectiveness of this prohibition is the fact that discrimination on the grounds of Religion on belief is not currently covered by the Directive. This concern is currently being addressed through the proposal made in 2008 for a so called horizontal Directive<sup>43</sup> which would bridge the gap in the existing anti-discrimination framework. The proposal however, retains the exclusion of nationality as currently included in the Race Directive.

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## THE NATIONAL LEGAL FRAMEWORK

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<sup>36</sup> Article 33(2) provides that: 'Where it is considered appropriate by Member States, beneficiaries of subsidiary protection status shall be granted access to integration programmes.'

<sup>37</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML>

<sup>38</sup> According to Article 2(a) direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin;

<sup>39</sup> This is where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary

<sup>40</sup> The full list includes the following: (a) conditions for access to employment, to self-employment and to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion; (b) access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience; (c) employment and working conditions, including dismissals and pay; (d) membership of and involvement in an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations; (e) social protection, including social security and healthcare; (f) social advantages; (g) education; (h) access to and supply of goods and services which are available to the public, including housing

<sup>41</sup> Article 3(1)(h)

<sup>42</sup> Article 3(2)

<sup>43</sup> Proposal for a Council Directive of 2 July 2008 on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation.

The provisions and requirements emanating from international and European law have largely been incorporated<sup>44</sup> into Maltese law through the Refugee Act<sup>45</sup> as subsequently amended<sup>46</sup> and the promulgation of a number of relevant legal notices<sup>47</sup> which transpose, almost verbatim,<sup>48</sup> the provisions of the relevant Directives.

The Refugee Act itself makes little by way of reference to the content of the protection to be granted. In fact, it focuses more on setting up the institutional and legal basis for the asylum system. The only directly relevant provision is that contained in Article 13 (2) which reads:

An applicant for asylum shall have access to state education and training in Malta and to receive State medical care and services.

The Act, however, also grants the Minister<sup>49</sup> the power to make regulations to further enable the effective implementation of the Act including:

Extending, with the concurrence of the Minister responsible for social security, any of the provisions of the Social Security Act, to persons falling under this act;<sup>50</sup>

This is a very important provision which can provide the legal basis for the implementation into Maltese law of the obligations assumed under Article 23 of the Convention and Article 28 of the Qualifications Directive. In practice, the provisions of the Social Security Act<sup>51</sup> have in fact been expanded to cover recognised refugees but, thus far, not beneficiaries of subsidiary protection, in line with the potential restriction allowed in the Directive as outlined above.

Another important power is granted through Article 25(e) which allows the Minister to issue regulations:

Regulating the assignment and allocation of responsibilities and duties appertaining to the Minister under this Act to a public officer;

This provides the possibility of delegating powers also to, for instance, public entities such as the Agency for the Welfare of Asylum Seekers.

It is therefore clear that matters relating to the integration, housing and welfare of asylum seekers find little space within the context of the main act itself and have been dealt with through subsidiary

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<sup>44</sup> Article 3 of the hereinafter cited Act provides: 'This Act incorporated the obligations assumed by Malta under the Convention and its obligations under the Directive'.

<sup>45</sup> Chapter 420 of the Laws of Malta; available at: [http://docs.justice.gov.mt/lom/legislation/english/leg/vol\\_13/chapt420.pdf](http://docs.justice.gov.mt/lom/legislation/english/leg/vol_13/chapt420.pdf).

<sup>46</sup> Since its enactment through Act XX of 2000, the Refugee Act has been amended 4 times, namely by Act VIII of 2004; Legal Notices 40 Of 2005 and 426 of 2007 and Act VII of 2008.

<sup>47</sup> At time of writing, Seven legal notices have been issued under the strength of the Refugee Act whilst some other relevant legal notices have been issued under the strength of the Immigration Act.

<sup>48</sup> In some cases, the changes are simply in the reference to the responsible authority whilst in others, particular examples or even certain optional provisions are omitted.

<sup>49</sup> Defined in Article 2 as 'the Minister responsible for immigration, and any public officer to whom the Minister may delegate in writing any of the duties appertaining to him under this Act.

<sup>50</sup> Article 25(d)

<sup>51</sup> Chapter 318 of the Laws of Malta available at: [http://docs.justice.gov.mt/lom/legislation/english/leg/vol\\_7/chapt318.pdf](http://docs.justice.gov.mt/lom/legislation/english/leg/vol_7/chapt318.pdf)

legislation.<sup>52</sup> This implies a greater possibility (or risk) of changes being made with little parliamentary (and public) scrutiny, considering the nature of the amendment procedures relevant to Acts of Parliament and Legal Notices.<sup>53</sup> The two most relevant legal notices are Legal notice 320 of 2005 and Legal Notice 243 of 2008.

Legal Notice 320<sup>54</sup> promulgated the 'Reception of Asylum Seekers (Minimum Standards) Regulations' with the purpose of transposing the requirements of the Reception Directive.<sup>55</sup> Regulation 11 provides the general rules on the material reception conditions and its content is taken verbatim from the Directive. It reads:

- 11.** (1) The authorities responsible for the management of reception centres shall ensure that material reception conditions are available to applicants when they make their application for asylum.
- (2) The material reception conditions shall be such as to ensure a standard of living adequate for the health of applicants and capable of ensuring their subsistence; the authorities referred to in subregulation (1) shall moreover ensure that that standard of living is met in the specific situation of persons who have special needs, in accordance with regulation 14, as well as in relation to the situation of persons who are in detention.
- (3) The provision of material reception conditions and health care shall be subject to the condition that applicants do not have sufficient means to have a standard of living adequate for their health and to enable their subsistence.
- (4) Where applicants have sufficient resources, or if they have been working for a reasonable period of time, applicants may be required to cover or contribute to the cost of the material reception conditions and of the health care provided for in these regulations; if it transpires that an applicant had sufficient means to cover material reception conditions and health care at the time when these basic needs were being covered, the asylum seeker may be asked for a refund.

The reference to the 'authorities responsible for the management of reception centres' relates to Detention Services (when it comes to reception conditions in detention) and to the Agency for the welfare of asylum seekers (when it comes to conditions within the open centres). Moreover, it can be noted also that the discretion granted to Member States under Article 13(2) to make the offering of reception conditions dependent on need has been taken up by Malta and in fact, Article 11(3) makes such conditionality the rule.<sup>56</sup> In a slight departure from the wording of the Directive, employment for a period of time is not, within the context of the regulation, put forward merely as an example of one's self sufficiency but direct evidence of such and therefore justifying the requirement of the contribution. The law does not define what such a 'reasonable period of time'

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<sup>52</sup> A shift was noted in the relevant amendments of 2008 whereby a number of provisions in this regard were taken out of the main act and placed within Legal Notices. These amendments and legal notice were made under the pretext of the transposition of the qualifications Directive.

<sup>53</sup> An Act of parliament requires the standard parliamentary procedures for it to be amended, with a draft proposal, discussions and a vote in the House leading to Presidential assent. A legal notice, on the other hand, may be changed by the Minister responsible with little accountability towards parliament, restricted solely to a point of information.

<sup>54</sup> Available at: <http://docs.justice.gov.mt/lom/Legislation/English/SubLeg/420/06.pdf>

<sup>55</sup> This is the objective as stated in Article 1(2) of the Legal Notice

<sup>56</sup> The law refers to 'shall' rather than 'may'

and this is therefore left up to policy. The mode of practical application of this provision will be detailed in the sections below dealing with open centres and rules relating thereto. At this stage, it suffices to state that mechanisms have been put in place to avoid those persons who are in active employment from receiving allowances and other material reception conditions.

Article 12 of the same legal notice then, transposes the requirements emanating from Article 14 of the Directive. The only variation from the wording of the Directive is that the Regulations do not refer directly to flats, houses and hotels but refer generally to ‘other premises adapted for housing applicants’. The rest of the provisions are taken verbatim from the directive.

Legal Notice 243 of 2008<sup>57</sup> on the other hand promulgated the ‘Procedural Standards in examining applications for refugee status regulations’ which transposes, inter alia, the requirements of the Qualifications Directive. Article 14(1)(a)(iii) provides that:

Notwithstanding the provisions of any other law to the contrary, and notwithstanding any deportation or removal order, a person declared to be a refugee shall be entitled to have access to employment, social welfare, appropriate accommodation, integration programmes, State education and training, and to receive State medical care especially in the case of vulnerable groups of persons.

Article 14(b)(iii) then provides that:

A person enjoying subsidiary protection shall be entitled – to have access to employment, subject to labour market considerations, core social benefits, appropriate accommodation, integration programmes, State education and training, and to receive core State medical care, especially in the case of vulnerable groups of persons.

The rights as listed in these provisions are the same as those listed in the Directive, whereby Malta has taken on the possible limitations linked to persons with subsidiary protection. The table below summarises the entitlements as emanating from the legislation. By way of policy a number of rights are given which go beyond the minimum standards established in the law, for instance, persons enjoying subsidiary protection are now being issued work permits in their own name without any labour market test being carried out.

	<b>Refugees</b>	<b>Subsidiary Protection</b>
Residence Permit	3 Years (Renewable)	1 Year (Renewable)
Family Reunification	Yes	No
Employment	No Restrictions	Subject to labour market considerations
Social Welfare	General	Core
Appropriate Accommodation	Yes	Yes
Integration Programmes	Yes	Yes
State Education and Training	Yes	Yes
Medical Care	General	Core
Medical Care if Vulnerable	Yes	Yes

<sup>57</sup> S.L. 420.07 available at: <http://docs.justice.gov.mt/lom/Legislation/English/SubLeg/420/07.pdf>



Another important piece of legislation relevant to the housing of protected persons, especially with regards to the management of open centres is the 'Agency for the welfare of asylum seekers regulations',<sup>58</sup> promulgated through Legal Notice 205 of 2009.<sup>59</sup> The agency, previously known as the 'Organization for the Integration and Welfare of Asylum Seekers' is the government entity responsible for the network of open centres and is therefore the key institutional player in the field. Amongst the functions of the agency<sup>60</sup> one finds that the Agency shall:

1. Oversee the daily management of accommodation facilities either directly or through subcontracting agreements
2. Work with other public stakeholders and, where possible, offer its services to asylum seekers accommodated in other reception centres not under its direct responsibility

Despite these being merely two of the duties assigned by law to the agency,<sup>61</sup> the management of the network of open centres is, at least at time of writing, the major priority of the agency<sup>62</sup> both in terms of workload and in terms of financial allocations. This legal notice gave a clear legal basis to the work of the agency,<sup>63</sup> making it a body corporate with a distinct legal personality.<sup>64</sup> It is managed by the Chief Executive Office who is responsible directly to the Minister and who:

Shall have the overall responsibility for the running of the Agency and have legal representation thereof.<sup>65</sup>

It is important to note that none of these laws make any reference to rejected asylum seekers even if these continue to be housed, at least for a short period of time within the open centre network.

Legislation on racial equality, mainly the transposition of the provisions of the Race equality Directive<sup>66</sup> is done through the provisions of the 'Equal treatment in employment regulations'<sup>67</sup> and the 'Equal Treatment of Persons Order' of 2007.<sup>68</sup> Discrimination in housing is covered by the latter of these, which however, makes the same provisions and has the same restrictions as those highlighted with regards to the Directive. The National Commission for the Promotion of Equality<sup>69</sup> is set up as the equality body charged with ensuring the application of the legal provisions.

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## NATIONAL POLICY INSTRUMENTS

<sup>58</sup> S.L 217.11 available at: <http://docs.justice.gov.mt/lom/Legislation/English/SubLeg/217/11.pdf>.

<sup>59</sup> It is interesting to note that this legal notice, despite the clear reference to asylum seekers, was issued under the strength of the Immigration Act and not the Refugee Act.

<sup>60</sup> As listed in Article 6 of the Regulations..

<sup>61</sup> The Article is of course broader and includes 10 key responsibilities for the Agency. The ones quoted here are merely the ones with direct relevance to the present research

<sup>62</sup> As stated by AWAS CEO Alex Tortel at the meeting.

<sup>63</sup> Prior to the enactment of the legal notice, the same work was being carried out by The Organization for the Integration and Welfare of Asylum Seekers which, however had not standing at law and did not enjoy separate juridical personality.

<sup>64</sup> See Article 3(2)

<sup>65</sup> Article 5(1)

<sup>66</sup> Refer above for more details and full reference.

<sup>67</sup> Legal Notice 461 of 2004 available at: <http://docs.justice.gov.mt/lom/Legislation/English/SubLeg/452/95.pdf>

<sup>68</sup> Legal Notice 85 of 2007 available at: [http://www.msp.gov.mt/documents/wis/legal%20notice\\_85\\_2007.pdf](http://www.msp.gov.mt/documents/wis/legal%20notice_85_2007.pdf)

<sup>69</sup> Created through Chapter 456 of the Laws of Malta available at:

[http://docs.justice.gov.mt/lom/Legislation/English/Leg/VOL\\_14/Chapt456.PDF](http://docs.justice.gov.mt/lom/Legislation/English/Leg/VOL_14/Chapt456.PDF)

## IRREGULAR MIGRATION, REFUGEES AND INTEGRATION

At time of writing, Malta does not have a formal integration policy. There is however a policy document, published jointly by the Ministry of Justice and Home Affairs and the Ministry for the Family and Social Solidarity in 2005, entitled 'Irregular Migration, Refugees and Integration'.<sup>70</sup> This makes a number of relevant provisions linked to integration and specifically the accommodation and housing of 'irregular immigrants'.<sup>71</sup> It is to be noted at the outset that the Policy Document has, to a large extent been superseded by events and a number of its provisions can no longer be considered as relevant or need to be interpreted within the present legal, policy and institutional mindset. For instance, at the time when the policy document was issued, AWAS was not yet in existence and a number of the most pertinent legal instruments, most notable the legal notices outlined above had not been enacted. It is unfortunate that despite the recognition of the need to update the policy regularly,<sup>72</sup> the document has not been revisited since its adoption early in 2005.

The Policy Document makes reference to open centres which, it acknowledges become their (irregular immigrants') ordinary residence until such time as these immigrants find alternative accommodation, proceed to a third country or return to their country of origin.<sup>73</sup> They therefore have to cater, it continues, for the communal living of people having different needs, cultures, traditions, languages and personal religious beliefs. This diversity asks for the establishment of basic parameters within which such centres would have to operate so as to ensure that the welfare needs of all residents are adequately met. It therefore goes on to set out a number of principles which should guide the management and operation of the open centres in order to promote an orderly and safe environment therein. Many of these principles continue to be applied within the present structures of the open centres and therefore remain relevant. These are:<sup>74</sup>

- a. Open centres shall host irregular immigrants who have been released from closed centres against presentation of documents issued by the Principal Immigration Officer and/ or Refugees Commissioner. Such documents should also include certification by the MHEC showing that the immigrant has been medically screened and is free from infectious disease;
- b. Prior to transfer from closed centres, prospective open centre residents are to be informed of their rights and obligations in their new residential setting, possibly in a language that they can understand;
- c. A copy of the open centre's regulations shall be given to each immigrant at point of first admission into the open centre;
- d. Registered residents of an open centre will be provided with food, shelter and social welfare support;
- e. Residents' culture, ethnic origin, and personal religious beliefs shall be respected;

<sup>70</sup> Available at: [http://www.mjha.gov.mt/downloads/documents/immigration\\_english.pdf](http://www.mjha.gov.mt/downloads/documents/immigration_english.pdf)

<sup>71</sup> To a large extent the Policy Documents does not exclude rejected asylum seekers from its remit.

<sup>72</sup> Stated in the Policy document itself

<sup>73</sup> See Policy Document page 23

<sup>74</sup> See Text Box in Policy Document page 23

- f. The open centre shall take cognizance of any immigrant's disability and address it accordingly;
- g. The Centre shall keep a register which shows details of each resident. Such information shall include but not be limited to immigrant's name and surname, date of admission into the Centre, status, date of birth, nationality and date of departure from the Centre;
- h. Residents may periodically be reassessed by the Centre so that any changes in their circumstances (e.g. renewal of status, employment, training etc.) are duly recorded and follow-up action taken as necessary and possible;
- i. In case of suspected infectious conditions, the Centre shall have the right to refer resident/s to the competent authorities for medical investigations, advice and treatment in the best interest of the resident concerned as well as that of other residents and the community at large;
- j. The Centre shall adopt a code of conduct for residents so as to maintain an orderly, safe and healthy environment;
- k. The Centre shall set up house rules that actively involve the residents in the day to day running of their shelter while at the same time promoting a community spirit among residents;
- l. If a resident is found to have alternative accommodation, he/she will lose right of residence at the Centre;
- m. Residents who are legally entitled to work and who are in gainful employment shall contribute towards their upkeep in the open centre at a rate to be determined;
- n. The Centre shall develop links with other entities regarding the formulation of programmes that focus on
  - i. development of language,
  - ii. national culture, history and institutions,
  - iii. education and job training opportunities, and
  - iv. development of personal skills;
- o. The Centre shall maintain regular contact with the respective public authorities regarding health issues and employment opportunities;
- p. The Centre shall inform the competent authorities about any resident's change in circumstances (change of address, change of status etc.); and
- q. The Centre shall immediately report the absence of any resident considered as "missing" to the competent authorities.

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## THE EUROPEAN REFUGEE FUND: MULTI ANNUAL PROGRAMME

Another indication of policy direction and prioritization can be had from the multi-annual program<sup>75</sup> of the European Refugee Fund,<sup>76</sup> adopted by the Ministry for Justice and Home Affairs<sup>77</sup> and

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<sup>75</sup> Available at: [http://www.mjha.gov.mt/eu/documents/erf\\_map.pdf](http://www.mjha.gov.mt/eu/documents/erf_map.pdf)

<sup>76</sup> The general objective of the European Refugee Fund (ERF) is to support and improve the efforts of Member States to grant reception conditions to refugees, displaced persons and beneficiaries of subsidiary protection, to apply fair and effective asylum procedures and to promote good practices in the field of asylum so as to protect the rights of persons requiring international protection and enable Member States asylum systems to work efficiently.

<sup>77</sup> The project implementation directorate within the Ministry for Justice and Home Affairs

covering the period 2008-2013. Its relevance is propounded by the general absence of formal policy documents covering certain issues and concerns, and the fact that the European Refugee Fund is a key funding source (with an estimated budget of 4.8 Million Euros over the course of the 5 years) for work with beneficiaries of protection. Priorities set out therein are therefore likely to receive substantial financial allocations over the course of the implementation of the program making them the most attainable of policy objectives. By nature, the priorities set out in the program relate to practical and operational matters rather than issues of theoretical policy direction. They do however reinforce and seek to materialise the latter policy directions.

The MAP identifies the provision of accommodation (both within closed and open centres) as ‘the main challenge and immediate priority’<sup>78</sup> and in fact it sets out a number of relevant operational objectives, namely:

1. Enhancement of the capacity to provide accommodation, in the form of closed and open centres, and renovation and upkeep thereof, as well as accommodation in the community (i.e. more independent accommodation upon leaving the closed centres). The target is to increase the self-sufficiency of the target group in this respect and encourage fully independent accommodation.
2. Financial assistance for the provision of daily essential needs, such as food and medical care, will continuously be sought by the Government of Malta. Subject to an adequate budgetary allocation, the extension of the provision of in-house medical care to a round the clock would be contemplated.
3. Providing for improved assistance to vulnerable persons, in terms of adequate accommodation facilities as well as strengthening of administrative and human resources capacity to identify and address the special needs of such persons.
4. Continuous training of personnel in all entities involved in the care of and assistance to asylum seekers, beneficiaries of subsidiary protection and refugees (...).
5. Addressing communication difficulties and providing language training (English/Maltese) so as to encourage and enable enhanced communication with the host society.
6. Facilitating informal integration by improving education and information for the local population as well as providing cultural orientation for asylum-seekers, beneficiaries of subsidiary protection and refugees on the values, standards and social norms present in the host society.
7. Computerization of the registration system at open accommodation centres, in order to better coordinate information and registration at the various units. This aims at improving the management of the centres, avoid abuse and ensure efficient use of limited resources.
8. Improving integration potential, also by strengthening human resources capacity to assist asylum seekers, beneficiaries of subsidiary protection and refugees to access social welfare services, in open accommodation centres.<sup>79</sup>

The programme also acknowledges that ‘capacity building is needed at all levels: managing accommodation and provision of basic material need; special assistance for vulnerable groups; social

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<sup>78</sup> MAP Page 7.

<sup>79</sup> MAP Page 18

welfare and integration; preparedness and structural organization for better long-term management of ever increasing population of asylum seekers and protected persons'.<sup>80</sup>

In terms of strategy towards the achievement of these broad objectives, the Program sets out three broad namely:

1. Implementation of the principles and measures set out in the Community Acquis in the field of asylum, including those related to integration objectives
2. Development of reinforcement tools and evaluation methodologies to assess and improve the quality of procedures for the examination of claims for international protection and to underpin administrative structures in an effort to respond to the challenges brought forward by enhanced practical co-operation with other Member States
3. Actions helping to enhance responsibility sharing between Member States and Third Countries

The first of these priorities is of most direct relevance to the issues under research. The strategy for its achievement is divided into a number of key actions each of which provides not only targets but also indicators which can be used to measure the achievement or otherwise of the stated goals. The first of these is that of 'increasing capacity and renovation of accommodation facilities'. The government's strategy, as outlined in the programme, is to increase the accommodation capacity by increasing the number of centres, closed and open. This will be done by extension and improvement of present facilities. Reaching these targets, the program continues, will mean a reduction of the strain on present facilities and the capacity to provide their inhabitants and personnel working with them with safer, healthier and more adequate facilities to live and work in.

<b>Key Action:</b>	<b>Increasing capacity and renovation of accommodation facilities</b>
<b>Targets:</b>	<ol style="list-style-type: none"> <li>1. Increased accommodation capacity</li> <li>2. Continually improved facilities in the existing centres</li> </ol>
<b>Indicators:</b>	<ol style="list-style-type: none"> <li>1. Enhanced distribution of persons in accommodation facilities</li> <li>2. Continued provision of adequate living conditions</li> </ol>

A second key action as set out in the MAP is the 'Provision of material aid in the centres' most notably through the provision of material reception conditions in the form of food in closed centres and daily allowances in open centres. Acknowledging the expenses incurred in the provision of material aid on a daily basis, the program provides that active assistance will be sought from the European Refugee Fund with a view of dealing with this essential expenditure. The target is to finance part of the costs for the provision of food and daily needs, including also medical care, from the ERF.

<b>Key Action:</b>	<b>Provision of material aid in the centres</b>
<b>Targets:</b>	<ol style="list-style-type: none"> <li>1. Continued provision of daily meals and basic material necessities addressing special nutritional requirements, arising out of medical conditions and/or national/religious cultural beliefs</li> </ol>
<b>Indicators:</b>	<ol style="list-style-type: none"> <li>1. An adequate standard of living and continued provision of essential daily needs.</li> </ol>

<sup>80</sup> MAP Page 21

Another key action, linked to services offered within the centres refers to the ‘continued provision of medical care’. Referring to the need to continue to offer medical services within the centres, in order to, inter alia, ‘reduce the dependency n the public clinics’. The offering of some medical services in open centres is to be encouraged however, if one is to look at broader integration strategies, the promotion of recourse to mainstream services should not be sidelined. It would have therefore been opportune for a further target to be added to the program on ensuring that mainstream medical services were well equipped and suited to receive clients of a migrant background.

<b>Key Action:</b>	<b>Continued provision of medical care</b>
<b>Targets:</b>	<ol style="list-style-type: none"> <li>1. To continue to provide basic medical care and more specialised treatment to those in need</li> <li>2. To strengthen the medical care provided in the centres, thus reducing the pressures on public structures</li> <li>3. To reduce need for transporting residents to and from accommodation centres and clinics by providing medical care on-site.</li> </ol>
<b>Indicators:</b>	<ol style="list-style-type: none"> <li>1. Efficient, daily medical services in the accommodation centres</li> <li>2. Reduced financial and logistical burden for the utilisation of public structures.</li> </ol>

Key Action 4, which deals with the enhancement of assistance provided to vulnerable persons, identifies the need for strengthening measures to address the needs of these persons also within open centres. Such measures, the program provides, could include the recruitment of cultural mediators and mental health professionals. The most relevant target is therefore that of capacity building to be able to better address the special needs of vulnerable asylum seekers.

<b>Key Action:</b>	<b>Enhancement of assistance provided to vulnerable persons</b>
<b>Targets:</b>	<ol style="list-style-type: none"> <li>1. Enhanced measures to identify vulnerable asylum seekers as early as possible</li> <li>2. Capacity building to be able to address the special needs of vulnerable asylum-seekers</li> </ol>
<b>Indicators:</b>	<ol style="list-style-type: none"> <li>1. Vulnerable asylum seekers attended to from their arrival, or as soon as identified</li> <li>2. Vulnerable asylum seekers have better access to the necessary assistance and services.</li> </ol>

The computerisation of the registration system at open accommodation centres, with the stated aim of better coordinating information and registration is another key action set out under the multi annual programme. It aims at improving the management of the centres, avoid abuse and ensure efficient use of the limited resources available. The target is therefore to computerise the registration system at the open accommodation centres by utilising biometric registration. At the time of writing, the author is informed that the implementation of this system is at an advanced stage.

<b>Key Action:</b>	<b>Computerisation of the registration system at open accommodation centres</b>
<b>Targets:</b>	<ol style="list-style-type: none"> <li>1. To computerise the registration system at the open accommodation centred by utilising biometric registration</li> </ol>
<b>Indicators:</b>	<ol style="list-style-type: none"> <li>1. A decrease in the cases of abuse of the system and a faster registration system, needing less man hours to operate</li> <li>2. Better distribution of the limited financial resources to those who are in</li> </ol>

	<p>real need</p> <p>3. Personnel of the open centres dedicate less time for registration and more for assisting residents on matters of welfare, integration etc.</p>
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There are, furthermore, two key actions (KA 6 and 7) which relate to the continued provision of educational services and the provision of cultural orientation classes (the two are listed under separate actions and not combined). The programme states that ‘provision of regular language training courses in Maltese and English are envisaged to be carried out in both closed and open centres’ through close collaboration with NGOs and IOs. ‘Furthermore, vocational and education training (for instance on IT) will continue to be provided in open centres for those whose stay is envisaged to be of a longer/permanent nature. Moreover, cultural orientation classes will continue to be provided to asylum seekers, beneficiaries of subsidiary protection and refugees in order to facilitate their integration and communication with the host society in general on a day to day basis.

<b>Key Action:</b>	<b>Continued Provision of Educational Services / Provision of Cultural Orientation classes</b>
<b>Targets:</b>	<ol style="list-style-type: none"> <li>1. Strengthen the knowledge of Malta/English among the population of asylum seekers/beneficiaries of subsidiary protection and refugees.</li> <li>2. Improve levels of vocational and other educational training of asylum seekers, refugees and beneficiaries of subsidiary protection.</li> <li>3. Cultural orientation classes and information reaching as many asylum seekers, beneficiaries of subsidiary protection and refugees as possible</li> </ol>
<b>Indicators:</b>	<ol style="list-style-type: none"> <li>1. Population of asylum seekers, refugees and beneficiaries of subsidiary protection armed with the tools to better integrate with the Maltese society through improved communication skills and better prospects for entering the labour market</li> <li>2. Population of asylum-seekers, beneficiaries of subsidiary protection and refugees more aware of and capable to integrate in the way of life of the host society.</li> </ol>

### **The National Action Plan Social Protection and Social Inclusion**

Promoting the integration of third country nationals is listed as a priority in the National Action Plan on Social Inclusion and Social Protection under the broader heading of promoting equality of opportunity. Within this objective, the plan includes initiatives aimed at improving migrant integration within the labour market as well as building Malta’s knowledge base in the area through research. On housing, the plan promotes measures to enhance the well being of asylum seekers by, inter alia,

1. Tapping available EU funds for the improvement of reception conditions in line with international standards
2. Improving conditions in open centres and residential homes

Furthermore, it suggests measures to enhance service provision to asylum seekers by, inter alia:

1. Strengthening the organization for the Integration and Welfare of Asylum Seekers
2. Providing information on asylum seekers rights and obligations through the development of an integration handbook for asylum seekers

3. Continuing support to voluntary organizations working in this area.

Similarly to the MAP provisions outlined above, it would therefore seem that the improvement of reception conditions through the development of physical, financial and human resources are a priority in the Action Plan. NGOs note however that the strength of the action plan as a policy document is rather weak even if they acknowledge that the inclusion of these measures therein is likely to support the investment of resources in related initiatives.

## THE EXISTING STRUCTURES: OPEN CENTRES

When discussing the housing and accommodation of asylum seekers and protected persons, a key component, the importance of which cannot be under-stated, is the network of open centres to which such persons are transferred immediately upon release from detention. Broadly speaking, the purpose of open centres can be seen as acting as a bridge between detention and one of the three durable solutions (return, resettlement or integration). Their importance and relevance becomes even more pronounced when one considers that the allowance system which has been put in place makes the receipt of the daily subsistence allowance (aimed to cover food and transport costs) dependent on residence within one of the centres forming part of that network. This conditionality will be discussed in detail below.

### CONTEXT OF OPEN CENTRES WITHIN THE BROADER MIGRATION FLOW CHART

Upon arrival in Malta, ‘irregular immigrants’ are detained under the strength of Article 11 of the Immigration Act.<sup>81</sup> Whilst in detention, they may apply for asylum however the current policy is that asylum seekers are not exempted from the detention requirement.<sup>82</sup> Release from detention is dependent on their status and particular situation (most notably vulnerability). As a matter of policy, vulnerable persons are released as soon as practically possible,<sup>83</sup> which normally means that they should be released as soon as their identity is ascertained, their vulnerability assessed and medical clearance issued. In practice, often under the pretext that there is no space within open centres or because the assessments take longer than expected, such release takes place within a number of weeks of arrival. People recognised as eligible for protection (by the Refugee Commission or Refugee Appeals board) are released from detention upon the issue of such positive decision to their claims.

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<sup>81</sup> Chapter 217 of the Laws of Malta available at:

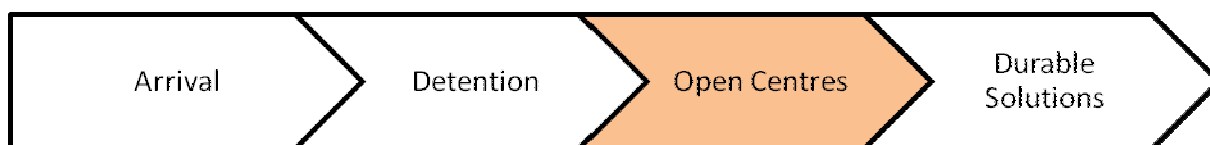
[http://docs.justice.gov.mt/lom/legislation/english/leg/vol\\_5/chapt217.pdf](http://docs.justice.gov.mt/lom/legislation/english/leg/vol_5/chapt217.pdf)

<sup>82</sup> The National Policy document to which reference has been made above states that: ‘Although by landing in Malta without the necessary documentation and authorization irregular immigrants are not considered to have committed a criminal offence, in the interest of national security and public order they are still kept in detention until their claim to their country of origin and other submissions are examined and verified’

<sup>83</sup> No set period of time is established in this regard.



Those who are still pending a final answer<sup>84</sup> to their claims are released upon the expiration of 12 months whilst those whose asylum claim was not upheld are released upon the expiration of 18 months.<sup>85</sup>



Upon release from detention, they are automatically transferred to one of the open centres. The assignment to the centres is done on the basis of availability of space, taking account of the specific needs of persons concerned, most notably the extent of their vulnerability. The specific conditions for admission will be discussed in further detail below.

Open centres are aimed at providing temporary lodging before persons can move out into independent accommodation in the community, return home (whether through forced repatriation or assisted voluntary return), or are resettled. It is the government's position that the centres should not be considered as permanent residences but merely as a transition space for people between detention and their durable solutions. This is reflected in the rules which are applicable at the centres and the way these are managed as well as the material conditions in some of the centres, which remain subject to extensive criticism.

## THE NETWORK OF OPEN CENTRES

At the time of writing a total of 11 centres were in operation hosting a total of 2995 residents. The structure and size of the centres, their target residents, as well as their capacity and management model varies between the centres. Broadly speaking centres can be divided into those addressing the needs of vulnerable persons, these usually being smaller centres, and those addressing the needs of those considered not to be vulnerable, generally considered to be single adult males. These distinctions will be outlined in the forthcoming sections.

## CENTRE STRUCTURES AND CAPACITY

The centres vary in size depending also on the target group which they seek to address. There are 3 larger open centres (Understood to mean centres hosting over 500 residents), 4 medium sized centres (Understood to mean centres hosting over 100 but less than 500 residents) and 4 small ones (Understood to mean centres hosting less than 100 residents).

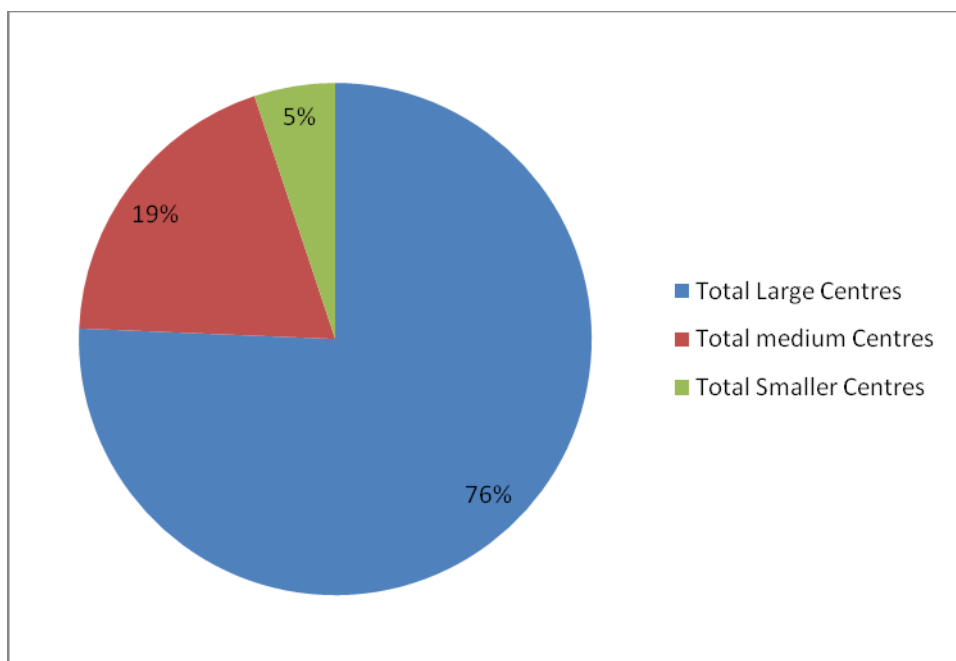
<sup>84</sup> This includes persons whose claim was rejected by the Office of the Refugee Commission but who, having appealed that decision, are still waiting for a final decision on their claim (to be given by the Refugee Appeals board).

<sup>85</sup> These limits are set in policy and not law. It is to be noted however that the reception directive allows the right to work after 12 months of an asylum application and can therefore provide the basis for the decision to release asylum seekers within 12 months.

Large	Medium Sized	Small
Hal Far Hangar	Hal Far Open Centre	Peacelab
Hal Far Tent Village	Hal Far Reception Centre	Dar il-Liedna
Marsa Open Centre	MEC: Houses	Dar il-Qawsalla
	MEC: Balzan Centre	Dar is-Sliem

The table and chart below provide a breakdown of the number of residents according to the size of the centres. It is clear that the larger centres host the vast majority of residents with over three fourths of all residents residing therein.

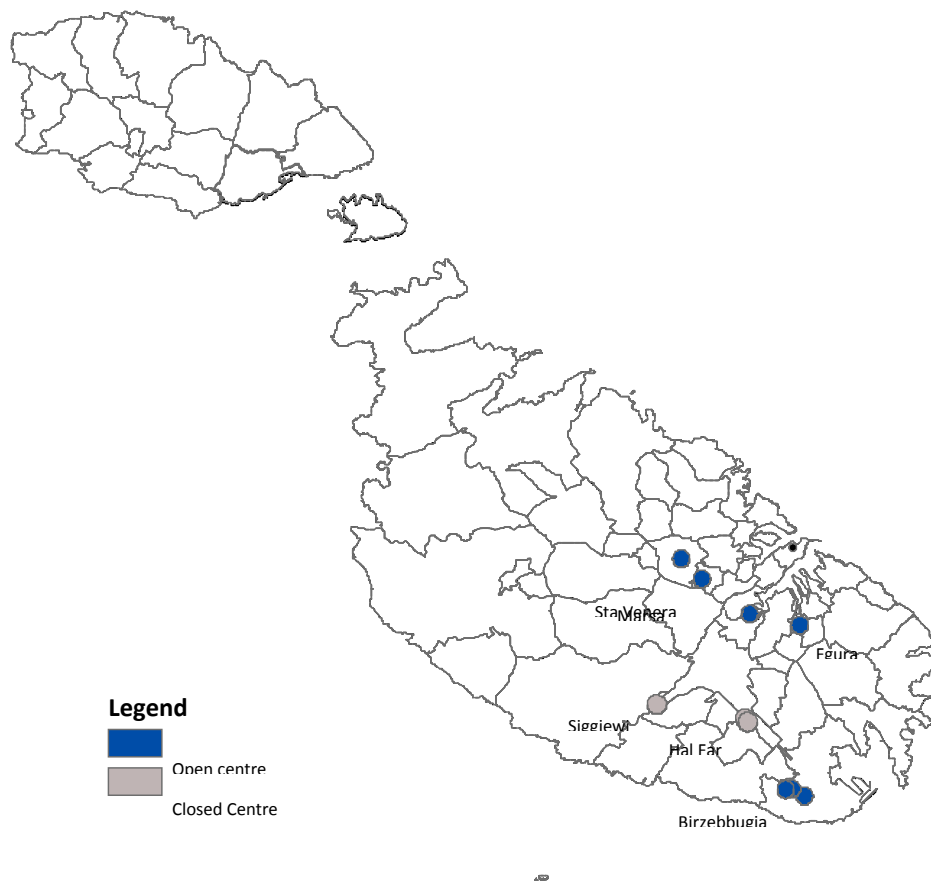
	No.	%
Total Large Centres	2266	76
Total medium Centres	576	19
Total Smaller Centres	153	5



*When you're in detention, you think the open centre is like heaven. But it's the same. The only difference is the closed gate.*

## GEOGRAPHIC DISTRIBUTION

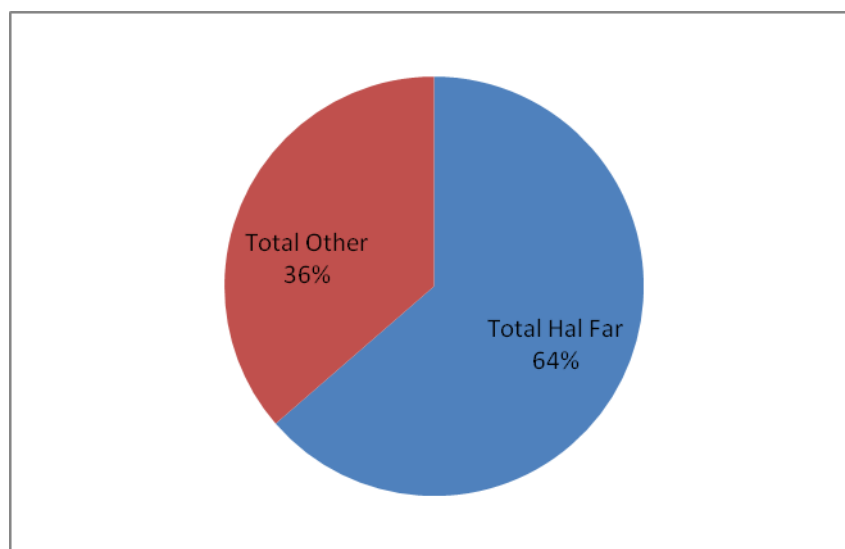
The geographic distribution of the centres is quite limited. The largest concentration of open centres is at Hal Far, a remote space thus far largely uninhabited. In fact, Hal Far hosts two of the three largest open centres namely Hal Far Tent Village and Hal Far Hangar as well as a number of the medium and small centres. Another large centre is located in Albert Town, a notorious suburb of Marsa whilst the rest of the medium and small centres are distributed in a number of localities towards the centre of the island including Bkara, St. Venera, Msida and Balzan.



As highlighted in the table and chart below, 64% (1906) of Open Centre residents are residing in Hal Far with the remaining 36% (1089) residing in the remaining open centres including the Marsa Open Centre (22%).<sup>86</sup>

	No.	%
Total Hal Far	1906	64
Total Other	1089	36

<sup>86</sup> This is based on official statistics received in January 2010.



The infrastructure of the centres also varies. The existing centres include a former school, an old hangar as well as emergency tents set up to accommodate residents. The smaller centres are largely houses or apartments converted to the specific requirements of an accommodation centre, therefore offering better material conditions than the three large centres. Participants in the focus group meetings quoted differences in the material conditions as well as the location (proximity to mainstream services and to possible employment) of the centres as the main reasons for attempts by residents to move between centres thereby leading to overcrowded conditions in some centres whilst creating problems for the centre managements and the management of the allowance system.

*At Marsa we have a roof on your head. At the tents, water comes in on your bed. And it's too cold. And in summer, it's too hot. You cannot breathe.*

## MANAGEMENT MODELS

There are 3 distinct ownership-management models for open centres each of which reflects the particular needs and circumstances of the various centres, as well as providing specific opportunities and challenges for the centre management. The models are:

<b>Model 1:</b>	The centre is government owned and managed directly by the Agency for the Welfare of Asylum Seekers
<b>Model 2:</b>	The centre is government owned but the management thereof is subcontracted to a Non Governmental Organization <sup>87</sup>
<b>Model 3:</b>	The centre is owned and managed by a Non Governmental organization

It should be noted however that irrespective of the specific model applied in any centre, AWAS retains not only a supervisory role but also an administrative and financial role in the sense that some of the expenses linked to the management of the centre are expended by the government.

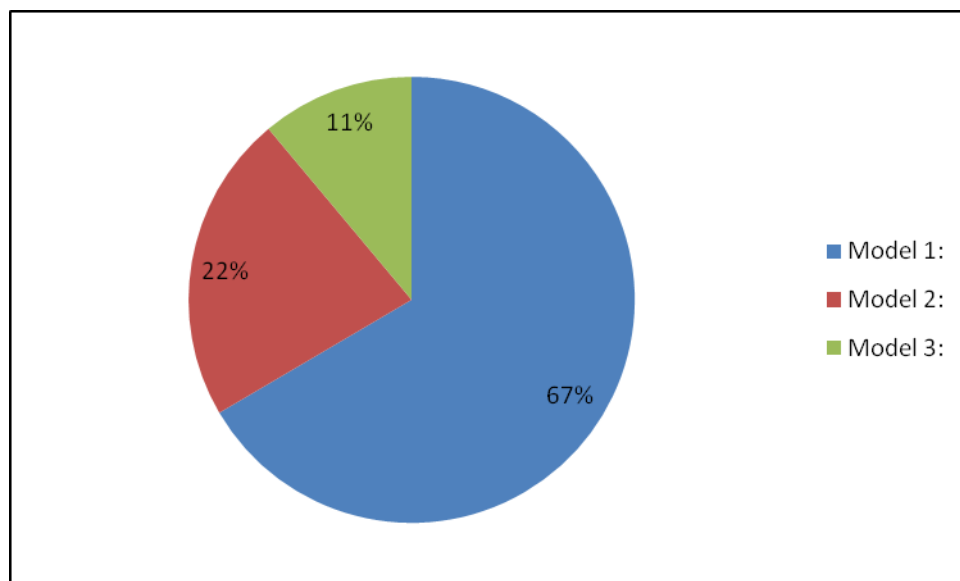
<sup>87</sup> At the time of writing no commercial entities had been sub contracted the responsibilities for managing the centres.

Moreover, admission into the centres, irrespective of the management model, is the exclusive competence and responsibility of AWAS with the purpose of matching availabilities and needs. The service is regulated through a service agreement between AWAS and the individual NGO. This is aimed at ensuring that the centres work in a synchronised and organized fashion avoiding the possibility for lodging shopping by service users. The table below provides a breakdown of the existing centres according to the three models outlined above:

Model 1	Model 2	Model 3
Hal Far Tent Village	Marsa Open Centre	MEC –Good Sheperd’s Home
Hal Far Open Centre		MEC – Houses
Hal Far Reception Centre		PeaceLab Hal Far
Hal Far Hangar		
Dar il-Liedna		
Dar is-Sliem		
Dar il-Qawsalla		

The table and chart below provides an idea of the division of numbers of residents between the various models whereby it is clear that the vast majority of residents (67%) are currently located within centres falling within the first model outlined above. It is not clear whether it is government policy to develop this model further as the main model being used or whether plans are under way to develop and expand the second model.

	No.	%
Model 1:	1993	67
Model 2:	670	22
Model 3:	332	11



A number of participants at the focus group meeting complained that very often the management models are used to get out of answering questions and take responsibility for certain things.

*If there's a problem the manager, he will say he is not responsible, and we don't know who is responsible*

#### TARGET RESIDENTS IN THE VARIOUS OPEN CENTRES

The current admission policy (whereby admission into all centres is managed centrally by A.W.A.S) is aimed at allowing the system to assign residence within particular centres according to the particular situation of the individual, taking due account of their degree of vulnerability. The larger open centres are targeted mainly at single males even if in some cases they also host couples. The medium sized and smaller centres are targeted towards families or vulnerable persons (children, single women and persons with special needs). The table below provides an overview of the main target groups of each of the centres.

*Some people they are disabled but they are living here. I feel sorry for them. For us, maybe we can handle it, but them, they cannot. It's not fair.*

As highlighted, whilst these are the main targets, there are often exceptions to the rules, often resulting from the need to accommodate particular individuals or groups in exceptional or emergency situations. It is to be noted that whilst the admission system vests with AWAS, a number of centres do make exceptions to the rule and allow people into the centres on humanitarian grounds.

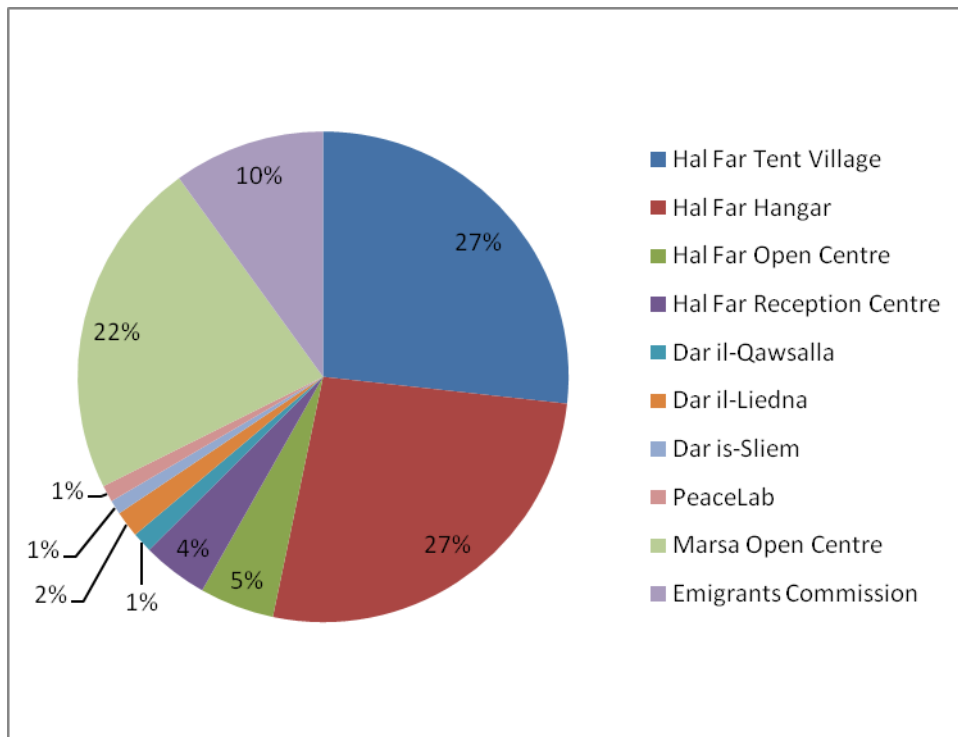
Centre:	Target Resident:
Marsa Open Centre	Single adult Males
Hal Far Tent Village	Single adult Males, couples without children when needed
Hal Far Hangar	Single males and couples
Hal Far Open Centre	Families
Hal Far Reception Centre	Single Women
Dar il-Qawsalla	Families
Dar il-Liedna	Families and Unaccompanied Minors
Dar is-Sliem	Unaccompanied minors
Peacelab	Single males and families
Marsa Open Centre	Single Males
Emigrants Commission: Houses	Families
Emigrants Commission: Balzan	Families

#### OCCUPANCY RATES

As highlighted above, there are currently 2995 residents within the open centre network. These are divided in the various centres according to the table below:

Open Centre	No. of Residents.
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Hal Far Tent Village	801
Hal Far Hangar	795
Hal Far Open Centre	147
Hal Far Reception Centre	130
Dar il-Qawsalla	40
Dar il-Liedna	52
Dar is-Sliem	28
PeaceLab	33
Marsa Open Centre	670
Emigrants Commission	299
Total:	2995



At the time of writing, most of the open centres were functioning beyond capacity in the sense that they were hosting more people than intended leading to over-crowdedness within some of the centres. The ERF MAP recognizes that open centre accommodation facilities are operating beyond their full capacity, posing great difficulties when it comes to identifying accommodation for those released from the closed centers' as well as posing challenges in relation to the continuous maintenance and upkeep. Participants at the focus group meeting commented that this was one of the greatest problems with the open centre system, and that despite understanding the reason behind it, it made living within in the centres very difficult if not unbearable.

***There are people living on the floor between the beds. Others are sharing beds.  
FG Participant.***

This surge in residents can be seen as an effect of the procedures by the office of the Refugee Commission which is resulting in people spending less time in detention and the lack of time for AWAS and the Open Centre Network to prepare for the changes. The pressure is relieved when people are either repatriated or resettled which often releases a number of beds at a time. As such, a more structured and transparent system needs to be put in place in order to assign those beds and spaces which became vacant in these occasions according to the needs of those people waiting to be returned to the system. The existing system seeks to address these concerns however both participants in the focus group meetings and various NGOs have commented that these structures remain ambiguous and it is unclear whether people are assigned on the basis of need, on a first come first served basis or other similar model.

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## MOBILITY BETWEEN CENTRES

Open Centre management spoken to in the course of this research often reflect on the difficulty in getting a clear idea of the number of residents within particular centres at any given time. This is due mainly to a great deal of mobility of residents between centres as well as a number of people who are not officially listed as residing within the open centre system but who find their way into the system either through less or non official channels. A number of centres allow people in on humanitarian grounds whilst other residents find their way into the centres through for instance, sharing space with a friend or colleague. Participants at the focus group meeting highlighted various reasons for this mobility although the main ones remain the following:

1. Differences in material conditions
2. Proximity to work and mainstream services
3. Existence of a social space / community within certain centres
4. Possibility of sharing food and other resources with friends
5. Easier re-admission (tolerated or otherwise) into the centre after departure.

***Hal Far is so far from work. I cannot find work in Hal Far. Here (Marsa) it is easier to try to work. And to go to Valletta and meet some people. Here at the roundabout they come ask you work. It is difficult, but at least I can try.***

Another phenomenon is people who move between centres on an ad hoc basis. For instance, over the course of the research it was discovered that since the Marsa Open Centre often doubles as a community centre, with people from all the centres coming together, a number of people often sleep over at Marsa after certain activities. This sort of arrangement does not hinder to any major degree the centre management.



Residence within the open centres is regulated under the strength of a service agreement signed by the resident upon admission into the centre. These agreements (which are currently being revised) provides an outline of the rules and regulations applicable to the centres including those requirements that if violated can lead to the termination of the service agreement (and therefore the right to live in the centre). It is to be noted that despite the similarity between the agreements they are centre specific and when a person is moved from one centre to another a new agreement must be signed.

Amongst the responsibilities emanating from the service agreement one finds:

1. Duty to take care and avoid damaging the living space, including keeping it clean and tidy
2. Prohibition of intimidation, discrimination and the use of violence
3. Notifying the centre staff in case of employment or plans to leave the centre
4. Payment of contribution in the case of employment

The rules also prohibit the following actions:

1. Cooking within the living space itself
2. Visits without management permission
3. Drug and alcohol consumption
4. Lighting of fires within the living space and the use of electrical equipment without the proper connections
5. The installation of furniture and electrical appliances without the permission of the management

The service agreement also provides an outline of the entitlements to the allowances, which will be discussed below as well as to receive good upon arrival at the centre. After registration, the centre provides new arrivals with a bed, a locker and a locker key, a mattress, a sleeping bag and a pillow. The sleeping bag is provided against the payment of Euro 14 whilst deposits are also collected for the locker key. If any of the other items are damaged or lost, they are to be paid by the resident and the service agreement stipulates the charges which would be incurred. Staff members will/may check the living space at any time upon the discretion of the management.

On the other hand, the agreement entails a commitment to 'do our best to assist you' as well as providing for a complaints mechanism in the case that a resident is dissatisfied with the behaviour or conduct of a co-resident, staff member or the centre in general. This mechanism is the lodging of a written complaint at the management of the centre. The agreement includes an undertaking that such complaints will always be answered. Participants at the focus group meeting commented that very often, complaints of this nature are not listened to, and the resident is passed from one entity or person to another and very often remains without a clear answer or response to his complaint.

***Sometimes from the centre they send us Block C and from Block C they send us back here. And we do not get answers because they send us from one place to the other.***

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<sup>88</sup> This section is based on the Service Agreement of the Hal Far Tent Village as it stood on February 22<sup>nd</sup> 2010. The author is informed that AWAS are currently reviewing the service agreements and that changes therein will be introduced.

This, in turn, they added, increases the frustration of residents who feel that they are not being heard. The development of some form of consultancy body within the centres, such as, for instance, a residents' committee which would have direct access to the management and other entities, would go some way in addressing these concerns.

#### DUTY TO REGISTER AT THE CENTRE

Residence within the open centres is directly linked to a weekly reporting duty. The stated purpose of the registration is three-fold:

1. Qualification for daily allowance
2. Security of the bed allocated
3. To prevent persons who are working from receiving the daily allowance

The registration also allows the system to identify those who are working and who are therefore required to make a contribution towards the material conditions at the centre. This is in line with the provisions of the Reception Directive which, as highlighted above allows for such contribution to be collected. At time of writing this contribution is set at Euro 1.16 per day and becomes payable if a resident only registers once during a particular week (which is taken as an indication that a person is working). If a person does not register for 3 consecutive weeks, the service agreement, and therefore one's right to an allowance and to reside within the centre is terminated. Re-entering the system is only allowed in exceptional circumstances.

*We sign three times a week. The three should be reduced to one so that we could have more time to look for a job. The singing system should be made available for longer hours.*

#### ALLOWANCES LINKED TO STAY AT OPEN CENTRES

As explained above, residence in open centres is also tied to a right to a daily subsistence (food and transport) allowance<sup>89</sup> which varies not only on the basis of one's status but also according to other issues such as whether an individual has escaped Malta to another EU country. The 'AWAS registration and daily allowance policies document'<sup>90</sup> stipulates the following amounts as the daily allowance according to category:

<b>Category</b>	<b>Allowance:</b>
Asylum Seekers	<b>Euro 4.66</b>
Persons enjoying subsidiary/Temporary humanitarian protection	<b>Euro 4.66</b>
Persons above whose employment has been terminated	<b>Euro 4.08</b>
Refugees	<b>Euro 4.08</b>

<sup>89</sup> As a rule, the allowance is paid only to persons residing in open centres and it is only paid to persons living in the community in very exceptional circumstances (severe physical or mental health issues / specific short term circumstances). In order to receive this they are subject to monitoring by the Social Work Unit.

<sup>90</sup> Unpublished Policy document.

Entitlement only until the social security payments come into force	
Rejected Asylum Seekers	<b>Euro 3.49</b>
Children Payable irrespective of the parent's registration and payable only for children in the centre where the parent is residing.	<b>Euro 2.33</b>
People who return to the system Applied irrespective of the original status of the returnee.	<b>Euro 2.91</b>
Single Parents Applied irrespective of the original status of the returnee	<b>Euro 4.66</b>

This dependence between the allowance and residence at the centres is different from the situation in the United Kingdom where the two are separate and one can technically apply for the allowance but not for accommodation or vice versa. Such a system is more likely to encourage people to move away from the centres and possibly seek accommodation with friends or other relatives.

***If I had a job and the money, I would not be living in these conditions***

The ANDES Research, as well as participants in the Focus Group meetings stated that the allowances are often not enough to cover basic subsistence needs. This is especially the case with rejected asylum seekers (whose allowance is of Euro 3.49 per day) or persons who have left and returned to the system (whose allowance is of Euro 2.91 per day).

***80 Euros is not enough for clothing, transportation, food and entertainment. If we can find work, it's better, because we want to work to live, not charity. But there is no work, and we must still eat.***

Some have argued that the allowance system is making people dependent on the system in the sense that people are scared to move out because they risk losing their allowance. Participants at the focus group meeting agreed with this analysis but only to the extent that one would hesitate from taking a 2 to 3 day jobs at the risk of losing everything. Most agreed that if they found stable employment they would leave the centre without hesitation. Many of the participants in fact quoted failure to find a stable job as the reason for not moving out of the centre.

***There is no work to help us move out of open centre. If you lose your job, finding work again is very difficult***

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## SERVICES OFFERED WITHIN THE OPEN CENTRES

Besides the obvious accommodation and allowance services, the various open centres offer a number of additional services including educational services. These are often coordinated by the centre management and therefore vary from one centre to the next. Entities independent of the centres often offer some of these services such as legal assistance offered by the Jesuit Refugee Service and English Language Training offered by the Malta Red Cross. Residential social workers

have been assigned to each of the centres although this is dependent on availability. Focus group participants noted that the services was much more available in some centers then in others.

*For example, some places like Marsa have a social worker every day, but Hangar does not.*

At time of writing, plans were under way by AWAS to implement two projects one linked to education and one to employment. The latter will entail the setting up of two employment support offices, one at Marsa and one at Hal Far aimed at assisting beneficiaries of protection with finding proper employment and ensuring suitable conditions. The other project will entail the organization of a series of professionally managed language and other courses.

The Marsa open centre also offers additional services to its residents over and above the basic services outlined above. This includes the service of two social workers, a number of care workers, as well as medical assistance through the presence of a doctor and a nurse three times a week. A psychiatrist is available on call whilst attempts are being made to recruit also a psychologist.

Another important development which has taken place at Marsa and which may be taken as a good practice model to be implemented also in other centres, is the setting up of Information services. An information officer has been employed by the Marsa Open Centre in order to assist residents with their day to day information needs specifically but not exclusively linked to the management of the centre.

Moreover, an education centre has been set up and equipped at the centre and the following courses are being offered:

1. English language training
2. Cultural Orientation
3. Information Technology training

At Hal Far classes have also been set up in the centres which are being utilised by the Malta Red Cross as well as other groups for English and other languages. An interesting development has been a series of ad hoc classes in French and other languages which have been set up by residents themselves, with or without the support of other groups and entities.

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## DURATION OF SERVICE AGREEMENT

The service agreement is valid for one year (even if this duration is not stated anywhere on the actual document) and may be renewed for further periods of four months each time.<sup>91</sup> The possibility and system for renewals varies between families, single males with protection and rejected asylum seekers. With regards to families, termination of the agreement is rare and a process is put in motion around 3 months before the expiration of the agreement in order to assess the state of affairs and decide on whether the agreement should be extended. A case conference is held whereby the family is interviewed leading to an assessment by the social workers which forms the basis for the decision. With single males, the assessment is different in the sense that the

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<sup>91</sup> Information received from Mr. Alex Tortel and Centre Management

application of termination after the 12 month period is more straightforward and people are expected to move out of the centres ASAP. It is in exceptional cases that the service agreement is extended in the case of adult males. With regards to rejected asylum seekers, upon receipt of information about the final and determinate negative decision to their asylum claim, they are informed that the service agreement will be terminated within 6 months and that they are expected to link with the International Organization for Migration for Assisted Voluntary Return.<sup>92</sup> No specific provision seems to be in place to deal with those rejected asylum seekers that for some reason or other are unable to return.

The service agreement is also terminated when the person is working, or rather when the person fails to register at the centre for three consecutive weeks. This is taken to mean that the person is in employment and he is therefore no longer entitled to reside within the open centre. The ANDES research initiative, found that there is a lack of consistency in the criteria employed by open centres for the termination of the service agreement. This was also confirmed also by some of the participants at the focus group meeting who said they had their agreements terminated whilst others did not.

## MOVING OUT OF THE OPEN CENTRES

As indicated above, people's decision to move out of the open centres and into the community can be based on a variety of factors. One key factor is stability of income through employment. Whilst a study of integration into the labour market is beyond the scope of the present research it suffices to state that discrimination in the labour market, inability to find jobs, difficulties in recognition of skills and qualifications, and low paying jobs as well as jobs which only last for a number of hours or days, make that stability difficult and therefore people would find it difficult to move out into the community. Participants at the focus group meeting all emphasised that they would be happy to move out of the centres provided that they had some form of guarantee that their job would not end after a number of weeks. This is especially relevant when one notes that re-admission into the system is only allowed in very exceptional circumstances. In fact, those who did manage to secure stable jobs have largely moved out of the centres.

***Two reasons will make people leave the centre, the availability of money, or being forced to leave by the manager or because of health.***

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## DISCRIMINATION IN THE HOUSING MARKET

Another key concern which often hinders people's moving out of open centres is discrimination within the rental market which often means that it is only certain properties which are made available and in some cases, conditions are placed which may be hard for protected persons to meet. Whilst there is no in depth research into the degree of these issues, anecdotal evidence

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<sup>92</sup> It is interesting to note that promoting the Government's policy and schemes regarding AVR is listed as one of the Functions of the agency, whilst the provision of AVR is also listed as a measure to assist the well being of migrants in the National Action Plan Social inclusion.

indicates that such discrimination often creates an important barrier to the possibility of migrants acquiring access to private accommodation. Such cases of discrimination however often go unreported either due to lack of awareness of legal rights or due to one's perception of his vulnerable position. At the time of writing, since it was given the remit to cover racial discrimination in 2007, the national commission for the promotion of equality had only received one formal complaint of discrimination in housing and this was still pending a decision.

*I ask to rent a flat. They tell me no because you're dirty.*

The pilot initiative carried out by Fondazzjoni Suret Il-Bniedem which aimed at assisting residents at their Marsa Centre with finding rented accommodation also found a great deal of resistance from local landlords to rent to foreigners. The European Network Against Racism has also quoted anecdotal evidence suggesting that this discrimination is rampant. There are various reasons given for refusing to rent to migrants which range from inability to secure payment, negative experiences in the past, complaints by other tenants and issues of cleaning and upkeep. It is often noticed that racial stereotyping prevails in this area and one's individual capacity and circumstances are not taken into account.

The Manual on migrant integration acknowledges that this is a reality from a number of countries across the Union. It states:

Numerous immigrants experience direct and indirect discrimination in the housing market. Indeed, home owners may be reluctant to sell or rent to immigrants altogether. Others may ask for excessive rents and advance deposits, refuse to accept guarantors, or require unnecessary documentation and references. For this reason, the demand for social rented accommodation is often high among immigrants.

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## ACCESS TO SOCIAL HOUSING

The Housing Authority<sup>93</sup> in Malta provides alternative accommodation to those who lack suitable housing and this:

- By allotting on lease Government owned residential units and;
- By providing a rent-subsidy for privately rented premises (Scheme R)

In terms of entitlements for protected persons, it is only refugees<sup>94</sup> that are eligible to apply and this under the same conditions as Maltese citizens.<sup>95</sup> Persons with subsidiary protection are not, at this point in time entitled to apply. Moreover, in order to be given government property on lease, every applicant<sup>96</sup> is to comply with the following conditions:

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<sup>93</sup> For more information visit: <http://www.housingauthority.com.mt/>

<sup>94</sup> Described as: refugees holding an official certificate from the United Nations or passport and ID card with an 'A'

<sup>95</sup> Other persons who may apply include: Single Persons over 18 years of age; Single parents with unmarried children living with them over 18 years of age; Married couples; Separated (de facto), Annulled, Divorced persons; Persons Residing in Institutions and CCF.

<sup>96</sup> This applies also to Maltese citizens

- The applicant has been permanently residing in Malta for at least 12 months in the previous 18 months before submitting the application form;
- Applicants should not possess more than € 27,952.48 worth of assets 3 years prior to application;
- The yearly income of single persons should not to exceed €8,152.80 and that of married couples and brothers and sisters living together should not exceed €10,482.10;
- For married couples with children income is increased € 698.81 per child under 18 years of age;
- For single parents with children income is increased by € 698.81 per child under 18 years of age.

On the other hand, to qualify for rent subsidies on privately owned properties used as ordinary houses of residences by the applicant and his/her family, one has to fulfil with the following criteria:

- The applicant and his wife/ her husband have lived continually in Malta for at least 18 months preceding the date of application;
- The applicant has entered into agreement with the landlord;
- The applicant is the recognised tenant of the property;
- The applicant's capital assets must not exceed € 9,317.49 (during the 12 months prior date of application);
- The applicant's annual aggregate income does not exceed € 17,214.08.

The rent subsidy is paid to applicants six months in arrears and this subsidy is income related and depends on family members,<sup>97</sup> according to the following table:

Category	Gross Annual Income*	Max. Annual subsidy	Min. Annual Rent payable
	€	€	€
<b>Single person household</b>			
A	0,000 - 7,197.77	745.4	186
B	7,197.78 - 10,225.96	652.22	256
C	10,225.97 - 12,555.53	535.76	349
<b>Households with 2 member and more (adults)</b>			
A	0,000 - 10,225.96	931.75	186

<sup>97</sup> Members of a family include the applicant and his/her spouse and his/her children living with the applicant, including fostered children, nephews/nieces, and stepchildren. Children must be under 18 years of age, dependent on the applicant, unmarried, and unemployed. Age is not taken into account for persons with disabilities

B	10,225.97 13,720.02	-	838.57	233
C	13,720.03 14,884.70	-	722.11	280
<b>Households with 3 member and more (families with children)</b>				
A	0,000 - 12,555.33		966.69	186
B	12,555.34 13,720.02	-	873.52	233
C	13,720.03 14,884.70	-	757.05	280
D	14,884.71 16,049.39	-	640.58	326
E	16,049.40 17,214.08	-	524.11	373

\*Gross annual income increased each year according to the cost of living.

An additional € 116.47 per annum will be granted to families having a disabled member and an additional € 116.47 per annum will also be granted to families having more than 5 members.

#### OUT OF THE OPEN CENTRE

Whilst there is little by way of information of where people are moving to, it has been noted that the main areas which are being inhabited by migrants one finds Bugibba, Msida/Gzira, Valletta and Birzebbuga. Bugibba seems to have attracted mainly people of west African origin many of who have rejected status. Msida and Gzira have mainly attracted Eritreans whilst Valletta and Birzebbuga seem to be more popular with the Somali community. These trends are however both subject to change and based solely on anecdotal evidence. Very often apartment are rented by more than one person in order to reduce the individual cost. A number of people have chosen to live in the vicinity of their new job in order to avoid transportation costs.

*I went to Bugibba because I was working there. I live 5 minutes away. But then I lost my job.*

#### CONCLUSIONS AND RECOMMENDATIONS



The present system as outlined in this report has a number of clear advantages as well as a number of concerns which need to be addressed in order to ensure that Malta's obligations are upheld and the dignity and rights of all service users is respected at all times.

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## SIZE AND CONDITIONS OF OPEN CENTRES

An issue which has arisen in the past and which continues to prevail is the question of the size of and conditions within the open centres. The large open centres especially are marked by conditions which many would consider to be sub-human with people living in temporary tents or mobile homes and within a depilated Hangar. This may, in the long run, be detrimental to the physical and psychological well being of persons residing therein. Moreover, the concentration of open centres within the Hal Far area, as well as the placement of over 600 persons in a rundown environment in one of the Malta's most notorious areas, risks developing into a ghetto which will severely undermine the State's integration efforts and jeopardise prospects of social cohesion. Indeed, some would argue, and the author would tend to agree, that such ghettos have already been created and that it is now all the more difficult to address these concerns.

***It is very difficult, not to say funny to talk of integration of people who are living in tents away in an area which is completely uninhabited.***

In this regard, a number of possible suggestions can be put forward which would, however require a change in policy at a high level as well as adjustments in the way financial allocations are invested. The first such suggestion would be to move away from a system of large open centres towards small and medium sized structures dispersed in various localities. This model, which has already been adopted with regards to vulnerable persons, is likely to result in better conditions as well as increased prospects of integration, moving away from a ghetto scenario and closer to the possibility of interaction with the local community. Furthermore, such smaller centres are also likely to meet less resistance from the local population than a concentration of over 600 people is likely to face. Moreover, models of communal living, as well as resident engagements are more likely to be successful within such smaller environments.

This move should be further supported by initiatives that will encourage residents to move into independent accommodation making centres truly temporary residences, aimed at bridging the gap between direct service provision and living within the community utilising mainstream services. Such assistance may take the form of monetary incentives for a period of time as well as other support such as the provision of information or even reference letters for new tenants. This is a model which is adopted in the United Kingdom whereby persons are not housed within reception centres but within houses and apartments across the country.<sup>98</sup> It is also a suggestion made by JRS through their ANDES Research which states:

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<sup>98</sup> The choice of housing in the UK is based on the so called 'dispersal policy', introduced in 2000 with the aim of relieving pressure on housing and other services in London and the South East. Applicants for asylum who need accommodation are sent without choice to areas where housing is available. In practice, NGOs note that most dispersal or 'cluster' areas are

Some form of incentive must be introduced to encourage residents in open centres to move into independent accommodation and not remain dependent on the AWAS system. Such incentives could be, for example, introducing some form of subsidy on rent which is proportional or dependent on the number of people renting out the accommodation. Incentives to Maltese property owners to rent their property to migrants could also be considered.

As outlined, the incentives could take the form of a rent subsidy whereby over a period of time, the government supports the payment of rent in amounts which decrease at regular intervals. This will allow persons who are just getting into employment the time to settle down and find their bearing whilst concurrently settling in their new homes and jobs. In the long term, the Housing Authority schemes to which reference has been made elsewhere in this report should be extended to beneficiaries of subsidiary forms of protection thereby ensuring the integration of the needs of protected persons within the mainstream services. Reception centres and other schemes should, however, continue to run in parallel with this option as it is unlikely that the housing authority would be in a position to meet all the requests and there are various other restrictions such a residency requirement of 18 months.

Encouraging people to move to independent accommodation would also need to be accompanied by a stronger enforcement of anti-discrimination legislation since, as outlined above, racism is likely to severely impede and limit migrant's access to affordable quality housing on equal terms with locals. This can be done through greater awareness of legislation, stricter enforcement as well as the development of manuals and handouts for landowners and migrants alike about rights and responsibilities linked with rent. Information should be provided to asylum seekers explaining in clear and practical terms what housing legislation means in practice. Long term integration prospects will also result in the elimination of many of these barriers. In the meantime however, the target group should be empowered (through information and support) to stand up for their rights by being informed of the legal position as well as the methods for their enforcement. It is important therefore to engage with the competent authorities (most notably the National Commission for the Promotion of Equality) in order to provide updated and precise information to the target audience. Codes of practice on equality in housing should be developed in close collaboration between all involved including the National Commission for the Promotion of Equality, the Agency for the Welfare of Asylum Seekers, the Housing Authority and property agents and owners. The integration programmes to which reference will be made further down, can also be used in this regard. Aside from information on anti-discrimination, further information on independent living should also be made readily available. These should also be translated into a variety of language in order to increase their reach amongst the target population.

On this point, the NGO Network of Integration Focal Point in fact states:

It is important to prepare, guide and assist asylum seekers and refugees during and after their transition phase from direct provisions in reception centres to independent accommodation. This could include social guidance classes as part of

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poor neighbourhoods where services, such as health, are often inadequate. Many areas have no recent track record of migrant groups settling.

their integration programme, looking at how to rent, how to apply for a loan and social benefits, how to pay for electricity, gas and other amenities.

Moreover, further research is needed into the question of discrimination in the housing market. The National Commission for the Promotion of Equality should therefore, possibly in collaboration with NGOs working in the field, develop such research in order to better understand the existing concerns. So far, information about this discrimination remains largely anecdotal and difficult to prove whilst many victims are not aware of their rights and therefore do not put forward formal complaints to the Commission. Others feel that such complaints will not be taken seriously or that no benefit will come from putting forward such claims.

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#### CLARIFICATION OF RULES APPLICABLE TO OPEN CENTRES

Another concern which has arisen regarding the present management models of the centres is that despite the fact that all centres fall under the responsibility of the same agency there is an extent of inconsistency in the application of the rules governing residence therein. This is largely due to the vague nature of existing rules and differences in the ethos of the organizations running the centres in the sense that for instance, organizations which are set up to assist with homelessness would find it hard to implement policies which might render people homeless. This means that sometimes certain centres apply the policies in a less rigid fashion whilst others adopt a much more literal and strict interpretation. Certain centres have found themselves offering services to persons who might not be entitled to them but who would otherwise find themselves in dire situations. These discrepancies apply especially, although not exclusively, to the termination of service agreements. Moreover, participants in the focus group meeting did not feel that they received sufficient information and explanations about the reasons for the termination of the service. This point was also raised by the Jesuit Refugee Service in the ANDES Research which found that:

There is a lack of consistency in the criteria adopted by open centres when terminating a resident's service agreement, with some centres appearing to adopt a far more restrictive approach than others. The reasons given to residents for the termination of their service agreement are not always clear, and at times they seem not to take into account the residents' vulnerability.

The situation is made worse by the fact that the rules which apply to open centres do not seem to be clear or official, with various staff members refusing to answer questions of applicable policies since they did not know what these were. It is therefore crucial for the proper management of the centres that the rules are clarified and incorporated into comprehensive policy documents which should also be shared with organizations working in the area. Standard Operating Procedures need to be developed and applied consistently across the centres. These should ensure the respect for the human rights and dignity of all persons and must seek to avoid situations where persons are placed at risk of poverty and destitution. Moreover, such policies and rules should be translated and disseminated amongst service users.

The revision of the Service Agreements is therefore a welcome initiative which provides the opportunity to clarify a number of these relevant points. The clarification and publication of policies would ensure greater transparency and accountability.

In the UK, information sheets have been created in this regard, including uploading these 'standard' conditions on the website of the UK Border agency.

Closely linked to this issue is the question of mobility between centres and the difficulties that this causes to the management of the centres. As highlighted above this is encouraged by the discrepancy in the infrastructure of the centres as well as the services offered, as well as their location (closer or further from opportunities for work and access to mainstream services). Moving towards reasonably comparable conditions in centres would go some way in dealing with the present mobility, thereby allowing for stronger and better management at the centres.

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#### THE ALLOWANCE AND ITS LINK TO RESIDENCE WITHIN THE OPEN CENTRES LINK

As explained above the daily subsistence allowance in Malta is tied with residence within the open centres and failure to register at the centre implies a loss of that allowance. This can cause hardships for those persons who might have alternative accommodation such as sharing apartments with friends but who might not be financially self sufficient as well as for those whose jobs might be temporary. The issues surrounding this dependency were summarised by JRS in their ANDES report as follows:

The fact that receiving an allowance is dependent on residence in open centres causes more hardship on those individuals who still need an allowance even after they are no longer residing in an open centre. Persons who have temporary or seasonal jobs have no access to an allowance in between jobs or during periods of time when their job is on hold. With the current system that is in place, it is not possible to get some form of allowance unless an individual re-registers to access the AWAS accommodation system, in spite of the possibility of being able to live in independent accommodation with friends until work is available. In addition, some AWAS open centres are not adequate for the needs of particular vulnerable people with little or no alternatives offered to them. Consequently, some people are forced to live with friends in the community thus losing all their allowance benefits.

Moreover, a system needs to be developed for persons who have left the open centre system to be allowed back in if their personal and employment situation changes. At present, it is close to impossible for persons who have had their service agreement terminated to get back in the system, even if this is the only way they can get an allowance. Some of the participants at the focus group argued that it was not fair that it was so difficult for someone who lost everything to get back in the system. This, they continue, was especially so when one considers that some people were working were being brought to the centre to register by their employer and they weren't being stopped from signing. They therefore agreed that:

1. Greater enforcement was needed so that people who were working would not get the allowance
2. There is the need to increase the possibility of people being re-admitted into the system when they lose their employment and ensuring that the system caters for the specific type

of employment situations which migrants are likely to find themselves in (unstable work often lasting only a number of days).

Whilst ideally persons in immediate need should be assisted by and hosted within mainstream homeless shelters, and racial discrimination by these shelters should be addressed, the open centre system should also cater for this category of persons. A clear and transparent system should be developed which takes account of changing individual circumstances allowing for official re-admission into the system. More broadly, the system, should seek to take account of the particular nature of migrant employment, specifically the temporary and volatile nature thereof.

In the medium to long term, a centre may be developed which will act as a safety net for those persons who fall out of the system. It would act as a homeless shelter which will provide bed and subsistence for those who can no longer make it on their own. This until such time as mainstream services are duly trained and equipped to cater also for the needs of protected persons.

In the long term, the social security benefits to which Maltese persons may be entitled should be extended to all beneficiaries of international protection thereby again, integrating the needs of this category of persons into mainstream services. This will however entail amendments to existing legislation and practices and in the meantime, measures need to be put in place by the relevant authorities in order to ensure that no one ends up in a situation of destitution and poverty. It is imperative however that promises of access to mainstream services are not used as a pretext for the evasion of responsibility for situations which may arise until such time as such services will have the capacity to address these specific concerns.

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## STAFF TRAINING

Open Centre staff are often faced with the difficult task of balancing out the humanitarian situations which present themselves on a daily basis and implementing policies and executive orders which often do not adequately address these particular concerns. Their work can be facilitated through improved coordination, increased training as well as the setting of clearer guidelines and standard operating procedures.

***They don't always understand us. Or they act like they don't. I don't know. But they don't listen.***

Codes of Conduct and ethics, as well as corresponding disciplinary procedures, should be further developed to deal with members of staff who might not be complying with agreed standards of respect for the service users or whose attitudes might be prejudicing the relations between the service users and the system. Racist and other discriminatory attitudes, as well as disrespect for one's culture and belief should not be tolerated and need to be adequately addressed.

Training for Open Centre staff should be further elaborated, in line with the requirements of the Reception directive<sup>99</sup> and possibly with the help of agencies carrying out similar work in other countries<sup>100</sup> or through the help of IGOs and NGOs with expertise in these issues<sup>101</sup>. In service

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<sup>99</sup> Article 14(5) – Refer Above

<sup>100</sup> Exploiting for instance the existing relations between AWAS and COA.

trainings and staff development seminars organized by AWAS in collaboration with such entities can provide added capacity for staff. They should address issues such as rights to which migrants are entitled, intercultural competence and dialogue as well as issues of dispute resolution and counselling skills. The human rights based approach to working with beneficiaries of protection should be mainstreamed through such training initiatives.

Greater collaboration between AWAS and the Education services most notably the University of Malta should be encouraged in order to ensure that sufficient professional capacity is available for the management of the centres and the system more broadly. Courses such as those currently being offered within the context of Degree Plus on working with immigrants should be broadened whilst more specific training on relevant issues should be developed within courses including, but not limited to, social work and social policy. It can be noted that two Master of Arts programmes which were being presented by FEMA in this regard did not open due to lack of interest by participants. This is however likely to change over the coming years as migration management and work with asylum seekers become ever more relevant for Malta and further job openings and prospects of career progression become available within this field of work.

Conditions for staff members need to be improved in order also to avoid the changeover of staff which has characterised the centres resulting in the loss of experience and expertise. Psycho-social support as well as regular evaluations should be mainstreamed so as to ensure that the well being of staff (engaged in jobs which can be considered as stressful and draining) is respected and maintained. Models such as those adopted by other agencies working on social issues<sup>102</sup> can be adapted to this particular context.

Moreover, the team in each centre should include a number of cultural advisors, whose role as such is respected and understood and whose main responsibility it is to advice the centre management about the cultural and social issues taking place within the centres. This can help lessen the tensions between service users and centre management whilst allowing for greater collaboration and peaceful resolution of conflicts and problems.

The service agreements with NGOs managing centres (both in the second and third model) should also include provisions on staff training and capacity. Exchange of best practices within and beyond the European Union, in staff recruitment and retention as well as staff support and training can provide a cost effective and easy way of developing Malta's capacity in this regard.

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## STAFF - RESIDENT COMMUNICATION

Communication between centre management and residents is an area which needs considerable improvement. A number of concerns were raised about how accessible centre management is and how available it is to both decide on certain matters but also to discuss these issues and explain the decisions. This often leads to frustration and a general distrust of both individuals and the systems more broadly. The failure to create a space for residents to air their concerns and frustrations, is

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<sup>101</sup> UNHCR, JRS and Red Cross have carried out similar training to Detention Service Staff and this model can be adapted to the context of open centres.

<sup>102</sup> APPOGG for instance has developed a model of support for its staff.

likely to lead to protest and riots similar to the ones which occurred at some of the Open Centres over the course of 2009.

*You cannot make things better without good communication with the manager.*

The setting up of residents' committees is one way of improving this communication and improving relations between the two sides. Such committees can help bridge the gap between the residents and the management and allow for issues and concerns faced by residents to be brought up in an organized and peaceful way. Political empowerment of residents through the creation of such committees, and the sharing of some responsibilities with the residents' representatives, will also allow for a greater sense of community and ownership of the system, likely to result in greater collaboration and mutual respect. Such committees would need to be created through an open and participatory approach whereby residents are given the right to engage at all stages including in the drafting of the terms of references of these committees. No false hopes or unrealistic impressions of power should be given to members of these committees however their input should be sought and respected.

In Italy, 'Consultative bodies of foreigners' have been created. These are collegial bodies composed of a certain number of foreigners directly elected by foreign nationals. Its role is to give non-binding advice on policies.

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## EDUCATIONAL SERVICES

A number of concerns were raised with regards to the type and quality of the education services being offered with the open centres which were described as being insufficient and not addressing the needs and aspirations of the target population.

*The teacher comes twice a week. It isn't really an education. Other countries they have lessons from 9am to 4pm every day for some months and then they have an exam. First they are given skills and then they work. But then they work well and they don't need to come back.*

Despite the investment of money in a number of commendable initiatives, the needs and aspiration of residents are not being sufficiently met or addressed. These measures tend to remain ad hoc and fail to provide for a holistic approach to the residents' educational needs. This is often compounded by the fact that attendance to class is not regular thereby making it difficult for teachers to provide a clear structure. On the other hand, if residents do not feel that their needs are being addressed, they are less likely to prioritize attendance.

*The educational services are not okay. There is not enough material or instruments for people to learn quickly. We don't know why these computers are here, they're not for us. When we come here they're always off and we cannot switch on.*

The educational services offered within open centres should comply and implement a national introduction programme, the development of which has now become a matter of urgency. An integration curriculum should be developed which will provide the basis for individual integration plans to be developed in close consultation between the residential social workers at the centres and the migrant him/herself. This will seek to ensure that the target population is adequately prepared to access the labour market but also to become socially integrated within the Maltese community especially when one moves out of the open centre network.

Such introduction programmes should include a strong element of, but not be restricted solely to language training.

In Denmark, a three year introduction programme offers good opportunities to learn the language and takes into account different levels of ability. Attention is also paid to the professional and educational background of refugees and migrants and support is tailored to the individual's needs and includes employment-promoting activities.

The drawing up of such programmes should be done in close collaboration between all concerned and should actively engage the Migrant community in the discussions thereon. The community development and empowerment approach should be mainstreamed into such programmes. On the individual level an assessment would need to be carried out to ensure that the individual's needs and aspirations are addressed and met. Failure to do so will result in lack of participation and an inability to achieve the goals of the programme.

The authorities, and especially through the staff and management of open centres, should facilitate access to suitable language training as soon as possible upon arrival. Initiatives, such as COPE 1 and Cope II as well as the new Language training programme being planned by AWAS are therefore welcome initiatives which should be encouraged. Such courses need to be tailored to provide participants with the level of language necessary for them to access further training or find suitable employment.

Many of the education services can and should be offered in close collaboration with local councils, especially in localities which host open centres or a growing migrant population. Many of the courses which would need to be offered as part of these introduction programmes are often already being offered or contemplated by the local councils and combining efforts will not only result in substantial budget cuts but also in increased possibilities for migrants and locals to meet and interact in an informal setting. Such services would, of course, need to be duly adjusted and tweaked in order to address the specific needs of migrant population and therefore, for instance, cultural mediators should be made available when required.

In Italy, the IntegrRARsi project funded by the EQUAL initiative, involves 8 local municipalities, the association of Italian municipalities, the 4 major protection organizations, IOM, CENISS and Formautonomie. Its objectives include the availability of information and orientation services for asylum seekers, the development of regional models in order to transfer good practices and raising awareness of refugees and asylum seekers' right.

Irrespective of whether the courses take place within the open centres or within more mainstream services, the quality of teaching should be commensurate to the mainstream education services and the authorities should ensure that the training is offered by adequately trained and certified personnel. Other volunteers and assistant teachers should work under the close supervision of such professionals. It should be the responsibility of Centre management, in collaboration with the relevant education authorities, to oversee the quality of the education services being offered. This quality threshold should not, however, be used as an excuse to curb informal initiatives of self-help groups and mutual learning initiatives between residents. Moreover, NGOs and IGOs which provide education to asylum seekers should be eligible to receive adequate State funding to run courses/classes.

Moreover, such introduction programme should be rooted in the local community and include good contacts with employers as well as the local population. Depending on their needs and aspirations, participants should receive individual assistance from a trained professional to facilitate progress towards further training (including vocational training), voluntary work, work placements and internships, higher education or suitable employment.



In Italy there are many local projects that are tailored to the needs of the local area. NGOs can apply to local authorities for projects, for example, programme that offer work placements for refugees and sensitize employers to the benefits of employing refugees and migrants.

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## COMPLAINTS MECHANISM

An independent and impartial complaints mechanism should be set up to address and finally determine matters on which no resolution can be found between service users and centre management or AWAS administration. Such a mechanism could take a form similar to that of the Visitor's board for detained persons.<sup>103</sup> The decisions of such a board should be binding on open centre staff and enforceable as such.

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## INTERACTION WITH THE LOCAL COMMUNITY

The NGO Network of Integration Focal Point states that, and this research supports:

For positive and sustainable integration it is very important to promote the development of socially and ethnically mixed communities, as well positive dialogues between different migrant groups and the host society. Social housing, as well as reception centres, should be integrated into already existing residential areas, mainstreaming the availability and the delivery of social services (e.g. childcare, health centres, job centres, educational facilities, sports fields etc.) to asylum seekers, refugees, migrants, and the local population.

The suggestions made above regarding moving towards a model of smaller centres distributed across a wider variety of localities and of supporting migrants' movement into private accommodation are likely to go a long way in promoting such interaction whilst avoiding ghettoisation. On the personal level, accessing mainstream services, visiting local prayer places and sharing the local grocery store, as well as involvement in local activities will increase interaction and bring down the walls of 'us and them' which is typical within a portion of the Maltese population.

On a broader level, promoting the interaction between communities will help promote social cohesion and overcome many of the social and cultural barriers that are hindering integration. In this regard, many initiatives have been set up across the European Union with the aim of making this interaction more fruitful and less conflictual, encouraging a sense of belonging to the neighbourhood and changing perceptions both within and beyond the particular neighbourhoods. Additionally, the setting up of and participation in associations and support groups may also contribute to the empowerment of immigrants. Migrant community organizations can play an important role in working with residents committees to promote that interaction. Collaboration between these groups<sup>104</sup> could be seen as a model for interaction on other, less formal, levels.

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<sup>103</sup> As set up through legal notice 266 of 2007 available at:

<http://docs.justice.gov.mt/lom/Legislation/English/SubLeg/217/08.pdf>

<sup>104</sup> It is to be noted that in Malta the idea of Residents' councils within Cities and towns is a relatively new one which is still being developed.

*In the City of Rotterdam, the project Mixen an de Maas links new and old residents of the city and supports them in carrying out common activities. The project team provide the matches with suggestions for activities and reimburses minor expenses<sup>105</sup>*

There is an important role to be played here by local councils which may organize not only courses but also other, integration oriented activities with the scope of reaching out to the new residents and promoting the interaction between communities. Local councils should also be assisted and incentivised, also through monetary allocations to engage with the integration process. Moreover, if and when centres are opened within new localities, the local councils should be engaged from early on in order to avoid confrontational attitudes and negative sentiments against the new residents.

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## FINAL REMARKS

As outlined in the introduction to this report, the purpose of this research was to stimulate a discussion into how the existing systems and structures can be improved, with a view of adopting a more humane and human rights based approach to the services offered to residents. As such, this report has sought to provide a factual basis for this discussion whilst drawing some conclusions and recommendations. It is hoped that these will be considered and discussed and that the existing shortcomings in the system can be remedied over the coming months and years, thereby ensuring that the rights and dignity of all service users are duly respected.

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<sup>105</sup> Best practice example included in the Handbook on integration prepared by the European Commission.