



Private and confidential
Simon Harris TD
Minister for Justice
51 St Stephen's Green
Dublin

18th May 2023

Re: Changes to the International Protection process

Dear Minister,

I am writing to you in relation to procedural changes at the International Protection Office (IPO) that have caused significant concern amongst legal practitioners in respect of access to justice for International Protection applicants.

On the 8 November 2022, the European Communities (International Protection Procedures) Regulations 2022 and the International Protection Act 2015 (Procedures and Periods for Appeals) (Amendment) Regulations 2022 were introduced. These Regulations shorten the timeframe available to submit an appeal against a decision by the Minister for Justice in respect of an application for International Protection and amend the International Protection Act 2015 to accelerate the process for applicants from "safe countries of origin" and from countries where there are "a large number of applicants of appeals". The IPO introduced procedural changes in response to same.

Applicants for International Protection are now requested to complete a preliminary interview and International Protection Questionnaire (IPO2 2022) at the IPO on the same day of application. Both the interview and questionnaire are conducted in English, while the timeframe for the first interview of applicants from countries designated as safe, or from countries in which there are a large number of applicants, has been shortened to a matter of weeks.

The Society wishes to outline areas of concern regarding potential implications for asylum seekers in accessing justice resulting from these changes.

1. Access to legal advice

The Law Society has consistently called for early access to legal advice and welcomes the commitment in the Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process ("the **Catherine Day Report**") that legal advice is provided at reception stage. The Report notes "*[w]here applicants for protection have access to legal advice early in the process, both the quality and the timeliness of decision-making are improved.*"

The White Paper on ending Direct Provision recommends that the Legal Aid Board provide legal aid throughout the entire international protection process, including early legal advice at reception stage, until a final decision has been taken. The Paper notes,

“[t]his would help to ensure that the principles of fair, fast and consistent decision-making are implemented and help the IPO and IPAT to meet the case deadlines.” As such, the current changes to the IPO process appear contrary to former commitments by Government to provide early legal advice to all applicants for international protection.

The requirement that applicants complete the questionnaire immediately upon application for international protection precludes them from accessing legal advice through the Legal Aid Board, or from private practitioners, in light of the current significant waiting times. As of 28 February 2023, waiting times for a first consultation with a solicitor on the Legal Aid Board varied from 29 weeks in Smithfield, 12 weeks in Cork South Mall, and 11 weeks in Galway Seville House.

Legal advice at the preliminary stage is essential to help applicants understand the process, accurately complete the questionnaire, and disclose all necessary information in both their questionnaire and interview. Applicants are often criticised for any omissions in their questionnaire and initial interviews that can prove detrimental to their case.

2. Delays in case referrals

Legal practitioners have expressed concern regarding increased late referral of cases involving International Protection applications from the Legal Aid Board. There are numerous reports of cases referred to solicitors after an IPO decision has been issued, the deadline to lodge an appeal has passed, and the Minister’s subsequent decision issued.

This has caused substantial disruption in the asylum process, resulting in solicitors being required to apply for an extension to appeal and request the Minister to withdraw their decision. Due case documents presented at such a late stage, a significant amount of solicitors’ time is spent reviewing the entire process to ensure that no steps were missed in each individual case.

Many of these cases form judicial review challenged before the High Court, reflective in the overflow of applications in that court’s asylum, immigration and citizenship list. As such, leave for judicial review applications are currently delayed by up to 3 months. This appears counter-active to initial attempts by the Department to reduce the lifetime of each case.

3. Access to translated IPO Questionnaires

The latest IPO Questionnaire is particularly long and complex, and the Society considers the additional requirement to complete the questionnaire in English to be completely inappropriate. Questionnaires should be provided in a language understood by the applicant to reduce the reliance on translators as proposed by the Department.

Recent experiences of solicitors practicing in this area include receiving instructions from clients whereby an IPO Questionnaire has not been submitted, the client was rushed into providing basic information written by a non-familiar person, or they have little to no understanding of the procedure or application submitted, all of which are relevant for their application for International Protection. There is also no opportunity at this stage to disclose any previous trauma or issues with mental health.

The IPO Questionnaire usually forms the basis for credibility assessments further within the process, which is a major cause of concern, particularly as the majority of applicants are providing information in the absence of legal advice. As previously outlined, in cases where the applicant has no or little English, IPO Questionnaires are usually complete on their behalf by third parties. This creates the risk of information being misconstrued, excluded or recorded incorrectly.

4. Adequacy of interpretation services

The Society has previously expressed concern regarding the lack of mandatory training and accreditation tests for interpreters working in the international protection process which often result in incorrect translation of applicant's testimonies. Incorrect translations are often not picked up until later in the process, when subsequent translators become involved and reveal materially different information. This is often used to undermine the clients' credibility, despite being as a result of inadequate translation services.

The Society welcomes the Government's commitment in the White Paper to an accreditation test for interpreters working in the international protection process, together with relevant training and competency standards. The Oireachtas Committee on Justice in its [report on minorities engaging with the justice system](#) recommended that increased funding for professional qualified interpretation services be provided at all levels of the justice system to ensure equitable and fair access to justice.

The Society further suggests that appropriate guidelines are developed and placed on a statutory footing. Such requirements are now urgently needed given the increased reliance on translation services at such vital stages of the IPO process.

Conclusion

The current changes to the IPO process effectively deny access to early legal advice for international protection applicants, resulting in clear implications for access to justice. The Society believes that such changes were made in good faith by the Department of Justice as a way to accelerate the process. However, for reasons outlined above, the current changes to the IPO process will inevitably lead to further appeals and delays in the process, having the opposite effect of those intended by the Minister.

We therefore ask the Minister to consider the above-mentioned concerns, amend the Regulations adopted on 8 November 2022 and re-confirm commitment to the White Paper, particular in relation to the availability of early legal advice.

The Society also reiterates the recommendation of the [Oireachtas Committee on Justice](#) for a commission of a review of the asylum process, with particular emphasis on the duration of applications, cultural sensitivity and signposting to trauma-informed services. We further submit that any review includes an assessment of early access to legal advice and resourcing of the Legal Aid Board.

We look forward to your response on our above concerns.

Yours sincerely,



Maura Derivan

President