Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process

Observations from the International Protection Office (IPO)

Observations from the Ministerial Decisions Unit (MDU)

Among the issues which the Chair is looking for views on are the following:

1) **What additional resources would be required in the IPO for all decisions at first instance to be made in 6 months having regard to a baseline figure of 2,500 to 3,000 applications per year? This could be adjusted upwards or downwards depending on trends and resource requirements would change accordingly.**

IPO COMMENT

Operating context: The International Protection Office received just under 4,800 applications in 2019. In the 3 years since its creation in 2017 up to the end of 2019, the IPO has taken 11,380 international protection applications as well as inheriting a backlog of approximately 4,500 legacy cases from the previous system that was in place under the Refugee Act 1996 and related legislation.

Due to the demand-led nature of applications for international protection, the volatile situation of migration flows in the European Union and the COVID-19 pandemic, it is extremely difficult to put a definitive number on the resources required to achieve 6 months processing for a baseline of 3,000 applications. Any output projections at this time would be unreliable due to the uncertainty surrounding the resumption of normal work practices post-COVID.

The IPO currently has an existing caseload of approximately 5,700 cases (at end April 2020) having received almost 4,800 applications in 2019. Applications have been increasing year on year rather than decreasing. However, it is acknowledged that the impacts of COVID-19 on travel to Ireland since March 2020 will distort that upward trend.

Number of applications received in 2017, 2018, and 2019 with the percentage increase year on year
2017: 2,926
2018: 3,673 (25.5% increase on 2017).

2019: 4,781 (30.2% increase in applications on the same period in 2018. When relocation applications are excluded, the figure is a 42.3% increase.

Staffing levels: According to HR Division the current IPO staffing allocation is 150 staff. This appears to be the baseline staffing allocation applied to the IPO under the Department's Transformation Programme in July 2019. However, the IPO disagrees with this figure as it appears to be significantly lower than it was pre-Transformation. A satisfactory explanation of the reduced allocation is not forthcoming from HR.

A business case made at the end of 2019 for additional resources of 24 staff (to augment the case processing areas mainly) was approved by the Department's Management Board in January 2020 but has not been delivered on to date (mainly due to COVID restrictions). This staffing figure was based on the allocation of an additional budget of €1m. to the IPO to increase staff resources for case processing purposes.

The staffing levels of the IPO have, since commencement of the Act, never been at a level adequate for the volume of cases on hands. Despite several requests for additional resources both prior to the commencement of the Act (to try to clear the cases on hands and reduce the number of legacy cases to be dealt with on commencement of the new legislation) and subsequently, the requisite resources have not been delivered on in sufficient numbers to have significant impact. The loss of experienced staff and lengthy gaps in assigning replacements has been a particular issue, especially when one considers that it can take up to 6 months before a newly assigned and trained up decision maker can make any impact on caseloads. Despite these challenges, IPO productivity is good and the quality of decision making remains consistently high. Outputs for 2019 were higher than in 2018 and outputs for the first two months of 2020 (pre-COVID) were particularly high.

In our business plan for 2020 the IPO committed to reach 9 months processing times for most cases by end year. This was based on the assumption that the required resources referred to above were in place and applicant numbers remained consistent. However, it is acknowledged that estimating processing times is not an exact science as there are a number of variables at play – these include the complexities of the caseload, delay on the behalf of the applicant to submit questionnaires, documentation, legal challenge, etc.

While the IPO did get an increase in its overall staffing resources since commencement of the Act, the number of staff in Case Processing has not relatively increased but more or less remained somewhat constant due to promotions and retirements. Delivering upon the goal of 9 months processing time has been made more challenging by the level of increase in international protection applications since 2017, legal challenges to the s.35 report and the aforementioned reduction in experienced staff due to promotions and retirements.

Given the complex legal issues associated with IP case processing, the resources in that area (and associated PTR and PTR review areas) need to be considerably increased to provide a sufficient buffer against staff attrition rates. In addition to the 24 additional staff referenced earlier which would bring the IPO authorised staffing to 174, it is estimated that an additional 26 staff (concentrating on EO decision makers with some HEO and CO staff to provide a management structure and provide admin support, respectively) would be required. The concentration on increasing the staff at EO grade is twofold: firstly, to increase the decision making capacity and secondly, to offer additional interviewing capacity and reduce some steps of the current approach involving panel members.

NOTE - Each staff member assigned to the IPO Case Processing area has to undergo rigorous international protection training and requires at least 6 months under constant supervision by a mentor before someone is fully trained. This has to be factored into allocating any additional staff and expected outputs arising out of deployment to the IPO.

COVID impacts: Efforts to reduce processing times have now been exacerbated further by the current Covid-19 pandemic which has reduced output to a minimum.

Currently the IPO is not in a position to issue any negative recommendations. To do so would have a knock on effect on other areas of Immigration Service Delivery and would go against the Government's Covid-19 safeguarding strategies in place to help limit the spread of the virus. Remote processing of cases is continuing as far as is possible and the IPO has recently recommenced issuing positive refugee status recommendations. Efforts are being made to restart issuing all decisions in the coming weeks but this is proving to be very challenging as it is complicated by COVID-related restrictions on building access and other ancillary matters beyond the IPO's control (IPAT not open, MDU partial opening, no Service Officer deliveries to some buildings etc.)

COVID impacts are not unique to Ireland. In that regard, the IPO is also aware, that due to the current pandemic, EU MS processing times have extended out further in many, if not all, cases.

MDU COMMENT

The MDU has had a similar experience in terms of staffing resourcing, with lengthy gaps between departure and replacement of a substantial number of key personnel since the commencement of the 2015 Act. This has had, at times, very obvious knock-ons in terms of creating backlogs, despite our maintaining a dynamic and flexible approach to matching staff to incoming tranches of work. The staffing situation has stabilised in the past half year and, with a compliment of 1 HEO, 2 Eos and 3.2 Cos. The staffing/workload ratio is reasonably healthy, assuming no prolonged absences or new staff in a training phase. However, note that this compliment does not allow for revocation of protection status to be a standard and live area of work at any given time, and so we would benefit from increased numbers.

The importance of maintaining a correct staffing proportionality between the IPO and MDY resourcing cannot be overstated - if the IPO increases its output as a result of extra staffing, MDU will again become a bottleneck if its personnel levels are not adjusted upwards .

Apart from having adequate levels of staff, it is clear that the skillset of staff allocated to the MDU is crucial – competence in data entry and a flair for precision and accuracy are vital to keep the workflow in a smooth and timely motion.

2) **What else (apart from resources) is needed in the IPO to speed up/streamline the IP process including reform of key documentation? Information on the streamlining of the questionnaire would be appreciated. There is a recognition that any changes made should not undermine quality of decisions**.

IPO COMMENT

It is recognised that no single solution will achieve these objectives, rather a suite of targeted measures across the IPO's operations (including the allocation of additional staffing resources) is required.

Explore greater automation of the process – some suggestions are set out below:

- All information to be taken electronically from the start of the process (eliminate copying and scanning altogether);
- Basic biographical/identity information such as name, address, DOB, nationality, family status, dependents etc. captured on initial registration could then be used to autofill subsequent documents and databases requiring the same information, reducing errors and rekeying;
- Shortening the questionnaire and bringing it on-line – autofill of basic information and use of a "Yes/No" facility to enable irrelevant questions to be skipped.
- Automated applications system: An application has to be made in person but once this has been done consideration needs to be given to having a fully automated electronic system, whereby an applicant is given a secure unique identifier which is password protected. Here they can log on to check up on the progress of their case, submit key documents such as the questionnaire, identity documents etc. Applicants can also get their recommendation sent to them electronically on the system.
- Consider introducing a report writing module to panel member training to emphasise the requirement for brevity and recording only what is needed to determine a protection claim.

Legislative changes

Suggested changes to the 2015 Act attached at Appendix 1. Some of these will create processing efficiencies, if implemented.

Legal panel: The legal panel approach, which has been used by the IPO for some years now warrants review. While the panel concept is valid, there is a need to re-evaluate whether it delivers the efficiencies required to increase our outputs. It is noted that the interaction between panel members and staff does contribute to processing delays. As panel members are also engaged in other work, the IPO can experience lengthy delays in getting panel members to make amendments or to simply sign a report. Because the IPO has no control over the availability of panel members it is very difficult to accurately project the time it will take to process cases. It is suggested that if this work was carried out by staff (as it was in the past) we could schedule and carry out work with much more accuracy and efficiency. This would, of course, depend on adequate numbers of staff being assigned to the IPO to carry out this work. An alternative would be to retain a smaller number of panel members to work almost full time with the IPO and supplement that corps with experienced EOs who could interview applicants and write up their own reports in a far shorter timeframe. The retention of some panel members is justified particularly where cases are likely to be legally complex. The hybrid approach would offer

greater control and oversight of panel member cases, retain legal expertise but also allow the IPO to produce faster outputs on the cases processed by its own staff – faster production of reports, less delay in signing off on final decision etc.

The following are some of the initiatives already under way in an effort to generate greater efficiencies to the process.

Revision of the International Protection Questionnaire

The IPO has commenced a review and reform of the International Protection questionnaire. The current questionnaire is 61 pages in length and following review it is hoped to cut this in size by at least a half while retaining the quality and ensuring that an applicant is given adequate opportunity to state their reasons for seeking international protection and the reasons why they cannot return home. The first draft of this proposed revised questionnaire is currently around 34 pages and will soon be shared with the UHNCR for their comments. It is hoped that the shortened questionnaire will also result in increased efficiencies in translation times which can currently take up to 6 weeks in some cases due to the size of the existing questionnaire.

Use of e-signatures – online processing

The IPO is exploring the use of electronic signatures in order to allow the efficient processing of cases while continuing to comply with the legislation and the outcomes of recent court cases. Currently all reports have to be printed off in order to be signed manually. If agreed, the use of e-signatures would remove the need to print off reports and wait for signatures as this could all be done electronically. Initial contact has been made with ICT and EU Treaty Rights Division who are also looking at this technology.

3) How could the MDU process be streamlined?

i. Could the MDU work process be subsumed into the IPO process under one manager?

IPO COMMENT

The part of the processing of protection applications which MDU carries out comes from two sources. Firstly, from the IPO where there is no appeal and secondly, from the IPAT following appeal. There does not appear to be anything to prevent this work being done in the IPO with staff working as 'officers of the Minister' as provided for in the 2015 Act. However, this would be resource intensive and would

need to be adequately staffed. It is suggested that this function would have to be managed by the Director of Operations rather than the CIPO.

An MDU section in the IPO seems a logical step which should assist in streamlining the issuing of decisions. For example an in-house MDU Unit that would issue our decisions would reduce delays in decisions being issued.

It is suggested that the other elements of work that the present MDU does, for example, revocation of asylum status, issuing of travel documents and issuing of IPAT decisions could remain in Chapter House (under the Repatriation Division as is currently the case).

MDU COMMENT

It would be necessary to examine the basis for the assertion that delays would be reduced with an in-house IPO MDU. Backlogs in the early days of the Single Procedure were due largely to staff losses against the background of the introduction of the 2015 Act and the new procedures and technology that was entailed. For example, MDU moved to AISIP as a core user; the required new application categories took some time in software development; staff needed training and time to habituate to the new technology and procedures. Further staff losses compounded the delays and backlog.

Currently, the main cause of delay in the issuing of grants is the lengthy turnaround for PULSE and security clearance. Initial turnaround of PULSE checks, not including follow-up Garda reports, is often up to three months and sometimes longer. Turnaround on security checks has recently improved and has reduced to approximately one month. In contrast, refusal decisions are turned around my MDU in a matter of days.

It is understood that, in the lead up to the ORAC being replaced by the IPO under the 2015 Act, legal advice was to underscore the separation of Ministerial and CIPO functions by maintaining organisational distance between the recommendation and decision functions. At the time it was agreed that discrete geographical locations would support this, and it would seem that this principle is more pertinent than ever now that the Transformation programme has brought both the IPO and MDU together under the ISD umbrella.

The benefits to ISD as a whole, of separating the MDU into IPO and IPAT streams are unclear and it would be helpful to have the rationale set out in a manner that could be analysed and subjected to legal advice.

ii. **Recognising that the 2015 Act can limit reforms, are there administrative changes that can be made to reduce the challenges posed by the fact that there is need for 2 recommendations/decisions to be made in the process (one by the IPO and another by the MDU)?**

IPO COMMENT

As pointed out above and given that MDU process decisions from all areas, a dedicated protection MDU might streamline the process. However, this could only work if it is properly resourced from the beginning both in terms of personnel, space and experience.

MDU COMMENT

The MDU is already a dedicated protection Unit, however the issue of resourcing is certainly crucial. The current resourcing caters not only for processing decisions from the IPO but those from the IPAT as well and also revocations of protection status. This means staff must switch from area to area, depending on demand. As mentioned in Question 1 dedicating specific resources to each area would increase capacity.

iii. **Recognising that there is a legislative issue, could the administrative process be further streamlined to prevent decision backlogs building up at the MDU?**

IPO COMMENT

One suggestion is for the IPO to carry out all security/Garda checks for Refugee, SP and PTR grant cases from the IPO. There doesn't appear to be any impediment to the IPO carrying out checks for IPO grants. Note - We have been doing this work for a number of weeks as a result of the current pandemic situation and plan to continue doing this when things return to "normal". This would result in MDU only carrying out checks for IPAT grants.

MDU COMMENT

MDU commenced carrying out PULSE and security checks prior to issuing SP grants in 2018, when the IPO advised they would be forwarding recommendation files, notwithstanding that they might be still pending clearance. In 2019 the IPO began sending precleared SP files to the MDU and recently, to facilitate the smooth resumption of file flow and decisions issuing when the Covid restrictions ease, have kindly agreed to have PULSE and security checks done on RS files prior to sending them to MDU.

Now that the staffing situation in the MDU is relatively stable, turnaround times for PULSE and security checks – often up to three months and longer- constitute the greatest obstacle to issuing grants in a timely fashion. The IPO's gesture is potentially of huge benefit in terms of cutting the wait times and we are very appreciative of their indicted intention to continue with this. It is not evident that amalgamating any portion of the MDU with the IPO will thus have any further substantial benefit.

We have raised the possibility for the IPAT to assist in a related fashion, by giving us advance details of grant recommendations, at the point of Tribunal Member report, in a predetermined format for easy PULSE and security enquiries. We estimate that this would reduce the turnaround of IPAT files by two or three weeks.

4) **How could enhanced information technology assist the IPO/MDU in streamlining work processes - for example,**
   i. document scanning, greater use of video conferencing
   ii. move to a paperless process as is the case in the protection system in Norway and Finland
   iii. introduction of the whole of process tracking system
   iv. see also 11 below.

IPO COMMENT

In addition to comments on automation at 2 above:

- Greater use of direct electronic entry to eliminate need to scan hard copy documents, and enable scanned copies of documents and other evidence to be submitted via secure website to eliminate paper;
- Video conferencing (VC) interviews had been successfully piloted before the advent of Covid-19, restrictions arising from the requirement to help prevent the spread of the virus may present an opportunity to explore further use of VC. Not all protection applicants are suitable for interview by VC.
- It might be timely to revisit the AISIP concept in the context of the experience gained from use of AISIP and developments in technology since AISIP was developed.

Online form for TRC renewal, changing of address and changing of solicitor would assist in speeding up this part of the process.

Consider improving information access to staff so that information can be cross checked more efficiently. For example, provide read only access to other ISD platforms relating to their work outside of the organisation, i.e.: IPO has access to IPAS to cross check applicant accommodation details, etc.

MDU COMMENT

In general we fully agree with the Comments of the IPO. In addition we would add that AISIP does not lend itself easily to data entry and any improvements in that regard would speed up processing. At a very fundamental level, the requirement to laboriously use the cursor where other applications need only that the return key be struck, requires countless unnecessary keystrokes each year across ISD. The process of having application types set up or amended is quite lengthy and delays have fallout in terms of incorrect statistical data and later data cleansing projects.

5) **Have you any examples of business processes which could be outsourced to increase efficiency and enable caseworkers/IPO staff to concentrate on decision making functions and other functions which can only be done by staff?**

IPO COMMENT

Photocopying/scanning project – IPO is working with ISD to procure these services. The project has been under way for quite some time but has not yet been delivered. Paper records are a significant issue for all ISD areas so IPO is no different. However, this is one area ripe for outsourcing or full automation.

Appointment scheduling IPO and the Registration Office in Burgh Quay are involved in a project to procure an appointment scheduling system which, if delivered, will free up resources to do other tasks.

6) **Whether any business process mapping has taken place regarding the IPO work processes which would indicate blockages to be dealt with.**

IPO COMMENT

In 2018 an Accenture resource was deployed to do a business process review in the IPO. The exercise was overtaken by the broader transformation agenda and never completed. Two of the provisional findings that emerged were:

- The volume of paper in the protection process was introducing inefficiencies;
- The number of legacy and non-cooperation cases on hand was artificially lengthening average processing times.

Processes have been mapped. Lack of resources remain a major issue. Issues outlined in document suggesting changes to the 2015 Act could help to streamline the process.

Dublin Unit was conducting a business mapping process to restructure the Unit, however the COVID-19 restrictions have delayed the project.

7) Do you agree that 6 months is a reasonable time period for an application to be processed in the system?

IPO COMMENT

The IPO being in a position of being able to process and application within 6 months is currently something that we can only aspire to in the future at a time when resources can be allocated to achieve this goal.

As mentioned earlier, the length of time to process cases can vary for a number of reasons. These include the cooperation of the applicant at the various stages of the process, the provision of requisite information to the IPO, the complexity of the case or case type, etc. Timelines can also be impacted by legal challenge to the process which can delay other cases of a similar type. Even if the process was as streamlined as possible under existing law, the timelines for processing are susceptible to delay for a variety of reasons outside of the IPO's direct control.

MDU COMMENT

We agree with the comments of the IPO. Any timeline is subject to many various factors as highlighted, perhaps such a timeline can be defined as to applying to a specific set of circumstances e.g. no legal challenges and full co-operation of the applicant etc. The necessity to obtain criminal and security checks prior to the issuing of grants has also caused some delays in the past, though this has reduced greatly recently. This is outside the ability of the MDU to control and we are subject to the resourcing of other organisations.

8) **Why were the Mc Mahon Report recommendations in relation to decision making not been fully achieved? (McMahon recommendation was a quality decision in 6 months)**

IPO COMMENT

See above at 1.

Many of the reasons have been outlined above. However, they can be distilled into a few key points.

- **Staffing:** Inadequate staff resources (i) pre-commencement of the 2015 Act to clear out/reduce cases in the system and (ii) post-commencement to tackle the inherited caseload quickly.

- **Legal framework**: The legislative framework, while intended to streamline the process, has proven to be unwieldy. In addition, the legislation has been frequently challenged, which has hampered progress on cases or forced cases to be re-done.

- **Legal panel:** High dependence on the availability of panel members contributes to delays.

- **ICT/Automation** – despite the willingness of the IPO to embrace greater use of automation of elements of the process or to outsource them, the failure of the Department to procure services quickly or invest in ICT as an enabler has impacted IPO work practices.

MDU COMMENT

We agree with the comments of the IPO and the points raised above. In addition the delays caused in securing various screenings outside of the MDU control have caused delays in the past.

9) **Having regard to all that is being done already including decentralised interviews, can any further action be taken to improve the interview process – including timelines for interviews and interviewer training?**

IPO COMMENT

Please see obs on interviewer training at 2 above.

Difficult to put in place timelines for interviews. Each case is different and we have a responsibility to investigate each case fully. We had planned to do refresher training in credibility assessment and interview techniques but these were delayed due to the COVID 19 restrictions.

10) **The Chair wonders if legal practitioners can be allowed an enhanced role at interviews - intervene at various stage of the IPO interview process rather than at the end.**

IPO COMMENT

It would be interesting to know what benefits the Chair would see arising from this enhanced role? Legal representatives do not routinely attend protection interviews at the moment.

A legal representative may attend their client's interview. It is the IPO's experience that they attend in very few cases, including at cases involving unaccompanied minors where TUSLA attend. Currently a legal representative may provide submissions in relation to their client's claim prior to their interview. If a legal representative attends an international protection interview, their role at the interview is fully explained to them and they sign a form to this effect. They are not allowed to answer for their client or to interrupt the flow of the interview but are allowed to make comments at the regular breaks provided to an applicant during the process. Throughout the interview process the interview record is read back and agreed with the applicant and changes may be made to the record at this time. At the end of the interview, the legal representative may make further submissions. Post interview and up until the final s39 report has been prepared, a legal representative may make submissions and submit documentation in support of their client's claim. As mentioned, it is rare to see a legal representative accompany an applicant to their international protection interview. The Legal Aid Board (LAB) needs more resources to enable them provide a more comprehensive service and more early legal advice.

In the absence of clarification on the Chair's thinking on this issue, we would be concerned that the suggested greater involvement of legal practitioners could make interviews less efficient as it would likely significantly extend the duration of interviews. Perhaps of greater concern is the possibility that it would alter the dynamic of the IP personal interviews. If Legal Representatives are given an enhanced role it could result in changing the nature of the interview from being an opportunity for the applicant to provide all of the details required for the IPO to

make a recommendation on his/her application to a more adversarial one where the legal representative is engaging in legal argument with the caseworker and focus is taken from the applicant.

11) **What is your view on the possible introduction of a fully automated processing system linking in decision making bodies and IPAS accommodation to include automated scheduling, remote case file processing, programmed alerts for blockages/build-up of backlogs etc?**

IPO COMMENT

Such an automated processing system could achieve the aims originally envisaged for AISIP, but for which the technology at the time was possibly not quite developed. It could also serve to eliminate inefficiencies caused by the physical file having to move between multiple locations and inconsistencies from information on individual applicants being recorded on individual bespoke systems to which there is no general access.

In an ideal world it would be very useful. However, I think we are a long way off that yet. Remote case file processing could only work if we could ensure that all documentation was available to the decision maker and that there were no backlogs in scanning documents submitted. Again, this would depend on adequate resources.

It is very important that IPO and IPAS shares information, i.e. addresses of applicants, whether applicants are cooperating with the system

MDU COMMENT

MDU fully agrees with the comments of the IPO. It is important that the concept of the single procedure is mirrored in a single system with adequate management safeguards inbuilt. Apart from the obvious advantages of automation, reducing manual and time consuming tasks. it gives operational flexibility and reduced dependence on paper files.

International Protection Office

Ministerial Decisions Unit

29 May 2020

Supplementary questions from C. Day – updated responses (30/6/2020):

- **How long it takes for the IPO to take a decision - from the simplest to the most complicated case.**

- **The chair would like to be guided step by step through the process on an application. In relation to this, the chair would like to know the following:**
  - **Do the IPO wait until an application form is deemed completed before they start processing the application, or do you have to go back and forth to get sufficient information to complete an application, or can any missing information be filled in during the interviews?**
  - **What are the most common missing elements from the application forms?**

- **How many staff do the IPO have now? In your replies to the Advisory Group's questions, you say you don't agree with the figures of the HR division - what are the correct staff figures?**

- **In your responses to the Advisory Group, you refer to an extra 24 staff already promised but not delivered and the need for another 26. If you had these extra 50 people are you confident you could meet the 9 month deadline?**

- **What are your ideas for maintaining the level of staff you need? For example, could you have a reserve panel to draw from? Do you require accelerated clearance to replace staff who move on and if so who has the power to decide this (DJE or DPER or other)?**

- **In your responses to the Advisory Group, you say for 2020 you are committed to taking decisions in 9 months (in most cases). How many staff does it take to achieve this?**

- **How many more staff would be needed for you to commit to deciding in 6 months? (You say it is complicated to estimate - can you take a range between the simplest and most complicated cases?)**

- **Do you have your own ideas about shortening the decision making time, in addition to your suggestions for automation, changes to the 2015 Act and regarding the legal panel set out in your submission.**

- **The chair would like to discuss further your suggestion of an MDU unit in the IPO.**

- **The chair would like to discuss the involvement of a legal representative during interview.**

- **How long it takes for the IPO to take a decision - from the simplest to the most complicated case.**

Each application for international protection is decided on its own individual merits depending on the circumstances of each case.

The determination process for all applications is comprehensive and in the main includes an interview by a panel member and an initial assessment of a claim having regard to both subjective and objective factors including the consideration of detailed country of origin information before a draft report is prepared by the panel member and submitted to the civil servant EO for consideration. A period of back and forth then ensues between the civil servant and panel member on the case and any amendments that are required in the report. Once this is agreed, the civil servant makes the file their own and signs off generally with their HEO manager in a double sign off. For more straightforward cases a single sign off may be appropriate.

A straightforward case where we have reliable evidence that an applicant is from a certain country could be completed in a number of weeks or it could take quite a number of months depending on the complexities of the issues raised and the country of origin of an applicant.

While the IPO can prioritise individual cases (the IPO has agreed with the UNHCR that it can accord priority to certain classes of applications for IP, including unaccompanied minors, aged out unaccompanied minors and those over 70 who are not part of a family group, applications with a likelihood of being well-founded, due to a medical report or due to the country of origin – See **Annex B**). The IPO cannot take cases out of turn as to do so would likely give rise to legal challenge.

When the International Protection Act 2015 commenced on 31 December 2016, and in the months that followed, the IPO inherited a backlog of approximately 4,000 cases from the old truncated system under the Refugee Act 1996. The IPO also had to deal with new applications under the new Act, which in 2017 amounted to an additional 2,926 cases.

As mentioned previously, in the 3 years since its creation in 2017 up to the end of 2019, the IPO has taken in approximately 11,380 international protection applications. An additional 811 applications have been made to date as of 25 June 2020. Currently we have approximately 5,600 cases live in our system. However, this figure includes non-cooperating applicants who may account for anything up to 1,000 cases. This number is subject to fluctuation as applicants can disengage and re-engage with the process for a variety of reasons.

- **The chair would like to be guided step by step through the process on an application. In relation to this, the chair would like to know the following:**

    - **Do the IPO wait until an application form is deemed completed before they start processing the application, or do you have to go back and forth to get sufficient information to complete an application, or can any missing information be filled in during the interviews?**

Please see **Annex A** for step by step details.

- **What are the most common missing elements from the application forms?**

The majority of questionnaires are sufficiently well completed to proceed to interview and, as indicated above, there are only two instances in which a questionnaire will always be returned to the applicant (unsigned or question 62 not answered). The IPO has not had reason to systematically record information on the most common missing elements and it is difficult to give an overview as not all applicants have to answer all questions.

- **How many staff do the IPO have now? In your replies to the Advisory Group's questions, you say you don't agree with the figures of the HR division - what are the correct staff figures?**

The IPO had recorded its pre-Transformation approved staffing figure as 164 posts. Post-Transformation it seems to have been reduced to 150 notwithstanding the fact that no staff from the IPO were moved to other pillars.

The IPO currently has 142.9 FTE staff. 24 additional staff were to be allocated in 2020 from an additional budgetary allocation of €1m. These are expected to be assigned as the COVID restrictions ease.

- **In your responses to the Advisory Group, you refer to an extra 24 staff already promised but not delivered and the need for another 26. If you had these extra 50 people are you confident you could meet the 9 month deadline?**

Yes, prior to COVID-19, following training of new EO caseworkers and HEO managers (6 months), a hybrid processing system of civil servant interviewers/experienced panel members and applications numbers remaining constant the IPO could reach a processing time of 9 months by some time in early 2022. However, COVID 19 has impacted processing timelines despite best efforts.

- **What are your ideas for maintaining the level of staff you need? For example, could you have a reserve panel to draw from? Do you require accelerated clearance to replace staff who move on and if so who has the power to decide this (DJE or DPER or other)?**

We need a commitment from HR to work closely with us ensuring that staff numbers are maintained at agreed levels, vacancies filled promptly and sufficient time factored in for training in/overlap. Historically, HR has not filled vacancies promptly which has exacerbated IPO's staffing problems. This situation is not unique to the IPO, it seems that there is a general issue with HR forward planning. Despite flagging issues well in advance of impending promotions, retirements, etc. HR does not react quickly enough and vacancies accumulate. This has to be addressed in the future resourcing of the IPO as it is a significant contributor to our difficulties.

It also needs to be acknowledged that the Department of Justice HR is a customer of the Public Appointments Service (PAS) and mainly recruits staff from that service. This is one of the reasons why delays arise regarding the filling of vacancies right across the Department as the supply of new staff is entirely dependent on the numbers of candidates cleared by PAS at any given time. In addition DOJ, and by extension the IPO, has little control over the recruitment chain or influence over the PAS competition scheduling.

As discussed at the Zoom meeting on 12 June, the IPO's ability to react to increasing applicant numbers is compromised by the current staff recruitment model. Due to the lack of flexibility in the current model the IPO does not have the ability to quickly scale up to meet increasing demand. This needs to be addressed or the same issues will continue to hamper the IPO's ongoing efforts to reduce case processing timelines.

Assuming technological solutions are introduced to the application process to eliminate the current labour intensive aspects of how the IPO operates and expedite the journey from application to interview and decision stage, the grade level which can offer the most flexibility and value to the IPO is the EO grade. In addition to their core decision making function they could also conduct interviews and reduce the reliance on the legal panel.

It may be worth considering the possibility of allowing the IPO (or DOJ acting on our behalf) to run atypical recruitment competitions for EOs or a similar grading with legal qualifications. This would allow the IPO take on staff on a contract basis to supplement the existing cadre of permanent staff. That type of arrangement would give the IPO the flex it may require from time to time to scale up or down as the business requires. In suggesting the above, it is recognised that there could be IR issues to be navigated, particularly as EO is a promotion grade.

There is a precedent for this type of recruitment in the asylum area. The former Office of the Refugee Application Commissioner (ORAC), ran an atypical competition in the early 2000s to recruit EO staff on a temporary basis. This generated a supply of EO level staff to meet the growing demands of the Office at the time and it is understood that the calibre of applicant was quite good.

In examining the merits of the atypical recruitment proposal it should be noted that this type of recruitment model is in operation in the Courts Service. They have in recent years run a similar type of competition for Judicial Assistants. These assistants

are employed on fixed term non-renewable contracts. Something of a similar nature would give the IPO flexibility to have recent law graduates or suitably qualified persons attend on a 9-5 basis in the office giving certainty about their availability and limiting the Department's exposure to long term contracts. Obviously this proposal would require the agreement of HR and unions but something along these lines should be explored.

As mentioned previously, one of the difficulties in utilising the IPO Legal Panel is that although it worked very well in its initial years, increasingly the IPO is finding that only a very small proportion of our panel members are devoting their availability full-time to the IPO. The IPO is therefore competing with court work and panel members' own private practice in some cases for their services and all too often the IPO loses out resulting in delays in completing files.

- **In your responses to the Advisory Group, you say for 2020 you are committed to taking decisions in 9 months (in most cases). How many staff does it take to achieve this?**

Reaching 9 months processing times is predicated on a number of matters, including that the required resources are in place and that applicant numbers remain constant, something that has not happened since the commencement of the International Protection Act 2015, although with COVID-19 impacting on migration flows across the world this is likely to happen this year. To date (29 June) approximately 815 applications for international protection have been made since the start of 2020. Depending on how borders open up again post COVID-19 we might expect anything up to 3,000 applications this year.

Predicting the number of staff required to achieve a 9 months processing time is not an exact science. There are so many different variables that need to be taken into account when dealing with international protection applications, *inter alia* the applicants' own cooperation, legal representatives, interpreters, translations, scheduling issues, panel member availability due to other commitments, illness/disease outbreaks in DP centres, interview call backs etc.

In 2019 the IPO averaged just over 400 recommendations/decisions per month (first instance/withdrawals/Dublin cases closed to Immigration) while receiving an average of 398 applications. So while we were keeping pace with application numbers, we were not making a dent into the backlog and reducing processing times.

At the end of February 2020, prior to the COVID-19 global pandemic an applicant who applied for international protection at that time could have expected to receive a first instance recommendation/decision within approximately 11-12 months, provided that no complications arose with their case and application figures did not rise further. From mid-March 2020 the IPO was not in a position to send out any recommendations/decisions as to do so would have an impact on other areas of Immigration Service Delivery (ISD) and would go against the COVID-19 safeguarding strategies in place to help limit the spread of the virus. However, since 25 May we

have been issuing positive recommendations and, now with the greater presence of staff in the office and the opening up of other offices such as IPAT, we will soon be in a position to recommence issuing all recommendations.

Before issuing the recommendations on the cases that have been worked on remotely, each case will have to be thoroughly checked once staff are back in the office to ensure no new submissions/representations have come in during the intervening period since lockdown commenced.

However, we would estimate that in order to reach a 9 month processing time for cases, the IPO would need to be closing at least 550 -600 cases* a month to reach this target, with the proviso that application numbers do not rise further in 2020/2021. (*i.e. Recommendations/Decisions/Withdrawals/Dublin cases closed to Immigration*).*

It should be noted that increasing the outputs to 600 cases per week would create capacity issues for the IPO, IPAT and MDU. Accordingly, the increased outputs would have to be closely monitored to ensure that we do not create further problems or bottlenecks in the system. These areas too would have to be resourced accordingly to cope with the increase in the numbers of recommendations/decisions.

COVID-19 has severely curtailed the processing of international protection applications, not only in the IPO, but also in the IPAT and in all areas of ISD. Working according to the limitations set out in the roadmap to ease COVID-19 restrictions and reopen Ireland's society and economy, it is anticipated that we will not see productivity returning to pre COVID-19 levels for some time. There are approximately 5,600 applications in the system at the moment.

As mentioned above prior to COVID-19 the IPO was averaging closing approximately 400 cases per month.

While not all the staff in the IPO are directly involved in processing applications, there is a considerable amount of back office work involved in processing flows including general administration and movement of files, customer service, translations, scheduling, and finally the issuing recommendations.

Estimated staffing resources required to guarantee steady output of 600+ decisions per month.

STAFFING NUMBERS – Based on current staffing level of 150

1. **Simple calculation – this is based on the total overall number of staff (150) and simply dividing this into the total no of cases being closed off on average per month. However, this approach is not entirely accurate.**

400 cases per month / 150 staff (overall staffing) = 2.67 cases per staff member

Number of Staff	150
Output per month	400
Output per month staff member	2.666667
Desired Output	600
Deficit	200
Staff required	75.00

We have a 200 deficit to achieve before closing 600 cases a month, divided by 2.666667 = 75 additional staff

2. If we try and identify those who are directly involved in processing and closing off cases and their role in moving these cases from start to finish through the process in the IPO

There are currently approximately 92 staff members of 150 staff engaged either directly or very closely indirectly related to processing these cases or 57% of the workforce.

Dublin Unit	10
Admin Scheduling	12
Case Processing IP	29
Case Processing PTR	12
Non Cooperation	5
Rec/Decisions	14
Customer Service	10
Total	92

Number of Staff	92
Output per month	400
Output per month staff member	4.347826
Desired Output	600
Deficit	200
Staff required	46.00

We have a 200 deficit to achieve before closing 600 cases a month, divided by 4.347826 = 46 additional staff

* 6 additional staff for PTR review to cope with additional cases post IPAT
* 4 additional staff for Presenting Unit to cope with additional cases coming to IPAT for appeal.

Total 56 extra staff. (150 + 56 staff)

* Re additional staff above
If an applicant receives any recommendation other than a grant of refugee status there is an avenue of appeal to the IPAT and then the review element of their

Permission to Remain decision if unsuccessful. PTR review is a not a simple process and each case needs to be considered thoroughly before a decision can be made.

*****Presenting Unit is operating currently with 5 staff, this too would have to receive additional resources if the number of cases closed off per month increased to 600 as the majority of these would be going to IPAT for appeal.

In 2019 there were 21% grants of refugee status meaning almost 2,500 cases had the avenue of appeal to IPAT open to them.

Taking that most applicants appeal, (even occasionally an SP grant), and the IPAT grant somewhere in the region of 30% of all appeals, this leaves roughly 70% of all cases that go to IPAT with the avenue of PTR review (around 1,750 in 2019) with the IPO.

PTR Review conducted 671 reviews on such cases in 2019 and it is an ever growing area of both review numbers and litigation by legal representatives so this area will also need bolstering. There are currently approximately 700 cases awaiting to be processed in this area (over a year's work based on current figures)

PTR Review is operating currently with 9 staff this area would also have to receive additional resources possibly 6 staff.

It is estimated that provided application numbers stay around 3,600 per year. If we receive the additional resources, get them trained in (6 months) and can schedule and conduct the required amount of interviews to provide the raw material for recommendations/decisions we will reach 9 months processing in Jan 2022 and 6 months processing around April 2022. Once we reach these processing times staffing levels can be looked at again. Any surplus staff can be redistributed to other areas of ISD or the Department.

For comparison purposes, in 2004 when we experienced similar application numbers the staffing of the then ORAC (dealing only with the refugee element of an application) was 252.

Conclusion, to achieve 600+ decisions per month the IPO would require a minimum of 200 staff to achieve that outcome. 225 is the suggested upper limit if backlogs are to be reduced but if applicant numbers remain at current levels, these staff would only be required until such time as backlogs are eliminated or very significantly reduced. The calculation of the optimal staffing level will depend on the anticipated level of involvement of the legal panel and the degree to which some services are automated. For example, if the labour intensive aspects of the process were automated (copying/scanning), the reliance on CO staff would reduce and those staff would no longer be needed.

<u>Backlog 5,600 Cases – overview</u>

In the period 1 January 2017 to date (25 June 2020), the IPO has taken in over 12,000 applications. This is on top of inheriting an initial backlog of approximately 4,000 cases

that were transitioned back into the system upon commencement of the International Protection Act 2015 giving a total of in the region of over 16,000 applications.

Currently there are 5,600 applications active in the system. Looking at these cases somewhere in the region of 4,300 of them appear to be from 2019 & 2020. Leaving approximately 1,300 from previous years.

While the IPO cleared off the vast majority of the 4,000 legacy cases it inherited by 2019, it should be noted that legacy cases will continue to trickle into the system as transition applicants who have not cooperated up to this point, re-engage with the process or come back into the process through the route of JR etc. This active figure also includes Dublin cases that have timed out (so not transferred) and are moved into the main applicant stream for processing. It also contains a proportion of applicants who are not cooperating with the process. The IPO has a team that is concentrating on non-cooperation cases, in order to close this cohort off, but in the main we concentrate on applicants who are engaging with the process.

- **How many more staff would be needed for you to commit to deciding in 6 months? (You say it is complicated to estimate - can you take a range between the simplest and most complicated cases?)**

As above. If we receive the additional staff, train them in in the next 6 months, and application numbers stay constant, we can conduct the necessary interviews post-COVID we should reach an average 9 month processing timeline in January 2022 with 6 months processing being reached some 4 - 6 months after that. The efficiencies will be more apparent as the backlog erodes.

- **Do you have your own ideas about shortening the decision making time, in addition to your suggestions for automation, changes to the 2015 Act and regarding the legal panel set out in your submission.**

    - When additional resources are in place assign a dedicated team to review all cases over 3 years in the system and look to process to completion.

    - Review all unaccompanied minor/aged out unaccompanied minors and potential vulnerable applicants in the system and process to completion.

    - Currently looking at our prioritisation procedures in conjunction with the UNHCR which may identify additional classes of cases (See Annex B)

    - Review dispensing with interviews for potentially well founded cases.

- **The chair would like to discuss further your suggestion of an MDU unit in the IPO.**

Following the Department's Transformation programme in 2019, the posts of CIPO and Head of Operations were placed on an equal grade footing (both at PO ordinary grade). The division of responsibilities between both POs was clarified following consultation with Advisory Counsel. The result is that the Head of Operations is responsible for the functions of the office which are carried out on behalf of the Minister.

Accordingly, it appears that the MDU aspects of the IP process could be positioned under the Head of Operations' area of responsibility. At Unit level, the AP in charge of Permission to Remain (PTR) and PTR Review Units would be best placed to absorb the relevant MDU staff and work into her remit.

It is a more natural fit and the proposed arrangement, would ensure a more streamlined approach to the process and reduce or eliminate delays in issuing decisions to applicants. There would need to be some further demarcation to make clear that MDU is a different function but it should be possible to manage this easily enough.

- **The chair would like to discuss the involvement of a legal representative during interview.**

The IPO always values any pre interview submissions that are sent in by legal representatives. The Legal Aid Board (LAB), where possible, do so with some cases when their resources allow.

As discussed on our recent Zoom call, legal representatives may attend at any stage of the process with their applicant clients but to date we have found that in the overwhelming majority of cases they choose not to do so.

There are procedures in place for the attendance of legal representatives at interview. A code of conduct is in place which must be signed prior to an interview commencing.

It is very important to note that a legal representative is acting purely as an observer in the interview process. The legal representative may take notes at the interview but s/he must not interrupt the interview, answer questions for the applicant and/or make any comments during the interview process unless invited to do so by the interviewer or having first obtained authorisation from the interviewer. The use of laptops, mobile phones, or any electronic /recording device by the legal representative is not permitted at any stage.

At the end of the interview, a legal representative is afforded an opportunity to make comments relevant to the case. Any comments are recorded and read back to the legal representative by the interviewer. The legal representative is asked to sign their comments to confirm they have been accurately recorded. A legal representative may also make written submissions prior to the S39 Report being

completed and these will be considered before making any recommendation on the case.

International Protection Office

30 June 2020

IPO follow up to issues discussed with Expert Group on Direct Provision on 2 July 2020

1. **Processing timelines:** The Expert Group asked at the meeting on 2 July if it was reasonable for them to recommend that all IP applications should be processed in a 6 month timeframe. The IPO indicated that some applications simply could not be processed within that timeframe. For example the statutory timelines in the Dublin Regulations mean that some cases will be in the system for more than 6 months by the time they are admitted into the main IP process. With that in mind, the EG has asked the IPO to look at what proportion of IP cases might be capable of being processed within 6 months (assuming IPO is fully resourced) so that they could consider the matter further.

IPO response: It is very difficult to provide an accurate estimation for this as there are so many variables to take into account. A 6 month processing timeline for the majority of cases is a very optimistic aspiration even if the IPO is fully resourced.

The IPO does not normally deal with applicants out of chronological order so there are 5,000+ applicants already in the system with live cases which need to be cleared first.

With regard to the ratio of Dublin cases relative to the overall caseload, in 2019 of the almost 4,800 new applications received, approximately 37% (1,751) of all applicants were potential "Dublin cases" in that the IPO's Dublin Unit sent requests on them to other MS. That would potentially put those 37% outside the 6 month desired processing time for a start.

A number of other factors will also impact processing timelines, these include the following:

- Whether the applicant returns the questionnaire on time.
- Whether translations of questionnaires are required – some language translations can take longer.
- Interviews – whether call backs are required. This can be quite complex. For example, raw stats from the system indicate that in 2019 - 77 interviews had to be adjourned, so definite call backs required. 160 cases were no shows, so these would have had to be rescheduled and 620 cases were cancelled for other reasons again needing to be rescheduled. These call backs would give rise to significant time implications for all these cases. In some instances it can be months before a call back can be scheduled. On the basis of the above raw data, roughly 20% of cases scheduled for interview in 2019 had some sort of issue arising. Allowing for a margin of error on the raw data, it would be safe to say that approximately 10-15% of these applications were delayed.
- Whether applicants have other immigration status applications pending. The IPO usually has to wait until these have been finalised before it can issue a recommendation. Applicants will have often have live applications in the protection process and the general immigration process (usually Irish born child, EU Treaty Rights residence) simultaneously.
- Children born in Ireland
- GNIB/Security cases
- General delay on requests for information from other sources e.g. UNHCR/SPIRASI etc.
- Litigation – whether cases are delayed pending the outcome of legal proceedings (this aspect has been detailed in a separate note).

Based on the foregoing and experience to date, assuming the IPO is fully resourced and the current backlog is eliminated, potentially 50% of cases could be completed within 6 months. A more realistic and achievable timeframe would be c. 9 months for the completion of the majority of cases.

2. **Non-cooperation cases:** The Refugee Act 1996 contained a deemed withdrawn provision which permitted the then ORAC to deal more efficiently with cases where the applicant was not cooperating with the process. S.38 of the 2015 Act makes specific provision for situations where an applicant fails to cooperate. This legal approach, which is in accordance with the Procedures Directive, is more onerous on the IPO than the provisions of the 1996 Act. The IPO is required under section 38 of the 2015 Act to examine the application on the basis the information submitted by the applicant up to a particular point.

In this regard it should be noted that Ireland is operating under the old Procedures & Qualification Directives while the rest of the EU is operating under the recasts of those Directives.

IPO response: It is suggested that s.38 of the 2015 Act requires amendment so that a new deemed withdrawn provision type of procedure might be provided for in accordance with the provisions of Article 20 of the Procedures Directive. For example, perhaps it could provide that the IPO may simply take a decision not to examine the application in accordance with Article 20(2) and then insert a time limit after which the IPO cannot open the application again?

Article 20 – Procedures Directive (2005/85/EC)

Procedure in the case of implicit withdrawal or abandonment of the application

1. When there is reasonable cause to consider that an applicant for asylum has implicitly withdrawn or abandoned his/her application for asylum, Member States shall ensure that the determining authority takes a decision to either discontinue the examination or reject the application on the basis that the applicant has not established an entitlement to refugee status in accordance with Directive 2004/83/EC.

Member States may assume that the applicant has implicitly withdrawn or abandoned his/her application for asylum in particular when it is ascertained that

(a) he/she has failed to respond to requests to provide information essential to his/her application in terms of Article 4 of Directive 2004/83/EC or has not appeared for a personal interview as provided for in Articles 12, 13 and 14, unless his/her failure was due to circumstances beyond his control;

(b) he/she has absconded or left without authorisation the place where he/she lived or was held, without contacting the competent authority within a reasonable time, or he/she has not within a reasonable time complied with reporting duties or other obligations to communicate For the purposes of implementing these provisions, Member States may lay down time-limits or guidelines.

2. Member States shall ensure that the applicant who reports again to the competent authority after a decision to discontinue as referred to in paragraph 1 of this Article is taken, is entitled to request that his/her case be reopened, unless the request is examined in accordance with Articles 32 and 34. Member States may provide for a time-limit after which the applicant's case can no longer be re-opened.

Member States shall ensure that such a person is not removed contrary to the principle of non-refoulement.

Member States may allow the determining authority to take up the examination at the stage where it was discontinued

The old Directive (2005/85/EC) is fairly explicit in that it provides:- *"Member States shall ensure that the determining authority takes a decision to either discontinue the examination or reject the application on the basis that the applicant has not established an entitlement to refugee status in accordance with Directive 2004/83/EC."*

This provision suggests that the IPO has to do one of two things, either (1) reject the application or (2) discontinue it.

The provision currently in the IP Act 2015 is more beneficial to an applicant (and appears to be influenced by the provisions of the recast Procedures Directive (2013/32/EU)) in that it provides:-

38(5)(a) Where this subsection applies to an applicant, the applicant's application shall be examined on the basis of the information referred to in paragraph (b) only.
(b) The information referred to in paragraph (a) is the information submitted by the applicant before this subsection applied to him or her.

Therefore, perhaps a simple amendment to subsection 38(5) of the 2015 Act might read as follows (new text in red font):-

38(5)(a) Where this subsection applies to an applicant, the applicant's application shall be rejected on the basis that the applicant has not established an entitlement to international protection. ……

Legal advices would be required on the implications of the proposed amendment, particularly on whether it is in compliance with the provisions of the relevant Directives. An alternative option might be to discontinue the processing of the application and apply a time limit after which it cannot be reopened. This may be the more prudent option as it appears to be in compliance with the provisions of Article 28 of the recast Procedures Directive.

3. **MDU** – The Expert Group discussed the merits of situating the MDU within the IPO (while ensuring that the Unit is clearly demarcated within the organisation). The discussion on 2 July 2020 centred around the careful positioning of the Unit under the PO Head of Operations' area of responsibility. IPO was to look at whether this could be achieved and whether there were any obvious legal impediments to relocating the Unit.

IPO response: The IPO has indicated its support for the proposal but notes that it requires careful positioning within the IPO organisational framework. The practical aspects can be accommodated under the Head of Operations. The IPO is of the view that there is nothing in the 2015 Act which would prevent such a move. This would need to be confirmed by the AGO. In this regard, it should be noted that legal proceedings have recently been initiated on the "three hats" aspect of the 2015 Act.

International Protection Office.
24 July 2020

Re breakdown of staffing numbers in the draft text of the Advisory Group's report.

Current IPO building holds 220 staff and Panel Members.

In the International Protection Office (IPO) comments on the draft text of the Advisory Group's report, there is mention of the following being required:

- At least 240 civil servants with suitable accommodation plus room for the legal panel
- Additional resources will be required for decentralisation of interviews, enhanced electronic processing of applications.

Current staffing in the IPO is approximately 150 staff members. IPO have revised down additional staffing numbers to circa 220, so we estimate that an additional 70 staff on top of existing numbers is required, broken down as set out below. (Please note that 24 of these additional staff are already requested from HR following an additional budgetary allocation of €1m. in 2020 – none of these staff have yet been assigned).

(i) Case Processing & PTR/ PTR Review/ Non-Cooperation (40 additional staff)

The Case Processing area will need to increase its production by approximately 30-40% to get processing times down to 6 months. EO's will be used to conduct interviews in conjunction with the legal panel. An additional AP will be needed so the caseload of panel members/ HEOs/EOs in the area can be led and managed. Triage Team to be set up to look at incoming files and manage potential grants/unaccompanied minors/prioritisation categories.

Existing CP teams will need to be bolstered with new staff and a new CP4 team created. PTR & PTR Review will also need to have increased resources allocated.

Staff Numbers Required Case Processing/ Non-Cooperation

1 x AP, 3 X HEO, 27 x EO

Staff Numbers Required PTR/PTR Review

1 x HEO, 8 x EO

(ii) Admin/Scheduling/Customer Service – (20 additional staff)

1 x HEO, 9 x EO, 10 x CO

Scheduling Team

- Additional Staffing Requirement: EO x 2; CO x 3
- Rationale:
    - Allow ongoing support of decentralised interviews from within the Scheduling Team;
    - Create additional capacity to generate and manage larger interview schedule.

Recommendations Team

- Additional Staffing Requirement: EO x 1; CO x 4
- Rationale: The team is barely keeping pace with existing levels of output, non-cooperation recommendations have added significant additional work. It is estimated that with increased recommendations/decisions being issued in order to achieve 6 months processing times this would result in approximately a 30% increase in the workload of the section. These staff would be available for redeployment in the event of new technology coming on stream.

Customer Services

- Additional Staffing Requirement: EO x 2; CO x 2
- Rationale: Customer Services is also facing challenges in keeping pace with the growing number of cases on hand and would need additional resourcing to support a 30% increase in the schedule.

(iii) NEW: Development Team

- Staffing Requirement: HEO x 1; EO x 4; CO x 1
- Rationale: The IPO has a very clear idea of where it needs to go in terms of how it can get there. The challenge it faces is that the staff who have this knowledge are also keeping the show on the road day to day, and have very little capacity to drive a major reform programme. I would propose that this team be made up of existing staff from CP, Reception, Scheduling and Customer Services with their vacancies being backfilled by new staff.

(iv) Dublin Unit & Reception (8 additional staff)

Dublin Unit

- 3 EOs
- 3 COs

The Dublin Unit needs staff to handle additional workload due to Brexit and new work procedures that will commence to speed up Dublin decisions.

Reception Unit

- 2 COs
- Unit is now conducting s.15 and Article 5 interviews on the day applicants arrive to avoid call-backs, which should save at least 1-3 weeks of the 6-9 months target.

(v) JR / Corporate (2 additional staff)

Increases in activity in other business areas will place pressure on the JR/Corporate area. Additional resources will be needed.

- 2 x EO

Annex 1: Step by step through the IPO Process – 30 June 2020.

- **The chair would like to be guided step by step through the process on an application. In relation to this, the chair would like to know the following:**

- **Do the IPO wait until an application form is deemed completed before they start processing the application, or do you have to go back and forth to get sufficient information to complete an application, or can any missing information be filled in during the interviews?**

The lodging of the application for international protection is handled by the Reception and Fingerprinting Unit in the IPO Office in Timberlay House. All applicants for international protection must apply in person in the IPO Office.

The person will have to complete the following 3 steps at the Reception Unit to lodge the application for international protection in Ireland;

- A **preliminary interview** is conducted under **Section 13** of the 2015 Act.

13(2) A preliminary interview shall be conducted so as to establish, among other things—
(a) whether the person wishes to make an application for international protection and, if he or she does so wish, the general grounds on which the application is based,
(b) the identity of the person,
(c) the nationality of the person,
(d) the country of origin of the person,
(e) the route travelled by the person to the State, the means of transport used and details of any person who assisted the person in travelling to the State,
(f) the reason why the person came to the State,
(g) the legal basis for the entry into or presence in the State of the person, and
(h) whether any of the circumstances referred to in *section 21(2)* may apply.

Section 13(2) – This part is also conducted at the port of entry but we check the accuracy of the information in each case.

NB – the person is not an applicant for international protection until the s15 interview has been completed.

- Fingerprinting (for all applicants over 14 years old).

- This is then followed up with a Section 15 interview. This is the actual "application" interview and expands on questions concerning the applicant's family and their grounds for applying for international protection. Where an applicant does not require an interpreter the Section 15 interview will immediately follow the Section 13 interview. However, where an interpreter

is required and is not immediately available the person will be given a further appointment to compete the Section 15 interview.

We are also working on combining the section 15 interview with the Article 5 of the Dublin Regulation for all applicants with fingerprint hit(s). This will commence from 1 July 2020 when we resume our normal operations post-COVID restrictions.

With regard to cases that fall under the Dublin Regulation, it should be noted that there are strict timelines set out in the Regulation which Dublin Unit must comply with. In looking at the proposal of 6 months processing times, any case in the Dublin process would not fall under the 6 months processing time until such time as the Dublin element has been closed/finalised and a case returned for Scheduling.

The application under Section 15 is subject to S21 which deals with inadmissible applications.

(1) A person may not make an application for international protection where the application is, under *subsection (2)*, inadmissible.
(2) An application for international protection is inadmissible where one or more than one of the following circumstances applies in relation to the person who is the subject of the application:
(a) another Member State has granted refugee status or subsidiary protection status to the person;
(b) a country other than a Member State is, in accordance with *subsection (15)*, a first country of asylum for the person.
(3) Where an international protection officer is of the opinion that an application for international protection is inadmissible, he or she shall recommend to the Minister that the application be determined to be inadmissible.
Where an applicant is found to be inadmissible they have the opportunity to appeal this finding to the IPAT.

NB – under the 1996 Act the applications were taken in a one-step process and there was no formal inadmissibility procedure.

After applicants complete these three steps, they are provided with various documents including an information booklet (IPO 1) and their questionnaire (IPO 2) along with information in relation to obtaining legal advice. The questionnaire is available in English/translated versions. The applicant is required to fill in the questionnaire (with the aid of legal assistance if the applicant so wishes) sign and return it to the IPO within 20 working days. When the completed questionnaire is received their application will be forwarded on to the IPO Admin and Arrangements Unit to schedule the personal interview. These steps take from a few days to the maximum of 3 weeks to process where there is no translation required. However, if the questionnaire needs to be translated it can take up to 6 weeks for this to be returned from the translation company (depending on the language).

Often the IPO gets requests for additional time to complete the questionnaire by the applicant and/or their legal representatives; generally we would always would accede to such requests.

If an applicant returns a questionnaire and large parts of it are incomplete it will be returned to the applicant to be completed fully.

The present questionnaire is 61 pages long. Under S15(5) of the Act, the IPO is required to gather information pertaining to Section 49 (permission to remain), Section 50 (Prohibition of Refoulement), Section 56 and Section 57 (both Family Reunification).

Section (5) of the 2015 Act provides that *"An application for international protection shall be made in the prescribed form and shall include—*
(a) all details of the grounds for the application, and
(b) all information that would, in the event that section 49, 50, 56 or 57 were to apply to the applicant, be relevant to the decision of the Minister under the section concerned."

NB - The IPO will not process the case further until the questionnaire has been returned as this is a primary source of information and the applicant's opportunity to expand on the details submitted in the s.13 and s.15 interviews. The applicant has the opportunity to make further submissions up to the time of the interview and can also present new information at interview.

The consideration of an international protection application is an ongoing process that commences with the initial completion of the section 13 form. The IPO cannot make a consideration unless it is in possession of the full facts and the IPO's processes are designed to ensure that an applicant has every opportunity to present their case, bearing in mind that some applicants may not be accustomed to, or comfortable with, extensive interactions with state bodies.

The key consideration is whether or not there is sufficient information for an interview to proceed. Gaps in the questionnaire will not necessarily delay an interview as the interview is itself an opportunity to plug those gaps. A call back can be arranged should anything arise which needs to be further explored. Applicants can submit additional information at any time during the process.

There are two instances where a questionnaire will always be returned to the applicant:

1. The questionnaire is not signed by the applicant; and,
2. Question 62 (reason for seeking asylum) is not answered or very inadequately answered (e.g. "I want to seek asylum.").

Administratively, IPO2 questionnaires sent to the IPO are processed by the translations team of the Scheduling and Arrangements Unit, as a great many of them

will need to be translated. The experienced personnel in the team know that not all questions in the IPO2 need to be answered by all applicants. The vast majority of questionnaires received are accepted for processing through to interview stage.

Applicants can request more time in which to complete the questionnaire and this request is usually granted. (Repeated requests for extensions are treated less sympathetically unless there is a reason given.)

Once the questionnaire and translation is back the applicant is ready to be scheduled for interview. The applicant then takes their place in the queue by date of application order.

This interview element of the process is generally conducted by a member of the Case Processing legal panel who are paid on a per case basis to interview an applicant about their application for international protection and to prepare a draft report for a civil servant to review.

An EO then reviews the file and draft report and a period of back and forth ensues between the civil servant and the panel member in order for any amendments to be made and for it to be agreed. This may take a few days, weeks or even months (if a call back interview is required). Even a very straightforward case may be delayed if a key element is omitted at interview. Once this is agreed, the civil servant makes the file their own and signs off the report generally with their HEO manager in a double sign off. For more straightforward cases a single sign off may be appropriate

If the file is a refusal of International Protection it then moves to the Permission to Remain Unit for a consideration of permission to remain (Section 49) by the Minister. Again an EO writes this report and their HEO makes the final decision.

Once the report is finalised the s.39 recommendation/s.49 decisions in each case is sent out. If the file is anything other than a grant of Refugee status the file needs to be copied, with the copy sent out with the s.39 recommendation to aid the applicant in preparing for their appeal.

- **What are the most common missing elements from the application forms?**

The majority of questionnaires are sufficiently well-completed to proceed to interview and, as indicated above, there are only two instances in which a questionnaire will always be returned to the applicant (unsigned or question 62 not answered). The IPO has not had reason to systematically record information on the most common missing elements and it is difficult to give an overview as not all applicants have to answer all questions.

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INTERNATIONAL PROTECTION OFFICE

UNHCR
The UN Refugee Agency

PRIORITISATION OF APPLICATIONS FOR INTERNATIONAL PROTECTION UNDER THE INTERNATIONAL PROTECTION ACT 2015

1. Following consultation with the Irish Naturalisation and Immigration Service, the Chief International Protection Officer is according priority to certain classes of applications for international protection under the International Protection Act, 2015. The 2015 Act was commenced on 31 December 2016 ("commencement date").

2. UNHCR, as part of its mandate in relation to international protection, has provided advice in relation to the prioritisation of applications and supports the approach taken by the Chief International Protection Officer. UNHCR has also supported the International Protection Office (IPO) in providing training programmes to its Protection Panel and IPO staff for the new international protection process.

3. The legal basis for the prioritisation of applications is set out in Section 73 of the International Protection Act 2015 which states *inter alia*:

   "(1) Subject to the need for fairness and efficiency in dealing with applications for international protection under this Act, the Minister may, where he or she considers it necessary or expedient to do so-

   (a) accord priority to any application or,

   (b) having consulted with the chairperson of the Tribunal, request the chairperson to accord priority to any appeal."

4. UNHCR supports the prioritisation of applications for international protection as a means to enable the early identification of, for example, likely well-founded cases and cases involving children or the elderly.

5. Prioritisation under section 73 of the International Protection Act 2015 is subject to the need for fairness and efficiency in dealing with applications for international protection. Accordingly, the scheduling of cases in the International Protection Office will primarily be done on the basis of the date of application (oldest cases first).

6. Prioritisation relates solely to the scheduling of interviews and will not pre-determine any recommendation to be made. Applications which are prioritised will be scheduled for interview at the earliest possible date having regard to available resources. All applications, whether prioritised or not will receive the same full and individual assessment under the procedure.

7. The scheduling of interviews will occur under two processing streams which will run concurrently.

8. Stream one, will comprise of the majority of applications for international protection which will be scheduled mainly on the basis of oldest cases first. These include new applications and cases which were open before the commencement date of the International Protection Act 2015 at the following stages and order of priority:

   i. pending subsidiary protection recommendation.

   ii. pending appeal at the former Refugee Appeals Tribunal.

   iii. pending refugee status recommendation.

9. Stream two will comprise certain categories of cases which were open at the commencement of the International Protection Act 2015 as well as some new cases based on the criteria below. Within each of these classes of cases, priority will be mainly accorded on the basis of the oldest cases first.

   9.1 The age of applicants.

   Under this provision, the following cases will be prioritised:

   - Unaccompanied minors in the care of TUSLA
   - Applicants who applied as unaccompanied minors, but who have now aged out
   - Applicants over 70 years of age, who are not part of a family group.

   9.2 The likelihood that applications are well-founded.

   Applicants who notify the IPO after the commencement date that a Medico-Legal report, indicating likely well-foundedness, has been submitted will be prioritised.

   9.3 The likelihood that applications are well-founded due to the country of origin or habitual residence of applicants.

   UNHCR recommends the prioritisation of applications relating to the following countries on the basis of country of origin information, protection determination rates in EU member states and UNHCR position papers indicating the likely well-foundedness of applications from such countries.

   - Syria
   - Eritrea
   - Iraq

- Afghanistan
- Iran
- Libya
- Somalia

It should be noted that the main countries covered at present by the EU Relocation Programme are included in this list.

Non-inclusion on this list is not in any way to be read as an indication of the security or human rights situation in a country.

9.4 Health Grounds.

Applicants who notify the IPO after the commencement date that evidence has been submitted, certified by a medical consultant, of an ongoing severe/life threatening medical condition will be prioritised.

10. As a general rule, applications from family members will be processed together. This will apply for prioritised and non-prioritised applications.

11. This prioritisation procedure will be kept under ongoing review and will be updated, as required, having regard to, inter alia, the nature of the changing caseload in the International Protection Office.

International Protection Office
Irish Naturalisation and Immigration Service
27 February 2017