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LAW SOCIETY OF IRELAND

MEMORANDUM

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

DATE 19 March 2020

FROM Law Society of Ireland

(Shane McCarthy and Stephen Kirwan, Law Society Human Rights and Equality Committee members in attendance)

RE Summary of oral presentation delivered on 26 February 2020 @ 10.30am

Early Intervention and Benefit of Legal Advice at an Early Stage

The Society noted that the goal of ensuring early legal advice, particularly prior to the submission of International Questionnaires, was not necessarily being achieved.

It also noted that the availability of legal advice prior to Section 13(2) Interview was non-existent. It was submitted that this is a vital step in the process as applicants are often criticised for omissions in this interview in subsequent interviews.

It was further noted, as a matter of practicality, that given the administrative pressures on Law Centres, by the time certain clients reached a private practitioner it was the case that they had already submitted their IPO Questionnaires without the benefit of proper legal advice given that they were anxious to comply with the IPO's administrative deadline for submission.

Assistance of a solicitor at IPO interviews

The Society noted that while it was a welcome development that practitioners could attend at a substantive IPO interview it was of the view that the solicitor's role is essentially rendered redundant or reduced to acting as a mere observer. It explained that the solicitor is not allowed have any sort of an active role and, in a lot of cases, is not even given an opportunity to comment or offer observations at the end of an interview.

This contrasted greatly with the role which a solicitor has for example in Garda Station detentions and it was the Society's view that similar guidelines could be implemented in the context of an IPO interview to allow solicitors to take on a more active role on behalf of clients to ensure the interview process be conducted in a fairer way.

Concern was also expressed around the routine lack of prior disclosure before an interview which, given the particular vulnerability of clients, often led to complications at interview stage.

Availability of Translated IPO Questionnaires

While it was acknowledged that IPO Questionnaires were now more routinely available in a variety of languages, this list was not necessarily a complete one and any expansion would be welcomed.

Level of renumeration and lack of Legal Services

Concern was expressed with the lack of uptake of the private practitioners' scheme by solicitors and also with the fact that many conscientious practitioners were now leaving the area. It was noted that the level of work required in order to properly present a case far exceeded the 'flat fee' offered.

The Society noted that typical international protection applicants also required ancillary services above and beyond what was covered by the legal aid scheme and that solicitors would routinely feel obliged to carry out these services on a pro bono basis and that these hidden costs often deterred solicitors from taking cases on.

High Court Practice Direction and Judicial Review Matters

The Society noted that the introduction of PD 81 was of significant concern to practitioners. It was observed that the restrictive rules were having an unsettling effect on applicants/solicitors for applicants initiating litigation not only in terms of costs but also complexity in complying with the relevant rules of court within the tight 28-day time limit. The directions contrasted significantly to standard JR matters. It was noted that the volume of constant changes also deterred even experienced practitioners for both applicants and respondents. The Advisory Group expressed interest in reaching out to Mr Justice Humphreys to discuss the various issues.

Adequacy of Translation Services

A direct question was asked in relation to whether the Society had a view on the adequacy of translation services. It was noted that this was a difficult one to answer. Inadequacy of translations are often only highlighted where clients have some level of English themselves and can spot the inaccuracies. In cases where someone has no level of English themselves this was almost impossible to monitor. It was also noted that Stephen Kirwan had several experiences whereby translators who had been provided to translate for clients had previously been clients of his who themselves required translation services and that this caused some concern in relation to the accuracy of the services provided.