

THE **LAW SOCIETY**
OF NORTHERN IRELAND



The Executive Office
Consultation
REFUGEE INTEGRATION STRATEGY FOR
NORTHERN IRELAND 2022-2027

**Response of the Law Society of
Northern Ireland**

February 2022

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ABOUT THE LAW SOCIETY

The Law Society of Northern Ireland (the Society) is a professional body established by Royal Charter and invested with statutory functions primarily under the Solicitors (Northern Ireland) Order 1976 as amended. The functions of the Society are to regulate responsibly and in the public interest the solicitor's profession in Northern Ireland and to represent solicitors' interests.

The Society represents over 2,800 solicitors working in approximately 480 firms, based in 65 geographical locations throughout Northern Ireland and practitioners working in the public sector and in business. Members of the Society thus represent private clients, Government and third sector organisations. This makes the Society well placed to comment on policy and law reform proposals across a range of topics.

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INTRODUCTION

The Law Society of Northern Ireland (the Society) welcomes the opportunity to contribute to the conversation on the integration of immigrants and refugees into Northern Ireland. Our response focuses on Outcome 3 of the Refugee Integration Strategy as this part pertains to Access to Justice and Legal Aid matters. This response has been primarily informed by the Society's Immigration Practitioners' Group, which is made up of experienced Immigration solicitors practicing in this jurisdiction.

THOUGHTS ON OUTCOME 3 GENERALLY

Outcome 3, "Refugees and Asylum seekers exercise their rights and responsibilities" is something the Society is generally supportive of. In summary – the Society is supportive of work that ensures free and timely expert advice and easily accessible resources for refugees. Some considerations, which we believe could improve refugee support are outlined in the rest of this document.

THE PRIORITISATION OF THE PATHWAY TO CITIZENSHIP (QUESTION 27)

Question 27 asks *'Do you agree that [a] Pathway to Citizenship should be a priority to achieve outcome 3?'* Citizenship and the pathway thereto are undoubtedly important aspects. However, the Society notes that Citizenship is only one component part in the legal immigration edifice and as such questions if it is appropriate to prioritise it, potentially at the expense of other processes. The Society suggest that support should be broadened out to a variety of other legal services, ensuring sufficient flexibility to accommodate the needs of migrants.

THE PROTECTION OF LEGAL AID PROVISION FOR IMMIGRATION LEGAL ADVICE

The Society strongly supports the identified action of ensuring "the provision of legal advice free of charge, in a timely manner and by appropriately trained individuals". Solicitors in Northern Ireland already perform a central role in providing asylum and refugee advice to those in need of it.

Legal Aid is available in Northern Ireland for a wide range of immigration matters. This includes all stages of the asylum process as well as applications for family reunion, indefinite leave to remain and citizenship after refugee status has been granted. Furthermore, in terms of Access to Justice, Legal Aid is also available for appeals and judicial review applications which are often essential in immigration matters.

Access to Legal Aid in Northern Ireland is income based for advice and assistance, and income and merit based for civil matters, which includes representation before the tribunals and judicial review. Legal Aid work, including that on immigration, is open to any qualified solicitor in Northern Ireland to undertake as they wish. The system in NI provides for a far broader coverage of immigration matters than other jurisdictions in the UK.

In Northern Ireland, the accessibility and range of our Legal Aid provision is an example of international good practice and it is essential that we persist in ensuring that asylum seekers and refugees are aware of and can access their rights and are supported through the complexities of the legal system. To ensure the continued provision of free and timely legal advice, the scope of Legal Aid for immigration should be protected.

TACKLING MISINFORMATION ABOUT LEGAL AID PROVISION

Further to the above comments on the provision of professional legal advice, the Society would also like to address the development of resources on ‘the rights and entitlements’ of refugees and migrants. The Society supports bullet point 2 of Outcome 3 which asserts the need for resources. Relevant and up-to-date information is in short supply and our members have expressed concern over the level of Legal Aid misinformation in matters of immigration in Northern Ireland on both the provision and availability of Legal Aid.

Much of the available information that appears on the internet is authored in England and Wales. There are substantial differences in the provision of Legal Aid in that jurisdiction compared to our own, although this is not immediately clear or easily discerned by the lay reader, who may not realise that a different system applies in Northern Ireland. Immigration practitioners have advised that this is leading to refugees and migrants being misadvised on important matters. For example, if an individual granted refugee status in Northern Ireland looks online to see if Legal Aid will cover a family reunion application and wrongly reads information meant for England and Wales, then that person may not then access a

service that would otherwise be available to them. This is an impediment to free and timely legal advice. Members of the Law Society have also noted that this impairs the efficacy of frontline organisations in Northern Ireland, as these services are sometimes staffed with non-legally educated employees who may, with no ill intent, misunderstand the availability of Legal Aid and in turn incorrectly advise users.

There also exists broader issues with the understanding of how Legal Aid works. Law Society members have noted that they have encountered many asylum seekers who were unaware that they could change solicitor while in receipt of Legal Aid. Others wrongly believed that solicitors made Legal Aid decisions themselves which would lead to friction with their representatives when Legal Aid was withheld or denied. Key to countering this would be the drafting of accessible guidance and training on Legal Aid for immigration matters in Northern Ireland. This should be aimed at both asylum seekers and migrants themselves as well as key support and service providers.

Therefore, in summary, the Society recommends that more be done to raise awareness and better inform migrants of their rights in Northern Ireland in respect of Legal Aid. The Society stands ready to support and collaborate with government on this issue.

FINANCIAL REFORM AND THE SUSTAINABILITY OF LEGAL AID FOR IMMIGRATION REPRESENTATION IN NORTHERN IRELAND

Solicitors are of vital importance in providing free, timely and qualified legal advice to asylum seekers and migrants in Northern Ireland. Regrettably, however there is currently a shortage of solicitors undertaking this type of work, especially in the areas outside Belfast. This point has been consistently raised by members of the Law Society of Northern Ireland's Immigration Practitioners Group (IPG), who are concerned that vulnerable groups like refugees are unable to access a solicitor in a timely manner due to a lack of capacity.

Members of the IPG are of the opinion that the lack of financial sustainability for Legal Aid immigration advice is one of the key reasons for the shortage of firms providing immigration representation. In spite of the availability of Legal Aid for immigration, the remuneration rates for solicitors remains at a fixed rate set over 20 years ago. Moreover, there has been no change to Legal Aid rates to keep pace with reforms in the tribunals, the result being that solicitors receive extremely low fees for representations in complex appeals.

Several members of the IPG have confirmed that they have closed busy immigration departments due to issues with the financial sustainability of Legal Aid. This has the knock-on effect of discouraging other firms from opening immigration departments or hiring immigration specialists. Consequently, without access to qualified legal advisors the availability of Legal Aid becomes effectively meaningless.

The Society has raised this issue with the Legal Services Agency, who have stated that they have no plans to reform Legal Aid remuneration for immigration matters. The Society recommends that this should be reconsidered so that Legal Aid remuneration rates are modernised. Doing so will help ensure that in immigration advice in Northern Ireland is sustainable and that Legal Aid accessibility is complimented by timely access to qualified legal advisors.

CONCLUSION

Ensuring the equitable treatment of society's most vulnerable is paramount and to that end we endorse what Outcome 3 has already advocated. However, the Society believes that Outcome 3 could be strengthened if the above points are taken on board. The Society would welcome further engagement with The Executive Office on these issues should this be useful.