Applicants with special needs - Ireland

Overview

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Relevant EU legislation

Ireland is bound by the recast Asylum Procedures Directive has transposed its provisions through the International Protection Act 2015, No 66 of 2015

Ireland is bound by the recast Reception Conditions Directive has transposed its provisions through the International Protection Act 2015, No 66 of 2015 through the S.I. No 230/2018 European Communities (Reception Conditions) Regulations 2018

National legislation

International Protection Act 2015, No 66 of 2015

S.I. no. 230/2018 European Communities (Reception Conditions) Regulations 2018

Competent authority and other stakeholders

International Protection Office (IPO)

Child and Family Agency (TUSLA)

International Protection Accommodation Services (IPAS)

Training initiatives

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To effectively cater to the needs of unaccompanied minors, international protection officers and legal panel members of the Irish International Protection Office attend information sessions with UNHCR and staff receive the Children First Guidelines and additional specialised training on unaccompanied children.

Interviews with unaccompanied minors may only be conducted by specially trained officials.

Special needs in reception

Identification of special needs

In accordance with S.I. No 230/2018 - European Communities (Reception Conditions) Regulations 2018, IPAS is obliged to assess whether a recipient has special reception needs and, if so, the nature of those needs.

The regulations specify that a “recipient with special reception needs” means a recipient who is vulnerable and who has been assessed, in accordance with Regulation 8, as being in need of special guarantees in order to benefit from entitlements and to comply with obligations, under these regulations.

They define a number of categories of vulnerabilities which include a person who is a minor, an unaccompanied minor, a person with a disability, an elderly person, a pregnant woman, a single parent of a minor, a victim of human trafficking, a person with a serious illness, a person with a mental disorder, and a person who has been subjected to torture, rape or other form of serious psychological, physical or sexual violence.

A Vulnerability Assessment Programme is in place to assess special reception needs of families, couples and single females. The assessments are voluntary and applicants are not required to participate or to share information with IPAS. When an applicant states that they, or their child, has a special need, including a medical need, a disability or other serious vulnerability during an assessment, the person is sign-posted to relevant services. Where appropriate, the applicant is provided with information on how to make a self-referral or directly access relevant services. The information is also used by IPAS to appropriately accommodate people where required.

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Despite intensive efforts to source emergency accommodation, the department is currently not in a position to provide accommodation to all single, male international protection applicants due to a severe shortage of places.

Vulnerability Triage Assessments are offered to single, male international protection applicants. The vulnerability triage aims to identify the most vulnerable within this cohort and ensure that they are prioritised for accommodation. Those who consent to participate in an assessment are asked a number of questions to determine significant vulnerabilities.

When a person indicates that they have a current or ongoing health need, they are referred to a HSE Team in the IPO for an initial review. The HSE will notify the IPAS Assessment Officer if an applicant has indicated that they have an urgent health need. The assessment officer determines if the applicant requires priority for accommodation and will make a recommendation to have accommodation offered immediately or as soon as it is available.

When a vulnerability emerges or is advised to IPAS after a person or family has been accommodated and they require accessible or more suitable accommodation in a particular location on medical grounds, they are asked to submit a referral form in accordance with the IPAS Protocol for Medical Transfer. The referral enables the person’s medical professionals to outline the accommodation requirements including mobility, proximity to hospital or other service which are used by IPAS to identify the most suitable accommodation available within its portfolio.

Most persons seeking international protection are entitled to a medical card and their treatment is provided in the same manner as Irish citizens. Waiting times for certain treatments and assessments apply, similar to all other persons seeking medical treatment in Ireland. Transport to medical appointments/medical services is provided for international protection applicants.

Referral of applicants with special needs

IPO: There is no formal mechanism for the identification of vulnerable persons during the initial stages of the application, other than unaccompanied minors.

In order to assess whether persons wishing to make an application for international protection are in need of special assistance for the purpose of making an application, a checklist is available to immigration officials, to be

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included in each file to ensure the correct procedures are followed. After a person indicates their intention to seek asylum, an assessment of vulnerabilities must take place within 30 working days. In accordance with Section 14 of the International Protection Act 2015, a child under the age of 18, arriving at a port of entry or at the International Protection Office (IPO) and who is not in the custody of an adult, is referred to the Child and Family Agency (TUSLA).

Upon a referral to TUSLA, each unaccompanied minor is appointed a social worker as a legal guardian. All unaccompanied minors will see a social worker on the day of the referral for an initial assessment. A statutory care plan is developed and, if appropriate, an application for asylum will be made on behalf of the child. The assessment is multidisciplinary in nature and involves child protection social work, a medical examination and an educational assessment.

After the assessment, children are placed in the most adequate facility depending on their needs. The most prevalent is with a foster family, but supported lodgings are also used. Foster placements and supported lodgings have been identified throughout the country, and there is a strong link between the dedicated social work team in Dublin and the local social work teams in order to ensure a seamless transition from intake units to local placements.

IPAS: Following a vulnerability assessment, during which an applicant states that they, or their child, have a special need, including a medical need, a disability or other serious vulnerability, the person is sign-posted to relevant services. Where appropriate, the applicant is provided with information on how to make a self-referral or directly access relevant services. The information is also used by IPAS to appropriately accommodate people where required.

Following the vulnerability triage, during which a person indicates that they have a current or ongoing health need, they are referred to a HSE Team in the IPO for an initial review. The HSE notifies the IPAS Assessment Officer if an applicant has indicated that they have an urgent health need. The assessment officer determines if the applicant requires priority for accommodation and makes a recommendation to have accommodation offered immediately or as soon as it is available.

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accommodation requirements including mobility, proximity to hospital or other service which are then used by IPAS to identify the most suitable accommodation available within its portfolio.

Most persons seeking international protection are entitled to a medical card and their treatment is provided in the same manner as Irish citizens. Waiting times for certain treatments and assessments apply, similar to all other persons seeking medical treatment in Ireland.

While an applicant is sign-posted to health services and support, IPAS accommodation is not a care setting. It is important to note that services for all international protection applicants, including healthcare and education, are mainstreamed and accessed through the same referral pathways as Irish citizens. Residents in IPAS accommodation centres access health services within the local community, and other health services are accessed through doctor referrals, primary care and emergency services. Transport to medical appointments/medical services is provided.

Reception and care of applicants with special needs and vulnerabilities

The International Protection Act, Section 58 provides a description of groups of people who are considered to be vulnerable persons: persons under the age of 18 years (whether or not accompanied); disabled persons; elderly persons; pregnant women; single parents with children under the age of 18 years; victims of human trafficking; persons with mental health issues; and persons, who have been subjected to torture, rape, or other serious forms of psychological, physical or sexual violence.

Reception facilities and other housing arrangements

The majority of vulnerabilities can be addressed in all IPAS accommodation centres, in conjunction with local medical or support services. When an acute vulnerability is identified following engagement with families, a vulnerability assessment or advocacy, the Resident Welfare Team in collaboration with the relevant IPAS teams identify the most suitable accommodation and provide supports as much as possible.

The Resident Welfare Team at IPAS also engages with centre managers, the National Social Inclusion Office in the HSE, the TUSLA Education Support Services and NGOs on site to ensure that an applicant's/family's reception needs are

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addressed within the current accommodation centre, providing information and support and by signposting to relevant services.

Detention of vulnerable persons and applicants with special reception needs

While unaccompanied minors cannot be detained, other vulnerable profiles are not precluded from being detained (Section 20, 2015 Act).

The Irish Prison Service is required to accept all prisoners sentenced by the courts. Upon arrival, prisoners undergo a medical examination by a nurse officer, prison doctor or both (Section 11, Prison Rules 2007). This examination aims to diagnose any physical or mental health issues and take necessary measures to treat them. The prisoner's medical history, including any prescribed medication, is also recorded.

If a prisoner requires medical treatment that cannot be provided within the prison, the prison doctor can request external medical assistance with the governor's consent (Rule 106 Prison Rules 2007). When the governor and prison medical staff have concerns about a prisoner's medical condition, they can place the prisoner in a special observation cell (SOC) (Rule 64 Prison Rules 2007). Prisoners in a SOC are closely monitored with 15-minute checks to ensure their safety and well-being.

Reception of unaccompanied minors

Minors over 12 years of age are placed in a residential intake unit for 4-6 weeks, where their needs are assessed by social workers and psychologists. There are three residential intake units in Dublin that are registered children’s homes. Following this period, they are placed in foster care. Children under the age of 12 years are placed directly in foster care.

Reception facilities and other housing arrangements

Unaccompanied minors are not accommodated by IPAS. Unaccompanied minors are placed in the most appropriate facility depending on their assessed needs. The most prevalent is with a foster family, but supported lodgings are also used.

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Age assessments

The International Protection Act 2015 includes a number of provisions on age assessments of unaccompanied minors, allowing the Minister or an international protection officer to arrange an examination to determine the age of applicants who appear to be under the age of 18.

Access to education

Education is compulsory from age 6–16, so there is no legal obligation to send children to pre-school. The Education (Welfare) Act 2000 provides the entitlement of every child to a certain minimum education. A ‘’child’’ means a person resident in Ireland who has reached the age of 6 years and who:

- has not reached the age of 16 years; or
- has not completed 3 years of post-primary education, whichever occurs later, but shall not include a person who has reached the age of 18 years.

In accordance with SI 230 of 218, European Communities (Reception Conditions) Regulations 2018, Right to Education 17. (1), “a recipient who is a minor shall have access to primary and post primary education in the like manner and to the like extent in all respects as a minor who is an Irish citizen”.

The ECCE programme is a free pre-school programme available to all children for 2 years before starting primary school. This runs from September to June for 3 hours per day, for 5 days a week. Children who are 2 years and 8 months old in September can start to access this programme. The scheme ends at 5 years and 6 months. Children in the international protection process are entitled to ECCE places.

Access to healthcare

Access to healthcare for international protection applicants who reside in IPAS accommodation is mainstreamed and they can assess health services through the same referral pathways as Irish citizens.

Transition to adulthood

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There is no specific national strategy on the transition of an unaccompanied minor into adulthood, but they can benefit from the provisions of the mainstream National Aftercare Policy for Alternative Care. There is a transition period during which services and support are continued once the unaccompanied minor reaches adulthood.

The National Aftercare Policy identifies unaccompanied minors seeking international protection as requiring particular support in aftercare planning. Section 45 of the 1991 Act places a statutory duty on TUSLA to undertake a needs assessment of eligible children to determine the support and services required when leaving care. Eligible children are those who have been in the care of the state for at least 12 months between the ages of 13-18.

When an unaccompanied minor turns 18 years and has a pending application for international protection, he/she may be transferred to a reception facility which is under the remit of the International Protection Accommodation Service (IPAS).

Detention of unaccompanied minors

Unaccompanied minors aged under 18 years are not committed to custody.

Special procedural guarantees

First instance determination for applicants with special needs

The IPO places a high priority on the appropriate treatment of applicants for international protection who are classed as vulnerable having regard to best international practices. The investigatory process, training and quality processes are supported comprehensively by UNHCR. Applicants who are deemed vulnerable are given special consideration of their claim and information provided during the assessment, depending on the nature of the vulnerability.

Access to information

The International Protection Office (IPO) is responsible for information provision about the asylum procedure. It has developed specific material for unaccompanied minors and individuals with special needs.

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The International Protection Accommodation Service (IPAS) is responsible for information provision about the rights and services during reception. The material provided to applicants in reception includes information on the vulnerability assessment and processes for separated children seeking asylum.

Personal interview

Training is provided to staff on how to sensitively interview vulnerable applicants. For example, the Dublin Rape Crisis Centre provides training to staff on how to interview victims of gender-based violence, SPIRASI offers training on how to interview victims of torture and there are a number of resources provided by the EUAA on how to interview other vulnerable categories of applicants, such as victims of human-trafficking, LGBTIQ+ applicants, etc.

Legal assistance

There is a specialist unit in the Legal Aid Board in Smithfield which deals with minors and victims of human trafficking with staff specialised in these areas.

The solicitor cannot be appointed as a legal guardian. Tusla has responsibility for matters related to the care of unaccompanied minors and should be consulted.

Guarantees for unaccompanied minors

In accordance with Section 14 of the International Protection Act 2015, a child under the age of 18, arriving at a port of entry or at the International Protection Office (IPO) and who is not in the custody of an adult, is referred to the Child and Family Agency (TUSLA). TUSLA assists the minor throughout the procedure, including providing legal advice and accompanying the child to the interview.

Making, registering and lodging an asylum application

When an unaccompanied minor is identified by the IPO, the minor is referred to the Child and Family Agency (Tusla). Tusla appoints a representative to assist the minor in navigating all stages of the examination of their application, including registration and lodging (Section 15 International Protection Act).

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Information provision

There is child-specific information available from the IPO when making an application.

A Booklet targeting specifically unaccompanied minors/separated children is available in nine languages.

Best interests of the child in the Dublin procedure

As required by the Dublin III Regulation, the IPO must consult the Irish Child and Family Agency (Tusla) for specific guarantees for children in the Dublin procedure. The consultation considers the best interests of the child, particularly with respect to:

- the child's well-being;
- social development;
- views of the child.

Personal interview

Any child under the age of 18 who arrives in Ireland without an adult guardian is supported by Tusla. Tusla determines whether it is in an unaccompanied minor's best interest to apply for international protection, and when it is recommended, the agency provides the unaccompanied minor with appropriate support. The IPO has specifically trained case officers who interview unaccompanied minors.

Legal representation during the asylum procedure

The legal capacity to lodge an application on behalf of an unaccompanied minor lies with the legal representative appointed by Tusla. The presence of the unaccompanied minor is necessary, while for unaccompanied minors older than 14, a photograph and fingerprints are taken by the authorities.

If an unaccompanied minor reaches the age of 18 before a decision at first instance is taken, and if the social worker appointed as a legal guardian deems the applicant to be an adult, guardianship services are withdrawn.

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Legal assistance and counselling

There are no provisions in the International Protection Act stating that a child must be appointed a lawyer, nor is there any legislative provision that a legal representative must be assigned within a certain period.

Upon referral to the Child and Family Agency (Tusla), each unaccompanied child is appointed a social worker. Tusla then becomes responsible for making an application for the child, where it appears to Tusla that an application should be made by or on behalf of the child on the basis of information, including legal advice, in accordance with Section 15(4) of the International Protection Act. In that case, Tusla arranges for the appointment of an appropriate person to make an application on behalf of the child.

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