

## **Hibiscus Initiatives' Submission to Changes to the Office of Immigration Services Commissioner's (OISC's) fee structure – Call for Evidence**

**5<sup>th</sup> June 2024**

We provide this substantive written response further to our completed survey submitted online on 5<sup>th</sup> June 2024. The purpose of this is to provide additional information about our organisation and context to the responses provided in our survey.

### **About Hibiscus Initiatives**

[Hibiscus Initiatives](#) ('Hibiscus') is a voluntary sector organisation with a track record of delivering high-impact support and advocacy services to Black and minoritised migrant women in contact with the criminal justice system and immigration system. We have been active in this field for over thirty years. In the past seven years alone, we have worked with over 12,000 migrant people from over 100 different countries. The information in this response is drawn from our own caseload, discussions with our Community Team frontline practitioners, and the women we support. Frontline practitioners each support between 15 and 30 women at any one time.

Hibiscus has distinct expertise in working with Black and minoritised migrant women in prison, in the community, and in immigration removal centres. We are making this submission in response to this call for evidence as we believe that we can offer insight into the likely and potential effects of the proposed fee restructures on the women we support.

Most of the women we support, in all contexts, are in need of immigration advice and representation. Many of them have experience trauma and are victim/survivors of serious crime including violence against women and girls (VAWG), modern slavery and/or trafficking. In this context, the vast majority either need this to be funded by legal aid or provided free through OISC regulated non-profit making providers. Due to cuts in the scope and availability of legal aid, it has become extremely difficult to access legally aided advice, meaning that OISC regulated providers are often the only source of immigration advice available. This appears to be reflected in statistic that the number of OISC registered advisors working in the non-fee paying sector has increased from 701 in March 2017 to 1,625 as of February 2024, as stated in paragraph 31 of the Home Office's consultation guidance.

We believe that extensive changes to the legal aid regime are needed and have submitted a detailed response to the [Ministry of Justice's recent review of legal aid](#) to this effect. We recently published a blog post on this on our website: [CIVIL LEGAL AID: JUSTICE FOR ALL? - Hibiscus Initiatives](#)

It is also of vital importance that advice remains accessible to our service users via OISC regulated non-profit making providers and we are concerned that the proposed changes to the fee structure will significantly limit this option.

### **Proposal 1: the impact on our organisation**

As a non-profit making organisation Proposal 1 would not impact our organisation directly. However, as the proposal suggests a significant increase in organisation and individual fees, we are concerned about the impact that it is likely to have on the availability of immigration advisors. As our service

users often rely on OISC registered advisors, this is likely to impact their ability to access immigration advice.

### **Proposal 2: the impact on our organisation**

We are overly concerned about this proposal and the impact that it would have on our service users. Seven of our frontline workers are currently accredited to OISC level 1 or 2, many of whom are keen to progress to higher levels of accreditation. We also have several frontline workers studying or planning to study for the level 1 exam. As a non-profit making organisation, we currently benefit from not being charged fees by OISC. This is hugely beneficial to us as it allows us to provide immigration advice to our service users without incurring any cost ourselves.

*“Almost all, if not all, Hibiscus service users have ongoing immigration issues and instability. Being OISC registered means that our knowledge of immigration issues, routes, and entitlements is to a professional standard.”*

**- Caseworker and frontline support worker**

*“Having OISC knowledge also means we know what we cannot do as an organisation. Providing immigration advice is regulated because it is so life altering and damaging to receive the wrong advice. It is essential that we know and understand immigration law in the UK to protect the women we work with.”*

**- OISC caseworker and frontline support worker**

*“It is beneficial to have the OISC knowledge to get advice about options available to service users and how the processes work.”*

**- Caseworker and frontline support worker**

If the fee structure in Proposal 2 were to be introduced, it would cost our organisation £980 annually simply to maintain the number of advisors we currently have, with significant additional costs for registering any additional advisors. As a small organisation, we have limited funds available to us. It is unlikely that we would be able to meet these costs on an ongoing basis. If this is the case, we might be forced to stop providing immigration advice to our service users, despite having members of frontline staff who are trained and capable of doing so and the clear urgency from our service users to access immigration advice and casework.

As explained above, it is often impossible to refer our service users to solicitors for immigration advice, meaning that being able to provide some advice to them internally is invaluable and vital. Being unable to continue this would be of significant detriment to the women we work with.

*“More and more service users are making immigration applications without any legal reps or advice. We are seeing this at Hibiscus. Having an OISC accreditation, particularly at level 2,*

*means that you can explore options with service users to regularise their status. OISC accreditation is more essential now than ever before.”*

**- OISC caseworker and frontline support worker**

Where we are unable to provide advice internally, we often refer our service users to other non-profit making OISC organisation, regulated by OISC to advise and represent in immigration matters. Our service users have been assisted by organisations including Bail for Immigration Detainees (BID), Latin American Women's Rights Service (LAWRS), Prisoners' Advice Service, Solace Womens' Aid, and various Law Centres. Amongst other things, they have been able to provide detailed advice on what immigration applications can be made and how, assist in making application, and helped those in detention and in prison. They have provided much needed specialist support to Black and minoritised migrant women often in precarious circumstances.

*“When we're unable to find solicitors who can take on cases the next option is approaching other charities/organisations (Migrant Centres, Law Centres, etc).”*

**- Caseworker and frontline support worker**

*“A service user had a complex immigration matter that I was unable to advise her on. She was at risk of deportation and very scared. I tried to refer her to several solicitors, but none were able to take her case. We then contact LAWRS together and they were brilliant. They spoke to her in her 1<sup>st</sup> language, listened to her issue and provided clear advice. They are now helping her to make an application. Without this help from LAWRS, I believe she would still be without immigration advice and living in fear of deportation.”*

**- OISC caseworker and frontline support worker**

As our service users are all impacted by the immigration system, questions relating to this often arise in our work. These can be either direct questions relating to visas and asylum, or issues in which immigration is relevant, such as rights of recourse to public funds and other forms of support. It is crucial that our frontline staff and managers have a working understanding of the immigration rules, and that they can advise our service users and help them to access support.

*“It is useful to be able to explain the processes and understand the individual service users' situations. My OISC qualification helps me to support and guide the team with OISC related queries. It is helpful to understand elements of the immigration rules and its limitations and time limits so as to have a general understanding of the processes that the service users are navigating so that we can better support them.”*

**- OISC caseworker and team manager**

Our frontline staff provide advice on immigration and asylum matters, and carry out other tasks relating to them, using their knowledge and registration as an OISC advisers. Being able to provide this

service is life-changing for our service users, who otherwise risk receiving wrong immigration advice, having their immigration cases jeopardised, being unfairly charged, or having to navigate the complex immigration system on their own.

Our frontline staff often provided immigration and asylum advice to service users who were not able to access it elsewhere. If Proposal 2 is implemented, it is likely that we will be unable to afford the fees for registration and regulation. As such, we will not be able to continue to be regulated by OISC and, consequently, will be unable to continue to provide immigration advice to our service users.

*“If I was no longer OISC accredited, I would be unable to support the team with queries on immigration matters.”*

**- OISC caseworker and team manager**

Due to the unavailability of immigration advice through other channels, this would leave many of our service users without access to advice on their immigration and asylum matters.

It is clear from our frontline workers’ experience that their ability to provide immigration advice is a necessity for service users. Creating any barrier to this would significantly impact them. It is relevant that this impact is felt by people such as our service users who are already subjected to marginalisation due to their immigration status, as well as intersectional factors such as their gender, race, ethnicity, financial means, and mental health needs. They are some of the most in need of tailored immigration advice and representation. Removing free registration and regulation for non-profit making organisations would leave many unable to access it.

*“We are an organisation at the intersection of the criminal justice and immigration systems, and to lose the OISC regulation would mean moving further away from the immigration side of our work, which would be extremely disappointing. We are (or were!) the only organisation in the UK with a focus on both the CJS & Immigration for women, which is something we should be proud of.”*

**- OISC caseworker and team manager**

## **Proposal 2: unintended consequences**

The immigration system is complex and can be difficult to navigate for those without expert knowledge of it. This difficulty is compounded by factors such as failures to accommodate for those who do not speak English as a first language, lack an understanding of how the immigration system in the UK works, or those with mental health issues.

As many of our service users, and other migrants, would be forced to make applications or submit appeals without any form of legal advice, it is reasonable to anticipate an increase in rejected applications, including applications that may have been successful if made with the support of an immigration advisor. If this happens, there will be women who are not granted asylum or visas who should have been entitled to them. In turn, this may lead to the denial of support, the detention and the deportation of migrants who should have been granted leave to remain in the UK. In the case of asylum, this may result in people being put in danger of further harm and victimisation.

Lack of qualified immigration advice in the case of those making initial immigration and asylum applications is therefore also likely to lead to an increase in those needing to appeal refusals due to an increase in those whose application may have been wrongfully refused. If so, this will have a consequent financial implication for the Home Office as they will incur legal fees, and as they may be ordered to pay costs if the matter reaches court. Similarly, there will be a financial implication for the Ministry of Justice as they may need to accommodate for the increased number of appeals. Given the well documented backlog of cases waiting to be heard, this is unlikely to be welcomed.

If the woman appealing the decision does not have access to legal advice or representation for the appeal, this may also result in further issues with the process. For example, a woman completing complicated appeal applications without advice may be more likely to make mistakes or leave out essential information. This may lead to further delays and result in more court time being needed, resulting in greater expense.

We believe that access to immigration advice is necessary to prevent this from occurring. As set out above, enabling non-profit making organisations to provide this advice, without cost to them, is of significant benefit to service users. Ending this would be to their detriment.

We believe access to free and high-quality advice and representation for all in need of it is an absolute necessity. The practical consequences of implementing Proposal 2 would be a “two-tiered” justice system in which those who cannot afford to pay for legal advice are unable to enforce their rights.

### **Proposal 3: impact on our organisation**

The impact of Proposal 3 on our organisation would depend on the implementation of Proposal 2. As a non-profit making organisation, if Proposal 2 is not implemented, our understanding is that we will not be directly impacted by Proposal 3. We cannot comment on any potential indirect impact of Proposal 3 without more detailed information on the proposed fee breakdown.

### **For further information contact:**

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