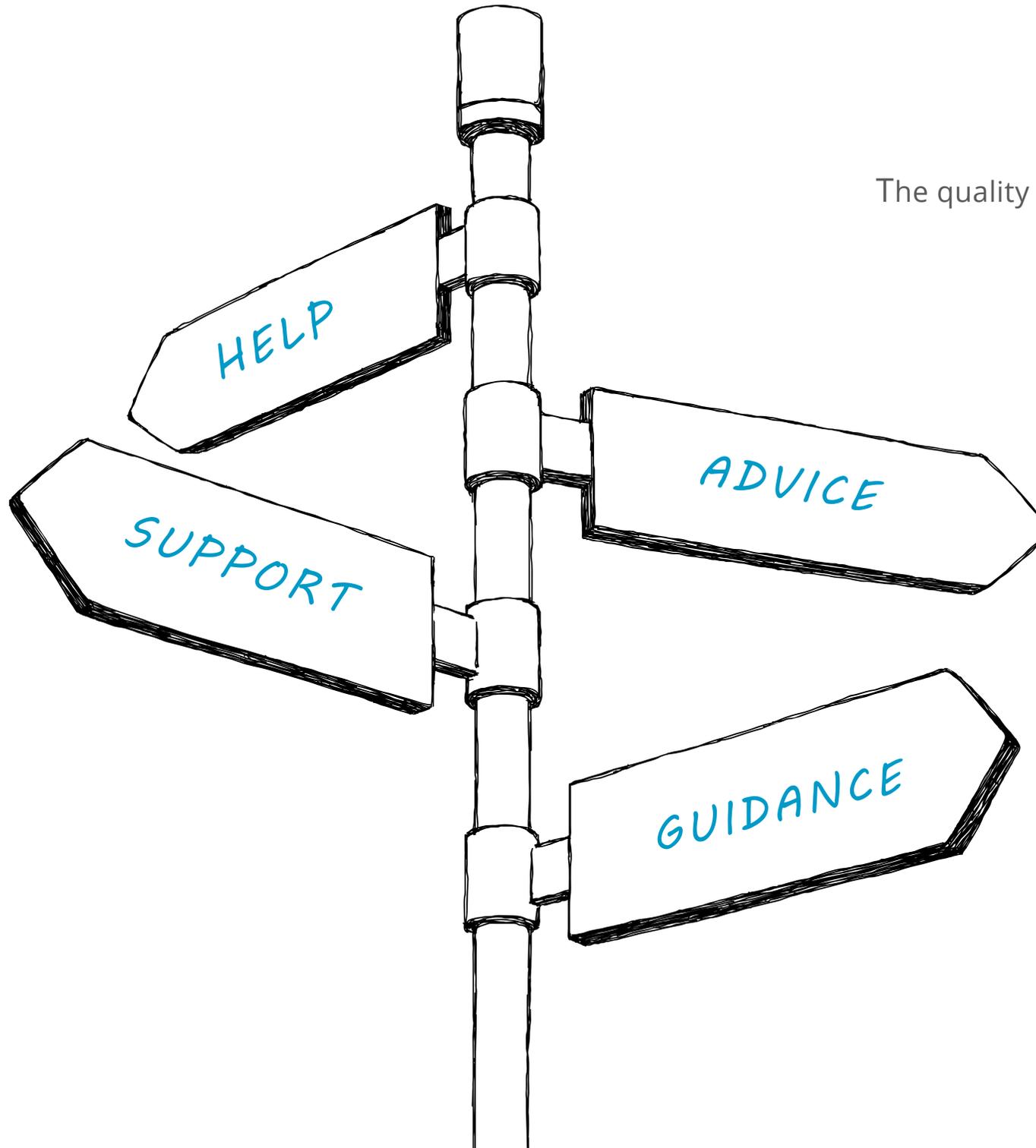


# Asylum

The quality of legal service provided  
to asylum seekers

November 2016



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Asylum seekers are some of the most vulnerable people needing the services of a solicitor or law firm. This has led to a number of organisations focusing on the quality of legal services provided to asylum clients.

This summary report highlights some of the key findings from the RM Thematic Project (the project). The project involved engaging with a sample of 52 firms.

We set out our findings in the core areas of:

- introduction of clients
- client care
- legal process
- appeals and judicial reviews
- staff supervision
- qualifications and training.

We have also highlighted some examples of good and poor practice.

The majority of firms we visited appreciate the potential vulnerability of their clients and many have shown dedication to supporting their clients. This support includes examples where guidance and advice have been provided in addition to the expected legal service, often without charge. Many of the firms have welcomed our review and share our commitment to encouraging an improvement in the quality of legal services provided to asylum seekers.

Although the overall picture is broadly positive, there remains scope for improvement and area of concern.

## Why

In August 2014, we jointly commissioned a research project to assess the quality of legal advice available to asylum seekers.

This research highlighted the following areas of concern:

- use and conduct of introducers
- lack of clarity about costs
- lack of case knowledge
- lack of experience at appeal hearings
- poor interview technique and quality of witness statements
- the use of unskilled interpreters

## Objectives

- Review the practices and behaviours of sample firms by testing their systems and processes to identify risk and provide evidence of the level of risk posed
- Test the extent and raise awareness of best practice and ethical conduct
- Challenge poor behaviours and practices by firms with a view to encouraging process change and improvement
- Identify whether any firms have breached the Handbook and take regulatory action, where appropriate

## What we did

- Established a sample of 52 firms that undertook asylum work
- Completed an interview of at least two hours with the firm's manager or supervisor responsible for the asylum practice
- Interviewed an asylum practice fee earner and conducted a review of two randomly selected files

## Key findings

- The most common sources of work were:
  - recommendations by other clients (52 percent of firms)
  - recommendations by family members (19 percent of firms)
  - referrals from local authorities (13 percent of firms)
  - other ways included advice rotas at detention centres, community links or local authorities
- Clients varied widely in terms of sophistication, financial means and command of English and often did not conform to popular stereotypes of asylum seekers
- Concerns about referral arrangements or inappropriate sources of clients were found at three firms

The external research report set out some routes by which clients find a firm to represent them. It expressed concern at some anecdotal practices of introducers.

It cited accounts of interpreters loitering around hostels and ports of entry, directing clients to firms from whom they could expect a financial reward.

 Good Behaviours	 Poor behaviours
<ul style="list-style-type: none"> <li>• Recording the routes by which clients come to firms – this allows improper referrals to be identified, as well as marketing information of benefit to the firm.</li> </ul>	<ul style="list-style-type: none"> <li>• Accepting referrals from an interpreter, who is then automatically allocated that client’s case</li> </ul>
<ul style="list-style-type: none"> <li>• Informal relationships with charities could be a way for firms to receive work without compromising independence</li> </ul>	<ul style="list-style-type: none"> <li>• Over-reliance on a single source of work</li> </ul>
	<ul style="list-style-type: none"> <li>• Failing to put the client’s interest above the interest of any third party introducer</li> </ul>
	<ul style="list-style-type: none"> <li>• Use of informal and unclear referral arrangements with inadequate monitoring, recording or supervision</li> </ul>
	<ul style="list-style-type: none"> <li>• Failure to make clear to the client the roles of each party and payment arrangements</li> </ul>

## Key findings

- The overwhelming majority of firms stated the most common form of communication with asylum clients was through meetings
- Communication in writing was never or rarely in the client's home language
- 96 percent of firms said that they had a process to check that clients received an update of their case at regular intervals
- The amount of contact varied with the client's circumstances – vulnerable clients would typically require more face-to-face meetings
- The majority of files showed that firms had met their clients a minimum of three times
- The level of communication should be tailored to the client's needs and a detailed client care letter in English may not always be helpful to the client
- Managing clients' expectations is an important part of client care

A key concern highlighted in the external research report is that asylum clients sometimes felt that the solicitor did not keep them informed about their case or listen to their evidence and concerns. Concerns were also raised about unclear costs information.

 Good Behaviours	 Poor behaviours
<ul style="list-style-type: none"> <li>• Fee earners who are easily contacted</li> </ul>	<ul style="list-style-type: none"> <li>• Assuming the client has the ability to read and digest client care information which is recorded in English</li> </ul>
<ul style="list-style-type: none"> <li>• Managing clients' expectations regarding calls</li> </ul>	<ul style="list-style-type: none"> <li>• Failing to establish that the client is happy with her or his interpreter</li> </ul>
<ul style="list-style-type: none"> <li>• Client care information presented in clear, jargon free language and confirmed in person</li> </ul>	<ul style="list-style-type: none"> <li>• Treating client care as a tick-box exercise rather than a reference document for the client</li> </ul>
<ul style="list-style-type: none"> <li>• Making sure the client has the best interpreter for their needs</li> </ul>	<ul style="list-style-type: none"> <li>• Failing to set out what the client can expect from the firm</li> </ul>
<ul style="list-style-type: none"> <li>• Keeping the client informed at regular intervals and as new issues arise</li> </ul>	

## Key findings

- The majority of firms had female lawyers and staff available if required
- 90 percent of firms reported that they worked with support organisations to assist their clients
- Firms worked with specialist advisers such as women's refuges, the NHS Assist service, female genital mutilation specialists and anti-trafficking charities
- Firms adopted a number of techniques to make sure young clients felt comfortable, relaxed and safe
- A number of firms were able to work flexibly in order to accommodate their clients' need
- All firms reported taking particular actions to ensure that asylum clients felt comfortable and able to speak openly
- The benefits of having confidential and appropriate areas for client interviews

All asylum clients can be considered vulnerable to some degree due to their situation, though naturally some will be more sophisticated and robust than others. Particular groups, however, may in some circumstances need reasonable adjustments to enable them to give full instructions



### Good behaviours

#### Female asylum clients

- Asking the client in advance for their preference in relation to the solicitor, interpreter and any experts
- Having female lawyers and staff available if required. This extends, in appropriate cases, to making sure that female interpreters and barristers can also be instructed
- As an example, in the case of one particularly traumatised client, a firm managed to arrange an all-female appeal tribunal hearing to ensure that the client felt able to give evidence freely

#### Clients with mental health difficulties

- Working flexibly to accommodate their clients' needs
- Visiting clients in mental health units
- Helping the client to get counselling

- Making sure internal guidelines were in place so that all staff could respond sensitively to the client's needs
- Working with the Home Office to obtain dispensation for clients who are unable to travel to key hearings/interviews

#### Minors

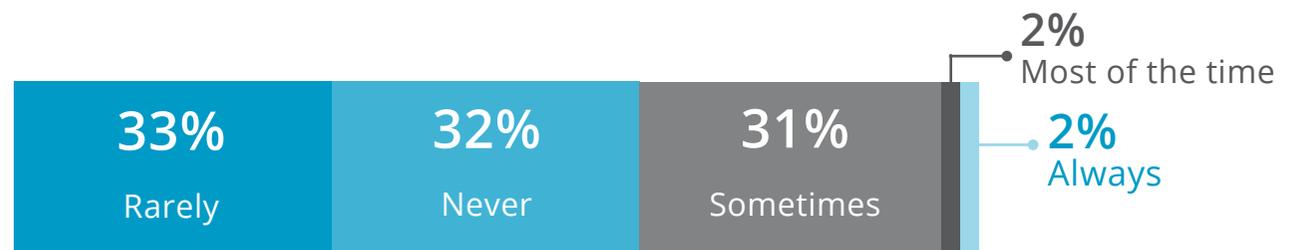
- Making sure that staff who dealt with them had undergone an enhanced Disclosure and Barring Service check
- Only allowing other adults (eg relatives or foster carers) to attend meetings if agreed with the client's social worker
- Providing biscuits, sweets and toys for younger minor clients
- Talking about neutral issues, such as football, to put the client at ease
- Dressing and behaving in a less formal manner than they would for an adult client

## Key findings

- Most firms reported that their clients were accompanied at least some of the time, and adopted a number of strategies to make sure their clients were able to give instructions freely. These included:
  - insisting on seeing the client without the third party at the outset of the first meeting, to check that they were happy to proceed
  - refusing to see clients with a third party present at all
  - getting the client's written consent to proceed with a third party present
  - maintaining control of the meeting and ensuring that the third party keeps to a purely supportive role

The chart below shows that asylum clients often attend a firm's offices in the company of a third party – typically a spouse, relative, religious leader or friend. This is not in itself a problem. However, solicitors should take steps to make sure that the client is happy for the third party to be there and that their instructions are not given under duress or undue influence.

✓ Good Behaviours	✗ Poor behaviours
<ul style="list-style-type: none"> <li>• Treating clients as individuals with individual needs</li> </ul>	<ul style="list-style-type: none"> <li>• Treating all clients the same without properly assessing their needs</li> </ul>
<ul style="list-style-type: none"> <li>• Ensuring that clients feel comfortable so that they can give full instructions</li> </ul>	<ul style="list-style-type: none"> <li>• Seeing clients in rooms which are not private</li> </ul>
<ul style="list-style-type: none"> <li>• Working with external organisations who can help the client</li> </ul>	<ul style="list-style-type: none"> <li>• Relying on clients to request assistance, rather than anticipating and offering it</li> </ul>
<ul style="list-style-type: none"> <li>• Reassuring the client of the firm's confidentiality and independence</li> </ul>	<ul style="list-style-type: none"> <li>• Assuming that clients are happy for a third party to attend, simply because they arrived with them</li> </ul>



How often do you receive instructions from someone else on behalf of your client?

## Key findings

- All of the client care letters that we reviewed contained costs information in writing, as required by the SRA Code of Conduct 2011
- Some 96 percent of managers said they additionally went through costs information during a meeting with the client
- Fixed and agreed fees could vary widely. Most were around the £1,000 to £1,500 up until the substantive decision. Some were as low as £800 and others as high as £4,000 to £5,000. Although what was included within these fees could vary considerably
- Some 12 percent of firms did not appear to provide costs updates to clients throughout their matter. The external research report cited this as a particular problem, with clients not knowing what they owed and being unsure as to how much more they would be expected to pay
- firms also need to be clear about whether they are offering a fixed fee, which may go up if matters outside the initial retainer arise, or an agreed fee, which may not be exceeded, save for disbursements
- Given the importance of this issue and the potential vulnerability of Asylum clients, we have taken the opportunity to provide further [guidance](#) on this point

The external research report stated that a number of asylum clients felt there was a lack of clarity around the costs payable to their solicitor. In particular, clients were reported as feeling that they had paid an initial sum, only to be charged more money as the case progressed, which they were not expecting.

 Good Behaviours	 Poor behaviours
<ul style="list-style-type: none"> <li>• Clear costs information at the outset of the case, explaining what is and is not covered by the retainer</li> </ul>	<ul style="list-style-type: none"> <li>• Failure to keep clients informed as to their current level of costs and future liability</li> </ul>
<ul style="list-style-type: none"> <li>• Clarity as to whether fees are “fixed”, “agreed” or charged at an hourly rate plus disbursements</li> </ul>	<ul style="list-style-type: none"> <li>• Failing to record time accurately or at all</li> </ul>
	<ul style="list-style-type: none"> <li>• Incorrect use and explanation of fixed and agreed fees</li> </ul>

# Key findings

- Some 92 percent of firms said they explained the role of the Legal Ombudsman. Some firms did not refer to the SRA other than on the firm’s letterhead
- All firms said they informed their clients of the firm’s internal complaints procedure, although on reviewing the files one firm did not do this
- Only 27 percent of firms reported that they made it clear to clients that a service complaint would not have a negative impact on their case
- Firms said that the most common suggested barriers to complaining were:
  - clients feared that a complaint would cause a negative impact on the handling of their case or the success of their application (33 percent of firms)
  - there was a linguistic barrier to making a complaint (31 percent of firms)
  - cultural differences, or a lack of awareness of how complaints work in the UK, created a barrier (19 percent of firms)
- Nearly one-third (27 percent) of firms did not think that there was any barrier to asylum clients complaining
- There may be significant cultural barriers to challenging authority. It is reasonable to assume that clients may not have the necessary confidence and ability to make a complaint

# Client care complaints

The research paper noted that the number of complaints from asylum clients was low, compared to other legal sectors. This was largely attributed to a lack of awareness of the ability to complain and how to do so.

 Good Behaviours	 Poor behaviours
<ul style="list-style-type: none"> <li>• Having a clear and concise complaints policy, explained and provided to the client at the outset of the case</li> </ul>	<ul style="list-style-type: none"> <li>• Failing to set out what the client can expect in terms of service levels and advice</li> </ul>
<ul style="list-style-type: none"> <li>• Making clear that raising a complaint will not affect the handling of the case or the decision in the client’s matter</li> </ul>	<ul style="list-style-type: none"> <li>• Assuming that all clients will feel able to complain if dissatisfied</li> </ul>
<ul style="list-style-type: none"> <li>• Actively seeking client feedback on cases</li> </ul>	<ul style="list-style-type: none"> <li>• Failing to advise the client of their right to contact the Legal Ombudsman</li> </ul>
<ul style="list-style-type: none"> <li>• Building trust and understanding with asylum clients</li> </ul>	

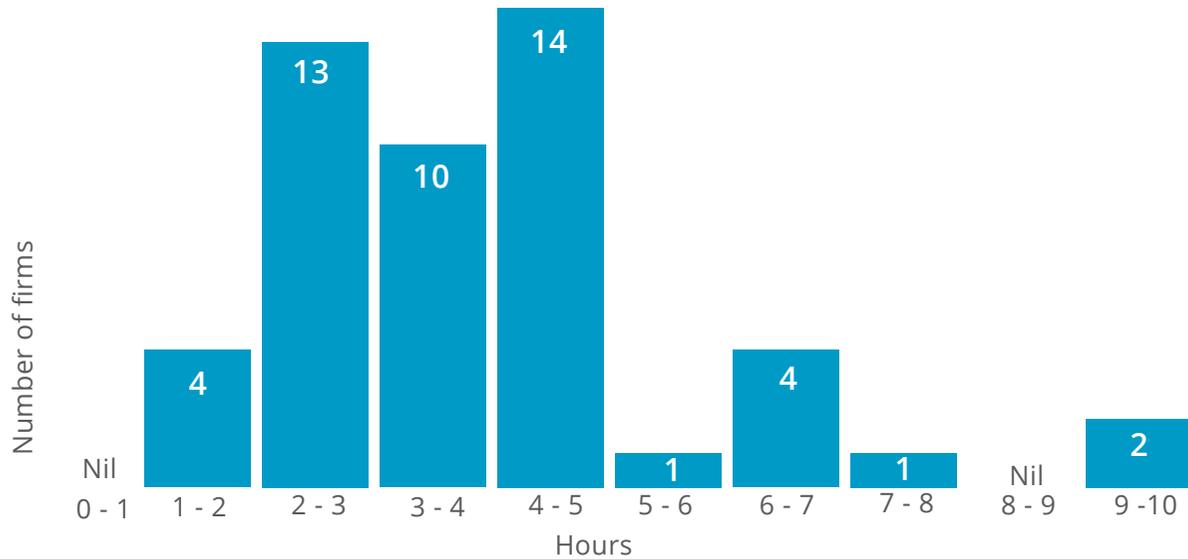
## Key findings

- Firms acknowledged that clients often struggled to understand the asylum process
- A number of firms used standard templates for forms and letters during the entire course of the asylum process
- There was a significant dispute between firms about the merits of providing a witness statement to the Home Office:
  - some thought it was an integral part of the process
  - some opted for a detailed statement and believed that it helped prepare the client
  - some opted to provide a concise response to aid the client
  - some did not provide the Home Office with witness statements as they believed this gives the Home Office an opportunity to focus on particular issues to the detriment of the client
- Our view is that firms should decide whether a witness statement is required on a case-by-case basis. A blanket policy whereby witness statements are not sent to the Home Office would not take into account a client's individual circumstances and needs
- Some firms said that the substantive Home Office interview was a significant part of the asylum process and their attendance was crucial to ensure they can both support and fully represent their client
- A significant number of firms did not attend or rarely attended the Home Office interview
- The majority of firms thought a tape recording of the interview was crucial and easy to arrange

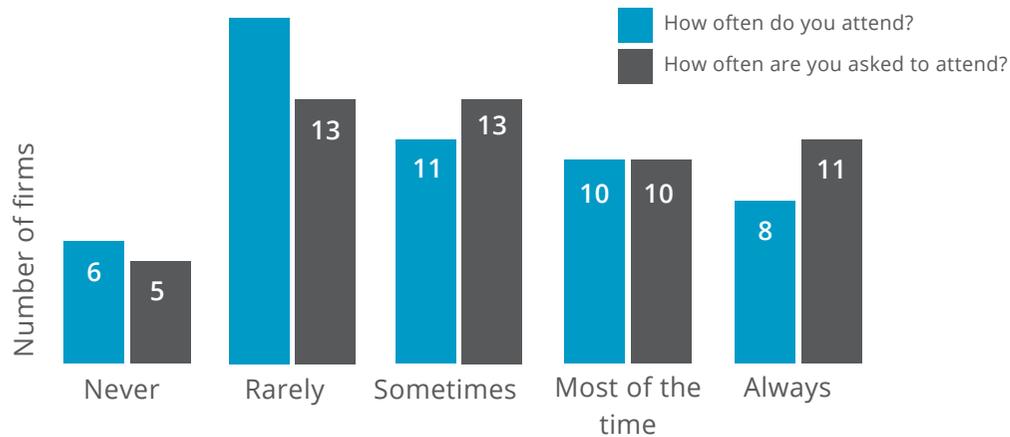
## Legal process

The research paper found that asylum seekers had trouble obtaining suitable advice from their legal representative.

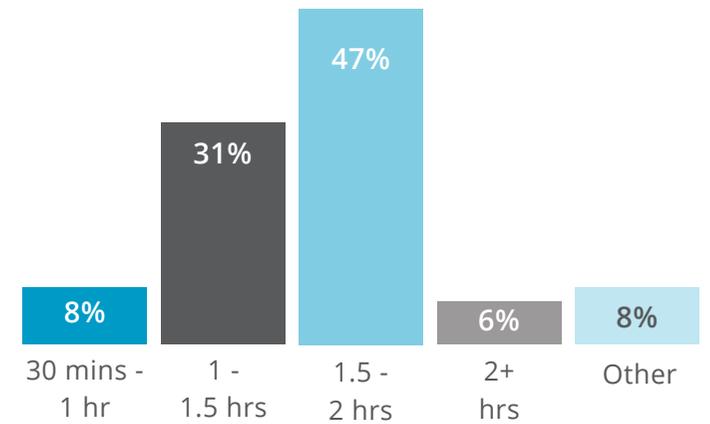
✓ Good Behaviours	✗ Poor behaviours
<ul style="list-style-type: none"> <li>• Make sure that the client receives appropriate support during the Home Office interview</li> </ul>	<ul style="list-style-type: none"> <li>• Using templates that are too general and contain insignificant or inappropriate information</li> </ul>
<ul style="list-style-type: none"> <li>• Make arrangements prior to the interview to meet and discuss the interview with the client</li> </ul>	<ul style="list-style-type: none"> <li>• Adhere to a blanket policy on the use of witness statements</li> </ul>
<ul style="list-style-type: none"> <li>• Make appropriate representations to the Home Office promptly following the interview</li> </ul>	<ul style="list-style-type: none"> <li>• Produce error-laden witness statements that are poorly drafted and fail to reflect the circumstances of the client</li> </ul>
<ul style="list-style-type: none"> <li>• Request an extension where relevant</li> </ul>	<ul style="list-style-type: none"> <li>• Failure to provide the client with appropriate information about the asylum process or Home Office interview</li> </ul>
	<ul style="list-style-type: none"> <li>• Failure to request a recording of the interview or retrieve a copy of the interview transcript</li> </ul>
	<ul style="list-style-type: none"> <li>• Not requesting extensions of time within the permitted time frames</li> </ul>
	<ul style="list-style-type: none"> <li>• Reliance on the client to make appropriate enquiries with the Home Office or organise a tape recording/transcript</li> </ul>



How long will it usually take the advisor to prepare a client's witness statement?



Comparison between attendance at substantive interview and request for attendance



How long does it take, on average, to conduct a first interview with the client?

## Key findings

- The number of appeals conducted varied depending on the size and type of firm
- The majority of firms said they would meet the client at least three to four times before an appeal and go through the substantive decision
- Half of firms said they would use Immigration and Asylum Law Accreditation Scheme (IAAS) level 2 accredited staff to conduct appeals
- Supervision and training are crucial to ensure that staff have the relevant competency to carry out appeal work
- Some 75 percent of firms said they would use counsel for appeals at least some of the time or more

The report stated that key informants were concerned that some solicitors lack experience of undertaking appeals. This had led to poorly constructed and evidenced appeals, with short statements, poor and inaccurate country information and no supporting evidence

 Good Behaviours	 Poor behaviours
<ul style="list-style-type: none"> <li>• Carefully reviewing the reasons for the initial refusal of asylum with the client</li> </ul>	<ul style="list-style-type: none"> <li>• The firm fails to consider any additional documentary or witness evidence that is required for an appeal</li> </ul>
<ul style="list-style-type: none"> <li>• Preparing a detailed proof of evidence and going through the evidence and additional documentation required for an appeal</li> </ul>	<ul style="list-style-type: none"> <li>• The client is not prepared for the oral hearing</li> </ul>
<ul style="list-style-type: none"> <li>• The client has the opportunity to meet with counsel before the appeal hearing</li> </ul>	<ul style="list-style-type: none"> <li>• The firm does not keep adequate records of information required for the appeal and the decisions of previous appeals.</li> </ul>
<ul style="list-style-type: none"> <li>• The firm clearly explains the appeal process to the client</li> </ul>	<ul style="list-style-type: none"> <li>• The firm fails to meet the time limits set for the appeal</li> </ul>
<ul style="list-style-type: none"> <li>• The firm keeps up to date on country evidence and Home Office guidance</li> </ul>	

## Key Findings

- The client's ability to speak, read and write in English varied and some:
  - used it as a first language
  - learned it as a foreign language and they could interact to varying degrees
  - could not speak, read or write it at all
  - were illiterate in their own language
- Firms acknowledged that legal terminology added a layer of complexity to the relationship
- Of the 104 file reviews we undertook, 44 percent featured a professional interpreter (eg an agency or freelance interpreter)
- Rather than complain, firms tended to dis-instruct poor interpreters and not work with them in the future. This is significant because information about poor translators was not shared. This could lead to other individuals instructing incompetent or unsuitable interpreters

The language barrier between the client and a solicitor can be a significant issue. A significant majority of firms rely upon the assistance of interpreters.

✓ Good Behaviours	✗ Poor behaviours
<ul style="list-style-type: none"> <li>• Make sure interpreters are able to explain information to clients in a way that the individual client understands</li> </ul>	<ul style="list-style-type: none"> <li>• Fail to ascertain whether a client is happy with a proposed interpreter</li> </ul>
<ul style="list-style-type: none"> <li>• Provide a discreet opportunity to the client to raise any concerns about the proposed interpreter</li> </ul>	<ul style="list-style-type: none"> <li>• Fail to provide an appropriate and/or competent interpreter</li> </ul>
<ul style="list-style-type: none"> <li>• Sensitively consider the client's circumstances and cultural/social background to make sure an appropriate interpreter is selected</li> </ul>	<ul style="list-style-type: none"> <li>• Allowing additional payments to be made direct to the interpreter</li> </ul>
<ul style="list-style-type: none"> <li>• Explain the role of the interpreter to both the client and the interpreter and make clear who is responsible for payment of all relevant fees</li> </ul>	
<ul style="list-style-type: none"> <li>• Undertake checks to review the quality of interpreters and their work</li> </ul>	

## Key findings

- Statistical data from the courts and Tribunals service shows that the number of TWM decisions has almost doubled in just over a year
- 16 firms said they had received a TWM decision in the last 12 months
- The issue provoked a strong reaction with one firm telling us TWM decisions were “thrown around like confetti”
- The majority of cases certified as TWM involved a challenge under article 8 European Convention on Human Rights
- Many applications were made for procedural reasons where there was no in country right of appeal
- Firms should be aware of certain issues – set out here

The Home Office has raised concerns with the increase in Totally Without Merit (TWM) decisions in judicial review applications over the last two years.

### Issues identified when reviewing TWM decisions

- Failure to provide evidence of “exceptional circumstances” in support of the application
- Applications submitted in a “formulaic” way with grounds being pleaded in a “generic and vague manner”
- Some applications had short and insufficiently detailed statements in support
- One application used poor English
- Some applications referred to out of date case law or were submitted out of time.

The managers who were interviewed had their own views on why the number of TWM decisions was increasing. They were largely critical of the Home Office and the immigration judges. The subject of TWM decisions was an emotive topic for those we interviewed and some were concerned that the Home Office was trying to limit their ability to challenge decisions.

While recognising the fundamental importance of access to justice, it is also necessary for firms to consider whether further action is really in the interest of the client and consistent with the need to uphold the proper administration of justice.

In light of these findings we have issued a [guidance note](#) in relation to judicial reviews.

### Conclusions on judicial reviews

The number of TWM claims has increased and a total of 20 percent of all immigration judicial review applications have been certified as TWM.

## Key Findings

- Supervision raises particular issues for sole practitioners
- 69 per cent of firms had fee earners with average case loads of between nought and 60 files
- More experienced staff tend to receive a higher proportion of asylum files
- Supervision included:
  - random file reviews
  - three month activity checks
  - one to one support by a supervisor
  - an open plan/door policy
  - tailored supervision
  - review of incoming post
  - diary systems
  - use of external counsel
- Our file reviews revealed a lack of supervision in some cases – see poor behaviours

Firms must have supervision systems and processes in place to monitor the quality of the service they provide and the advice that is given.

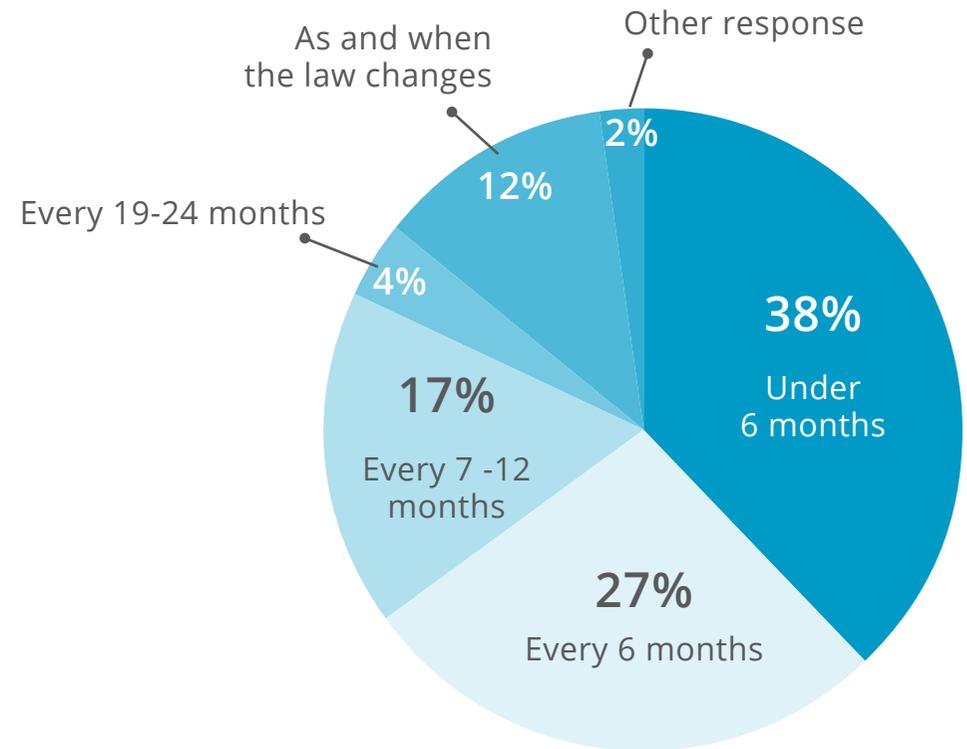
 Good Behaviours	 Poor behaviours
<ul style="list-style-type: none"> <li>• Dedicated supervisors to manage teams</li> </ul>	<ul style="list-style-type: none"> <li>• Minimal supervision of staff resulting in failure to obtain full instructions and evidence from clients</li> </ul>
<ul style="list-style-type: none"> <li>• Regular random file reviews</li> </ul>	<ul style="list-style-type: none"> <li>• Grammatical errors are unchecked and carried over to other files and documents</li> </ul>
<ul style="list-style-type: none"> <li>• All key incoming and outgoing documents checked</li> </ul>	<ul style="list-style-type: none"> <li>• Applications refer to wrong gender of client</li> </ul>
<ul style="list-style-type: none"> <li>• Regular team meetings to discuss issues</li> </ul>	<ul style="list-style-type: none"> <li>• Little evidence of file reviews</li> </ul>
<ul style="list-style-type: none"> <li>• 'Cabinet raids' by senior partner</li> </ul>	<ul style="list-style-type: none"> <li>• Use of unsupervised trainee on some files</li> </ul>
<ul style="list-style-type: none"> <li>• Electronic and hard copy diary systems to monitor</li> </ul>	

## Key Findings

- 65 percent of firms received training on asylum law and practice at least every six months or less
- Most firms have access to the Immigration Law Practitioners Association (ILPA), Electronic Immigration Network (EIN) and/or Free Movement resources
- Firms had a variety of qualifications and accreditations
- 77 percent of the 298 solicitors in the sample were accredited under the Immigration and Asylum Law Accreditation scheme.
- Although 85 percent of firms stated that they kept training records, firms struggled to provide this information
- Firms could usefully provide more training and/or guidance in the following areas:
  - immigration and nationality law
  - family law
  - child law
  - gender persecution
  - trafficking and detention abduction
  - country knowledge

The external research report highlighted concerns about poor legal and case knowledge, insufficient interviewing experience with asylum seekers and a limited experience of appeals.

✓ Good Behaviours	✗ Poor behaviours
<ul style="list-style-type: none"> <li>• Extensive internal training undertaken</li> </ul>	<ul style="list-style-type: none"> <li>• A firm with low appeal success rate placed minimal emphasis on training</li> </ul>
<ul style="list-style-type: none"> <li>• Regular use of webinars and local counsel</li> </ul>	<ul style="list-style-type: none"> <li>• A small firm did not attend training as it could not justify time or cost to attend</li> </ul>
<ul style="list-style-type: none"> <li>• Weekly internal legal training updates</li> </ul>	<ul style="list-style-type: none"> <li>• Ad hoc or no evidence of training</li> </ul>
<ul style="list-style-type: none"> <li>• Personal training development plans</li> </ul>	<ul style="list-style-type: none"> <li>• Training out of date</li> </ul>
<ul style="list-style-type: none"> <li>• Training forms part of appraisal process</li> </ul>	<ul style="list-style-type: none"> <li>• Failure to record training</li> </ul>
<ul style="list-style-type: none"> <li>• Review of successful/unsuccessful cases to inform training.</li> </ul>	<ul style="list-style-type: none"> <li>• Training not evaluated</li> </ul>
<ul style="list-style-type: none"> <li>• Training is fed back to other members of the team</li> </ul>	



Frequency of training on asylum law and practice

By its nature, asylum can be a challenging field in which to work. The firms we visited gave a number of examples of challenges they had faced in their work.

- Finding good-quality interpreters for some languages posed a particular problem.
- Clients as a whole would forget appointments, attempt to see solicitors on a drop-in basis and fail to bring documents to meetings.
- Some clients had difficulty with the concept of legal aid, and assumed that as the solicitors were effectively paid by the government they were working to the Home Office's agenda. This could lead to a lack of trust.
- A number of firms reported that clients' past experiences and vulnerability could impact on their credibility (eg if the client was suffering from post-traumatic stress disorder) by making it difficult for them to recall details of their past
- Firms reported that asylum clients would take poor advice from their peers and had to be told not to embellish their stories.
- Cultural issues could lead to misunderstandings. For example, one client told his solicitor that he had five brothers. At a later meeting he told her he was an only child. She questioned this and he explained that, in his culture, 'brother' was a label for unrelated people he had grown up with. If this had not been established before the Home Office interview, it could have affected his credibility.
- Other challenges arose from external causes. Legal aid firms reported that they were finding it difficult for cases to be profitable at the current legal aid rate (£413 up to the Home Office's decision) where a case might typically take more than ten hours of work.
- A number of firms had concerns over the quality of Home Office decision-making and the application of its own policies.
- Firms noted that the deadlines for obtaining legal aid did not always fit with the judicial and Home Office time limits.

Firms had a number of strategies for dealing with these challenges - see good behaviours.



## Good Behaviours

- Explaining the solicitor's role, independence and confidentiality at the outset to build trust
- Having patience/empathy, and taking extra time to speak to vulnerable and traumatised clients
- Working with other agencies to support clients – some are able to send reminders to clients that they have appointments booked
- A good understanding of the clients' culture, and how it might differ from that in the UK
- An effective professional working relationship with the Legal Aid Agency and the Home Office
- Supporting the client in dealing with refusals and delays outside the firm's control



This thematic project has allowed us to spend a considerable amount of time with firms who have the responsibility of advising asylum seekers on matters that are often complex, emotional and can lead to tragic consequences. We have made sure that we engaged with a wide spectrum of firms, ranging from sole practitioners working out of their own home to some of the largest firms in the sector. This has ensured that we gained a full insight into the wide variety of challenges and issues that are faced in this practice area.

As highlighted in the research paper, there remains scope for improvement and areas of concern.

In particular there is a need to focus on:

- communicating the key client care messages

- the role and suitability of interpreters
- providing an appropriate and thorough explanation of costs
- meeting the client's needs and avoiding an over-reliance on firm policy or proformas
- meeting and considering all of the legal needs of the individual client
- training and the ongoing competence of the advisers
- the appropriate and professional use of the appeals process.

Importantly, this thematic project is intended not only to highlight the areas of concern but also demonstrate examples of good practice.

While we have identified regulatory concerns and breaches, our objective is also to assist in an overall improvement in the quality of service and guidance provided to asylum seekers.

Our regulation has a specific requirement on solicitors to meet the service needs of vulnerable clients. The importance of this obligation has been made very clear during this project, where we have seen numerous cases where clients are seeking asylum due to fleeing torture, imprisonment or potentially death. It confirms the need to do all we can to ensure asylum seekers obtain the quality of service and advice they are entitled to expect from a responsible, qualified, trained, knowledgeable and regulated professional.

The asylum process is a complex and nuanced area of work. In particular, there is a significant disparity between the knowledge and understanding of the client and that of the solicitor. We recommend that further work should be done to support, educate and empower vulnerable clients and those that assist them, including the firms themselves.

## Examples of further action that we are taking

- Publication of our report outlining our findings, together with this summary report and a toolkit of relevant resources and [links](#)
- Proactive circulation of our report to:
  - relevant parties including: Legal Aid Agency, The Home Office, The Law Society (Immigration Law Committee), The Bar Standards Board, The Legal Ombudsman (LeO) and CILEx
  - representative groups and appropriate community groups
  - consumers via the Legal Choices website
- A schedule of liaison meetings with the Legal Aid Agency, Legal Ombudsman and the Home Office to consider and share information, including areas of concern
- Publishing specific guidance for solicitors providing advice to asylum seekers on three issues identified in the full report. The [guidance note](#) provides detailed guidance on the topics of costs information for clients, the conduct of judicial review applications and firms' systems and procedures, particularly those related to competence and supervision of fee earners
- Where conduct issues were highlighted at firms as part of the project further regulatory action is to be taken
- Our assessment process for complaints from asylum clients is to be reviewed to ensure that their complaints are given appropriate weighting
- Continuing to closely monitor developments in this area