

Lawyers
defending
human rights



Review of quality issues in legal advice: measuring and costing quality in asylum work **Executive Summary**

Undertaken by the Information Centre about Asylum and Refugees on behalf of Refugee and Migrant Justice, in partnership with Asylum Aid and Immigration Advisory Service

Written by *Adeline Trude and Julie Gibbs*

Report by ICAR, City University, London
March 2010

The Baring Foundation





Report by ICAR, City University, London
March 2010

Executive summary

The quality of legal representation is of paramount importance to asylum seekers whose cases routinely raise issues of life and liberty. The literature review draws on existing evidence to identify the key elements of high quality legal representation in asylum work, drawing these together into a definition that will be used to identify how much high quality legal work costs to deliver.

Whilst it is clear that quality work costs, this review has found evidence that poor quality work costs much more in the longer term both to the public purse and in human terms to individual asylum applicants. The evidence suggests that the LSC's Graduated Fee Scheme (GFS) for legal aid work, combined with the low threshold level of quality at which legal aid providers can enter and operate in the UK market for asylum advice may generate short term savings but cost more in the long term.

All providers who reach a minimum level of quality are currently paid an identical fee under GFS, reducing the incentive to strive for high quality, in effect penalising those firms that do, and forcing the choice between financial survival and responsibility to their clients.

Overall findings of the project literature review

The evidence of this review highlighted three key elements of high quality legal representation. First, professionalism and expertise, which enables, for example, the representative to establish the full factual and evidential basis of the case at the earliest opportunity. Secondly, the quality of the one to one relationship between the representative and client. This helps establish the client's trust and confidence in the representative and encourages early disclosure of the full facts of the case. If a client is confident that the best case had been put forward, they are more likely to be confident in the outcome of the case. The third key element of quality legal representation is that the representative should have sufficient time to present the case and to meet the first two key elements.

The project definition of quality, set out at the end of this section, is derived from these three quality elements. The research demonstrates that adherence to the project definition of quality will improve outcomes for clients and result in more sustainable, cost effective decision making in asylum cases.

The literature review shows that the current fee structure does not offer any reward for quality, indeed it penalises it, while incentivising lower quality work. The levels of fixed fees in asylum and immigration work were set without reference to any reliable historical data, by the LSC's own account. They were intended to incentivise providers to provide best value for money and efficiency. Implicit in this is the fact that, as a result of greater efficiency income would be redistributed from representatives that took the most time per case to those that took the least time. Data from the evaluation of the Solihull Early Legal Advice Pilot shows a correlation between more time spent and better case outcomes. This suggests that, as funds are redistributed toward providers taking less time via the graduated fee, funding will be taken away from the representatives achieving the best results and given to those achieving the worst.

This effect is compounded by the fact that all providers who reach a threshold level of quality are currently paid an identical fixed fee under the GFS. This minimum level is set below the level for high quality asylum legal work as defined by this study.

Evidence shows that an early investment in higher quality may yield longer term savings. The evaluation of the Solihull Early Legal Advice Pilot ("the Solihull Pilot") on the frontloading of legal advice pointed to the potential for substantial cost savings to the public purse as a result of providing higher-than-threshold quality legal work paid at an hourly rate and provided early on in the asylum application process.

By applying the graduated fee, the Legal Services Commission aims to achieve value for money through efficiency gains, reducing time spent on each case and therefore costs. However, this underestimates the potential for high quality legal work to achieve longer term savings. Notably, the LSC has decided not to implement key quality assurance safeguards underpinning Lord Carter's recommendations for legal aid reform, and has not proceeded with its proposal to raise minimum acceptable quality standards. By Lord Carter's reasoning, in so doing it is pursuing a strategy which will put quality in the wider justice system at significant risk.

Despite this and the evidence from the Solihull Pilot, the LSC is pressing ahead with the tender for civil contracts for the next three years on the basis of the graduated fee, with the exception of the Midlands where the Solihull Pilot is being rolled out with initial payments on an hourly rate basis.

In so doing, an opportunity has been missed to delay tendering and gather reliable evidence on which to structure funding arrangements and determine appropriate fee levels. This risks perpetuating flaws in the funding regime that could cause real damage to the provision of quality advice and the cost effectiveness of legal aid.

Methods

The Cost of Quality research has been commissioned by Refugee and Migrant Justice, in partnership with Immigration Advisory Service and Asylum Aid. It is being carried out by the Information Centre for Asylum & Refugees, City University and is supported by The Baring Foundation. Guidance, support and advice is provided to the research project by a steering group with membership from The Law Society, Immigration Law Practitioners' Association, Ministry of Justice, Legal Services Commission, UK Border Agency, Law Centres Federation and AdviceUK. The overall aim of the research is to quantify the cost of providing quality legal advice to asylum applicants in the UK. This is to be achieved through the literature review, an analysis of the costs and quality of work of a number of legal aid providers in three regions of the UK and in-depth interviews with key stakeholders, including refugees and asylum decision makers. It reviews existing evidence from commentators on the likely impact of fixed fees on quality and demonstrates that current rates for the fixed fee were not based on evidence of actual costs to providers. It also examines evidence from the published evaluation of the Solihull Early Legal Advice Pilot.

The research is developing powerful new insights into the relationship between time, cost, and the quality of publicly funded asylum legal work from the perspective of those receiving, delivering, and funding advice. The final results of the research will be available in the first quarter of 2010.

Information for the literature review was drawn from various sources, including government departments and consultations, submissions by professional and representative bodies, academic literature and research by practitioners. The review also incorporates the findings of a series of interviews with refugees conducted by ICAR as part of the Cost of Quality research, which explored their experiences of quality representation.

The literature review provides both the theoretical and practice-informed background to the development of an asylum-specific file review grading scheme designed to determine the hourly rate cost of quality legal aid asylum work. This grading system draws heavily on the Legal Service Commission's Peer Review criteria. However, it has been informed by a wider perspective than that solely of the LSC and the suitability of a provider to hold a contract. Elements of the extensive literature review examining key stakeholder perspectives have been distilled to determine what are considered essential approaches and features of quality legal practice in asylum work.

The project file review grading system is entirely directed towards the purpose of the refugee status determination process, namely to ensure that the relevant facts, evidence, and argument are put before the decision-maker to enable the most accurate assessment of the need for international protection. The project's file grading scheme weights the evaluation of work shown in files towards what we describe as core quality factors, namely interviewing and advising clients, evidence gathering, reviewing evidence and decisions, and drafting of statements.

Under the current LSC Peer Review process time spent on a case is not measured. A key feature of the file review process for this research is that time spent, not only on the case in its entirety but on the different elements of the case, is measured. As a result the element of time can be isolated to enable statistical analysis at a later stage of the research, enabling researchers to analyse the correlation between time and quality and, ultimately, determine the cost of quality asylum legal work.

Detailed findings of the project literature review

Public Services Reform

Changes to the funding for legal aid should be seen against a backdrop of wider public service reforms which have sought to increase value for money by driving down costs and introducing greater competition. Since the late 1980s there has been an increased focus on the management of public services, and continual reforms characterized by:

- The opening up of public service provision to competition between agencies and not for profit bodies.
- Introduction of purchaser and provider distinction.
- Costs being attributed to outputs with outputs being measured by quantitative performance indicators.

The New Economics Foundation has criticised this model, claiming that it does not necessarily offer value for money or efficiency in the long term, particularly where the outputs rewarded are not related to outcomes of wider social value. Short term financial gains may translate into long term financial loss when the 'value' in 'value for money' is assessed in relation to society and the individual service user.

The Graduated Fixed Fee Scheme

The LSC's approach to the funding of legal representation under the GFS can be seen in this same broad context with its focus on efficiency and outputs as a means of securing value for money. The GFS was introduced in October 2007. The payment is given for a unit of advice rather than for quality of the work or outcomes which deliver sustainable decision-making: a client may receive a unit of advice but still not get their case resolved, creating wider social and financial costs.

The Ministry of Justice 'Study of Legal Advice at a Local Level' known as the Bach Review (June 2009), noted the intended benefits of the graduated fixed fee scheme, namely that it:

- Enables the budget for community legal advice to be controlled more effectively
- Creates better value for money by rewarding outputs (cases closed) rather than inputs (hours spent)
- Rewards efficient providers and forces inefficient providers either to change working practices or to exit the market
- Creates an incentive to get to the heart of a case and resolve it quickly, rather than allowing cases to remain open for extended periods.

The GFS transformed the existing funding arrangement under which legal representatives were paid an hourly rate for all work. The basis on which fixed fee levels were set for asylum and immigration legal aid work was much criticised because unlike other categories of law, the LSC did not base GFS levels of payment on reliable historical costs data. By its own account:

"The fees have not been predominantly based on historical case costs as per other schemes. Due to changes in legal aid in 2004/05 and again in 2005/06 we do not have reliable and complete historical average costs and in any event changes in processing mean that historical case costs are largely irrelevant" (LSC, 2006a: 2).

"...we do not have reliable historical data to calculate tailored fees in the immigration category; changing processes and changes in case-mix would in any case make historical data largely irrelevant" (LSC, 2006a: 5).

A crucial element of the GFS – the exceptional cases threshold – which allows providers to recover costs at an hourly rate if the time taken on a case exceeds a certain number of hours, was not modelled on immigration and asylum work:

“The modelling for the exceptional case threshold “was primarily undertaken for TFF [tailored fixed fee] providers, and does not include immigration and asylum cases” (LSC, 2006a: 3)

Commentators have also suggested that the GFS has enabled the LSC to reduce costs by transferring bureaucracy to representatives who are left with the increasingly complex task of managing a financially viable case mix. The trend for the LSC to pass costs on to representatives continues with, for example, the decision to outsource SQM audits and make representatives pay for them.

At the same time, hourly rate levels of payment have barely increased in 10 years, leaving representatives to absorb de-facto year-on-year cuts. The rate payable for Legal Help attendance and preparation in London since 2001 is £57.35 per hour. Had this payment been adjusted in line with the 24% increase in RPI during the intervening period, it would now be paid at £71.08 per hour.

Impact of fee levels on quality

The GFS was introduced in the face of widespread concern among professional and representative bodies and not-for-profit-agencies, with a large number believing the scheme would have an adverse impact on the quality of legal representation. There is no evidence that the GFS and the drive for increased organisational efficiency and measurement of management standards in preparation for best value tendering has both improved the value for money of legal work and positively affected outcomes for clients. Evidence from the project literature review suggests that the reverse may be the case.

Changes made by the LSC to asylum and immigration fees were modelled to be cost neutral against expected spend in 2007/08. The new funding regime was predicated on the theory that inefficient providers took more time per case, while efficient ones less time. It sought to reward efficiency by redistributing income from the former providers to the latter.

However, the findings from the Solihull Pilot suggest a relationship between higher success rates at the initial asylum decision and potential overall cost savings. The average cost for the pilot exceeded what advisers would have received had cases been funded by the equivalent fixed fee and the overall success rate for the pilot was higher than the national average. Data comparing the relative costs and performance of different providers taking part in the pilot shows that firms spending at or below the level of the graduated fixed fees under Solihull conditions were producing a lower overall success rate. Advisers who spent more time preparing a case achieved a better result for their client, but their costs per case were higher. Lower cost firms had much lower success rates. Firms charging less than they would have received had the case been funded by GFS achieved a success rate of 31%. Firms whose spend exceeded the level of the GFS for Legal Help had a success rate of 39%. The success rate of the Solihull Pilot firms that charged in excess of the average cost for the study was 44% compared with 31% for those that charged less.

On-going work in this project will provide an opportunity to validate data from the Solihull Pilot on cost and outcomes. A preliminary analysis of early results from the file review exercise shows a correlation between cost and quality. The forthcoming analysis of the LSC's data for cases closed since the commencement of the new funding regime will examine these matters further.

Evidence from the literature review shows that the GFS benefits legal representatives that spend less time on each case. Such representatives have no incentive to improve their success rates by spending more time on a case because this will simply reduce their financial reward. The LSC has put in place a contract provision to mitigate abuse of the GFS. Under 11 a paragraph 4 of the Unified Contract matter starts may be reduced if a representatives' average graduated fee margin exceeds 80% of the value of the work charged at an hourly rate. In effect, this provision gives suppliers undertaking the least amount of work up to 20% more income.

The evidence suggests that the GFS has the effect of penalising representatives who wish to achieve good results for their clients by compelling them to work more hours than will be recompensed, unless the case takes sufficiently long to attract an hourly rate. The intention of the LSC in introducing graduated fixed fees was to compel firms to work more efficiently or else “to exit the market” (Ministry of Justice, 2009: 45). There is evidence that some firms have indeed left asylum and immigration legal work, and that the full effect of the changes may not yet have been felt due to the long transitional provisions for the implementation of the GFS. The review found that four law centres had ceased work and that unrestricted reserves for remaining centres had been depleted by 70% since the introduction of the GFS.

The LSC committed to reviewing the impact of fixed fee arrangements in all areas of civil law. It undertook this review with a consultative group that included The Law Society and ILPA. Its report, published in April 2009, concluded that it was too soon after the implementation of the graduated fixed fee scheme to fully assess the financial impact on legal representatives, particularly for asylum and immigration cases, given the length of time it takes for those cases to complete.

Quality and value for money

An argument for a new model of funding representation in asylum cases, one which emphasized both value of money and the transformative dimension of quality legal work, emerged in the 1990s. The report “Providing Protection” (July 1997) argued that achieving efficiency savings could be made by frontloading resources for legal representation early on in asylum decision making while at the same time honouring due process. Prior to its replacement by the LSC, the Legal Aid Board was recommending to the Home Office that good quality immigration legal advice, available at the earliest opportunity, would be of benefit throughout the system to clients, to the Legal Aid Board, and to the Home Office (Legal Aid Board, 1999: 2)¹. The argument in favour of financial savings that can be achieved through frontloading has been revisited repeatedly in recent years, for example, by the Law Society, the Legal Action Group and ILPA.

The imperative to provide correct advice as early as possible when sought by a client is echoed by AdviceUK (2008)² in their report on the experiences of not-for-profit organisations that offer advice and representation. Many of these organisations have to manage increasing demand for their services caused by failings in public service provision and the increasing need to appeal decisions. Research by AdviceUK showed that

“much of that demand is ‘failure demand’ – work that should not need doing – caused by failings further back in the system of public administration. These failings are creating unnecessary work and costs within public services as well as in advice organisations” (AdviceUK, 2008: 3)

The Solihull Pilot has demonstrated the potential for significant whole-life savings in NASS, AIT and LSC costs up to completion of the first appeal stage, and the independent evaluation recommended further rollout testing. The interactive nature of the Solihull Pilot package was shown to enable greater engagement in the process by all parties, better overall client care, and more productive one-to-one relationships (Aspden, 2008).

Similar themes have been examined in a broader context by the New Economics Foundation. NEF argues for a model of commissioning and procuring public services that addresses the concept of Social Return on Investment (SROI). This enables decision-making on public services funding in a manner that understands ‘value’ in a broader sense than merely costs and price, and incorporates factors such as individual wellbeing.

The SROI approach extends the argument for frontloading resources in legal representation, the findings of the Solihull Pilot, and current high level interest in issues of wellbeing in public policy and practice. It would enable a monetary figure to be put on the value created by public funding for quality legal representation for asylum applicants, and by better asylum decision-making.

¹ Legal Aid Board, (1999), ‘Access to Quality Services in the Immigration Category, Exclusive Contracting. Recommendations to the Lord Chancellor’.

² AdviceUK, (2008), ‘It’s the System, Stupid! Radically Rethinking Advice’. The report focuses on the operations of the Department for Work and Pensions, HM Revenue and Customs and Housing Benefit Offices.

The LSC's approach to quality

The LSC's quality assurance approach comprises various tools, specifically: Peer Review, the Specialist Quality Mark (SQM), and the Accreditation system.

The LSC's peer review process is developed and managed independently by the Institute of Advanced Legal Studies. Peer reviews are conducted by experienced legal aid practitioners organised in peer review panels by category of law. Peer review measures and assures the quality of advice and representation of a firm or organisation. Not all firms are peer reviewed, the process generally being targeted on those considered to be high risk, (for example where quality profiles give cause for concern).

Following peer review, firms are given a competence rating, Level 1 being the highest and Level 5 the lowest. Level 3 is the minimum standard required for retaining a contract with the LSC.

Throughout the last decade peer review has increasingly been regarded as the best method of quality assurance. In 2005, the LSC described it as "the most accurate and fair assessment process that we have to determine the quality of legal advice work" (LSC 2005a: 5)

Lord Carter embraced peer review as a key quality assurance tool. He recommended an immediate national roll-out of peer review as part of the transition to best value tendering (along with tailored fixed fees), recognising the serious threat to quality posed by moving too quickly

"There is also a serious risk associated with quality; the roll out of peer review taking two to three years, quality assurance mechanisms could not be put in place in time, meaning contracts would need to be awarded on the basis of price and capacity only. There is also the potential for a significant negative impact on the wider justice system as quality is undermined and suppliers left in the legal aid market fail to perform effectively. This could have a particularly negative impact on the running of the courts."
(Lord Carter, 2006: 52)

All Lord Carter's proposals were therefore underpinned by a "strict quality threshold" (ibid: 56). Firms would have to be peer reviewed prior to the tendering of best value contracts and those not meeting the threshold would not be permitted to participate in the tender.

The LSC consulted on a proposal to raise the minimum quality threshold from Level 3 to Level 2. In December 2006, it issued a response to this consultation, noting "the overwhelming support for the use of peer review" (LSC, 2006d: 5) At the same time it published "Legal Aid Reform: The Way Ahead" LSC and DCA, 2006) confirming the plan to roll out peer review and a phased move to higher standards so that no best value contracts would be awarded to representatives assessed below level 2.

However, by the end of 2008, the LSC had decided not to pursue its plan to raise the minimum quality standard to Level 2 and in June 2009 announced that it no longer intended to roll out peer review, so that a peer review assessment at a minimum level would no longer be a pre-condition for tendering for best value contracts. In so doing, it has undermined a key pillar of Lord Carter's recommendations, giving rise by his reasoning to a significant risk to quality and the wider justice system.

The table below shows a comparison of the standard of legal work required at the minimum level required for providers to hold an LSC contract (Peer Review Level 3) with certain features identified in this literature review as essential components of high quality asylum legal work, some of which are required at the higher Peer Review Levels 1 & 2.

| Peer review level 3 | Elements of high quality legal work at peer review level 1 or level 2 |
|--|---|
| Requires only adequate advice and work | Requires the representative to tailor work to the individual client's circumstances |
| Provides that work done may not always be extensive | Requires the representative to establish the full and comprehensive evidential basis of a case at the earliest opportunity. |
| Does not require issues to be progressed comprehensively, appropriately, and efficiently | Requires issues to be progressed comprehensively, appropriately, and efficiently |
| Does not require that tactics and strategies are employed to achieve the best outcomes for clients | Requires the representative to employ tactics and strategies to ensure the best outcome to the case |
| It does not require the representative to add value to the case unlike Levels 1 and 2 | Requires the representative to add value to the case |
| Requires only "adequate but limited communication with the client". | Requires the representative to maintain an effective one-to-one relationship with the client |

The table shows that the requirements at Level 3 contrast markedly with the findings of this review, which offers evidence of the value to be gained in broader terms of working to the standards required at Levels 1 and 2. This value derives from potential cost savings and reductions in the human cost of poor legal representation in asylum cases.

The Bach Review

A MoJ review, chaired by Lord Bach, published a report on the impact of changes to the funding of civil legal advice in June 2009. The findings echo some of the concerns raised by the advice and not-for-profit sector. The report notes concerns about the perverse incentives created by the GFS, namely that representatives may be less willing to assist asylum seekers with more complex cases, and that it might disincentivise niche providers with a particular specialism in complex and therefore more time consuming and unprofitable work. It also acknowledged concerns that the funding structure may lead to the inappropriate paralegalisation of legally aided work in order to save money, affecting the quality of representation, and it recommends monitoring systems be put in place to examine this.

Key Elements of Quality

The evidence of this review suggests that the following elements are widely considered essential to asylum legal work if denial of justice to asylum seekers in the UK is to be avoided.

Professionalism and expertise

Many commentators cited in the review highlight the overriding requirement of representatives to comply with their professional obligations. ILPA has stated that high quality legal work is that which fulfills ethical requirements “the inability to fulfill which must lead us, in accordance with our professional obligations, to decline conduct of a case” (ILPA 2006:2). Professional standards must therefore be considered as a base-level minimum standard for legal work to be performed.

Bindman & Co have argued that “specialism reduces costs...it does so in positive ways through the identification of legal and evidential issues; the instruction of appropriate experts and advocates. It also does so in negative ways: avoiding delays in preparation and dissatisfaction leading to non co-operation” (Bindman & Co:3).

The project definition of quality in asylum legal work incorporates this element in the following phrase, that the representative, following professional standards **“identifies and gathers all relevant facts, evidence and argument in a timely manner and presents those to the decision maker in the best way” and uses “tactical judgement and explores every reasonable legal avenue”.**

Quality of One to One Relationships

The Effective Lawyer Communication Project (Glasgow Graduate School of Law and others, 2003) offered evidence that ‘rapport’ and ‘information exchange’ were highly valued by standardised clients, trainee lawyers and academic assessors alike.

The Council on Social Action (CoSA, 2008a and 2008b) has shown that

- Information exchange and continuity of relationships between client and advisor are the features of one-to-one relationships that most strongly effect transformation in people’s lives.
- The manner in which these key features are organised and delivered also contributes to successful outcomes. CoSA highlights the value of
 - Early intervention and prevention
 - Goal setting and a time frame (small incremental goals and identifying aspirations)
 - Minimal administrative burden

These findings are consistent with research carried out by ICAR as part of this project, which found that the nature of the one-to-one relationship with representatives was rated as important by asylum-seeking clients, along with four other aspects of legal work

- The **One to One Relationship** between client and representative involves factors such as trust, empathy, mutual respect, and the ability to deal with difficult emotions and situations.
- **Gathering and Presenting Evidence** is about listening to the client and taking all possible steps to present a strong case built on well researched evidence and the use of appropriate witnesses. Allowing the client to read and review their statement of evidence was also mentioned as an element of good quality legal work.
- **Case Management and Conduct of the Case** involves the timely submission of evidence and documents, good handling of appeals at court, regular follow-up with the Home Office, a proactive approach to the case, and the management of client expectations.

- **Communication** is a key area frequently mentioned by respondents. Professional and neutral interpreters were essential so that evidence could be passed to the representative. Clients expected the representative to have excellent listening skills, give their full attention to the client and use appropriate and positive body language.
- **Access** to the representative is an essential part of the process for clients. Representatives should be directly available or respond to clients within a reasonable time frame. Clients appreciated a range of means of contact such as telephone, e-mail and written correspondence as appropriate. Being able to provide timely appointments and not being kept waiting for appointments were also mentioned.

The project definition incorporates this element by stating that the representative should establish **“trust and confidence and a mutually respectful relationship with the client”**, a **“constructive relationship with the decision-maker,”** and ensure **“the client knows the best case has been put forward”**

Sufficient time

The most consistent theme arising from the project literature review is that sufficient time is critical to the ability of representatives to carry out high quality work. This view is shared by practitioners, their representative bodies, academics, parliamentarians, and not-for-profit organisations. It is also a critical factor emerging from research on client expectations by CoSA and, most recently, by ICAR as part of the Cost of Quality research.

This is reflected in the project definition of high quality in the statement that there will be time for **“thorough evidence gathering; exploring every legal avenue; effective communication with client”**

Project definition of high quality asylum legal work

The project definition of high quality is intended to capture the essence of the legal work required to optimise the process of status determination and the manner in which it is carried out from the point of view of the client, the legal representative, and the decision makers. The objective elements of the definition are capable of measurement and costing through a file review exercise.

Looking at a representative sample of cases, evidence of quality legal representation should be clear through success in outcomes, with quality legal representation delivering a higher level of positive outcomes than poor quality legal representation. However, in individual cases, outcomes could never be used as a measure of quality, because high quality legal representation may still result in a negative outcome for an individual client. So to measure the quality of legal representation in individual cases it is necessary to focus on outputs.

High quality legal representation is an essential ingredient for the delivery of justice in asylum cases because it helps the decision-maker to arrive at a sustainable decision. Poor quality representation which does not establish the full evidential basis of the case will often result in injustice in any decision making process. This is particularly true of asylum cases where late disclosure of evidence is frequently used as a reason for a negative decision. However, the quality of legal representation is not the only influence on justice. The broader determination process, which includes the skills of the decision-makers, is also important.

The project definition of quality is derived from the findings of the literature review which incorporates the views of representatives, asylum seekers and other stakeholders.

The definition of quality focuses on those matters within the legal representative's control, identifying key skills and actions needed to deliver the outputs identified at (a) to (c) below. The project file review exercise will examine the measurable aspects of the quality definition and identify how long these elements take, enabling a calculation of the hourly cost of high quality asylum legal work.

The Cost of Quality project definition of high quality asylum legal advice

Quality legal representation in asylum cases is provided when a representative, following professional standards and with sufficient efficiency, technical and personal skills, knowledge, judgment and experience:

- (a) Identifies and gathers all relevant facts, evidence and argument in a timely manner and presents those to the decision maker in the best way;
- (b) exercises tactical judgment and explores every reasonable legal avenue to ensure a full and fair hearing of the case;
- (c) ensures the client knows the best case has been put forward on their behalf consistent with the relevant legal framework.

To do this the representative must establish trust and confidence and a mutually respectful relationship with the client. The representative must also establish a constructive relationship with the decision maker so that the best case is made and the decision maker is able to make an accurate assessment of the case for international protection.

References

- AdviceUK (2008) *'It's the System, Stupid! Radically Rethinking Advice'*. Report of AdviceUK's RADICAL Advice Project 2007–2008. Advice UK, London
- Aspden, J. (2008) *'Evaluation of the Solihull Pilot for the United Kingdom Border Agency and the Legal Services Commission'*. The Stationery Office, London
- Baldaccini, A. (2004) *'Providing Protection in the 21st Century: Refugee Rights at the Heart of UK Asylum Policy'* Asylum Rights Campaign, London
- Bindman & Co Solicitors (2007) *'Representations on criminal legal aid: on niche/specialist work in the field of civil liberties'*. Unpublished Correspondence with the Legal Services Commission
- Council on Social Action (2008a) *'Side by side and Implications for Public Services'*. [CoSA paper 3](#). Community Links, London
- Council on Social Action (2008b) *'Side by Side: a report setting out the Council on Social Action's work on one-to-one'*. [CoSA Paper 2](#). Community Links, London
- Council on Social Action (2009) *'Time Well-Spent: The importance of the one-to-one relationship between advice workers and their clients'* [CoSA Paper 10](#). Community Links, London
- ILPA (2006) *'Response of the Immigration Law Practitioners' Association to the LSC / DCA consultation paper 'Legal Aid: a sustainable future'*. ILPA, London
- Legal Services Commission (2006a) response to a Freedom of Information Request made by ILPA. Reported in ILPA (2006) *'Response of the Immigration Law Practitioners' Association to the LSC / DCA consultation paper 'Legal Aid: a sustainable future'*. ILPA, London
- Legal Services Commission (2006b) *'Information for Applicants. New Asylum Model Early Legal Advice Pilot in Solihull.'* Legal Services Commission, London
- Legal Services Commission and Department for Constitutional Affairs (2006c) *'Legal Aid Reform: the way ahead'*. The Stationary Office, London.
- Legal Services Commission (2006d) *'Quality relationships delivering quality outcomes: The Preferred Supplier Scheme. Consultation Summary'*. Legal Services Commission, London. Retrieved from: http://www.legalservices.gov.uk/docs/consultations/Consultation_report_Final061130.pdf
- Lord Bach (2009) *'Legal Aid Reform Programme'*. Advice Services Alliance Conference, Euston, London.
- Lord Carter of Coles (2006) *'Lord Carter's Review of Legal Aid Procurement. Legal Aid: A market-based approach to reform.'* House of Lords, London
- New Economics Foundation (2009) *'A guide to social return on investment.'* New Economics Foundation, London Retrieved from: www.neweconomics.org/publications/a-guide-to-social-return-on-investment
- New Economics Foundation (2009) *'Measuring what matters: A guide to effective public policy making'*, New Economics Foundation, London

