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# Cost of Quality Legal Advice Refugee Interviews

This report details findings from 34 refugee interviews carried out by the Information Centre about Asylum and Refugees, City University, under Phase 1 of the wider Quality Legal Advice project. The project was commissioned by Refugee and Migrant Justice and funded by the Barings Foundation.

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Report by ICAR, City University, London  
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The Baring Foundation



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.

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 a 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.

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 second quarter of 2010.

This report details the results of in-depth interviews with 34 refugees.



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A description of the methodology and respondents is in Appendix 1.

# Summary

**Five areas of the asylum process have stood out through the interviews and form the basis of the key findings in this report.**

- 1. The One to One Relationship** with the representative involves factors such as trust, empathy, mutual respect and dealing with difficult emotions and situations.
- 2. Gathering and Presenting Evidence** is about listening to the client and taking all possible steps to presenting 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.
- 3. 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.
- 4. 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 (positive) body language.
- 5. Access** to the representative is also an essential part of the process for clients. Representatives should be directly available or respond to clients within a reasonable time frame. Clients also appreciated a range of means of contact such as telephone, e-mail and written correspondence where appropriate. Being able to provide early appointment dates and not being kept waiting for appointment were also mentioned.

Each area had a number of positive and negative aspects mentioned by clients as key factors in good or poor quality legal representation. These are not presented in order, they were all equally important to the respondents. There are a number of characteristics of both representatives and firms that combine to produce what clients see as high quality legal work and these straddle the five areas.

## Quality Characteristics identified by Refugees

### High quality representatives have the following characteristics;

- Excellent listening skills
- Empathy with the client
- Respect for the client
- A human approach
- Sufficient time to listen, gather evidence and explain the system
- Knowledge of how to handle the court systems and Home Office
- A proactive approach to the case
- Ability to manage the client's expectations
- Excellent communication skills
- Allow the client to review their evidence and make changes to their statement
- Engage with the evidence, and provide additional research and witnesses if needed
- Present the evidence in the best possible way

### In addition, high quality firms provide the following for their clients;

- Direct access to the representative or a fully briefed colleague
- Timely appointments
- Professional and neutral interpreters



# Key Findings

The majority of respondents had more than one legal representative in the course of their asylum claim, and accordingly a comparative element was often evident in the answers respondents provided to interview questions. The following key findings emerged from the analysis. Actual and ideal elements of legal representation that were identified by respondents have been considered together.

## 1. The One to One Relationship

Empathy and what was characterised as ‘a human approach’ to clients was widely mentioned as a positive aspect of working relationships between client and representative. A caring approach on the part of the representative was appreciated on an emotional level by respondents, many of whom had been traumatised by experiences in their home country and were being required to recall distressing events accurately and quickly, often via an interpreter. Respondents appreciated acknowledgement of their situation, including trauma, upheaval, and their ability to recount their story. A caring, empathetic approach allows clients to be able to relax and speak freely, with implications for the eventual accuracy of statements and issues of credibility. Respondent 7 said of her representative;

*“She was always welcoming. I could cry anytime and she would talk to me in such a way that at the end I would feel much better. She saw the distress I was in. The way she would really make me relax and talk things exactly as they are.” (R07)*

A productive working relationship also seems to emerge when representatives are able to offer **prolonged emotional support** to bolster the client throughout their claim. A supportive approach on the part of representatives, combined with careful management of expectations (see section 3) can contribute significantly to the ability of asylum seekers to feel able to continue with their case and exercise their rights.

*“Some of them [solicitors] are really interested and they’re encouraging you not to give up. They are telling me that I must fight this case because there is a fifty: fifty chance of winning it. If you go on you must keep fighting. I mean those are encouraging words which are really good... it just encourages you to go on.” (R22)*

Asylum seekers routinely have to deal with trauma, loss, and drastic change in their circumstances when they flee to the UK. Some respondents had spent up to ten years in the UK before they were given some form of leave to remain, and may have been required to revisit the details of their persecution repeatedly through various stages of their case. Many described ongoing poor mental health during their interviews for this research. Some respondents described how their representatives dealt well with their emotions and vulnerability, allowing them a **sense of release and freedom** in a safe, caring, respectful yet professional environment.

*“I have huge depression and my face is completely changed and I’m a different person, and as a result I’m under emotional and depression stress. They used to calm me down. They told me ‘just be calm, and just be patient we get the report from your doctor’. When I used to come here I used to have heartbeat, but when I leave here I used to be completely calm.” (R24)*

### Negative aspects

Lack of empathy and a disbelieving attitude on the part of representatives were reported by many respondents as being negative aspects of their experience of publicly funded legal representation.

*“If you don’t believe in the case then pass it on, don’t do it. Because it makes the asylum seeker feel uncomfortable. It’s bad enough being called dishonest and a liar by the Home Office and sometimes the judge. You don’t want people who are supposed to be on your side to be doubting you.” (R34)*

Lack of respect for clients was specifically mentioned by some respondents, but more widely manifests itself in other areas of the client/representative encounter such as poor body language, poor access to representatives, or representatives not responding to client calls.

Some respondents described instances of bullying, hostile, and threatening behaviour from their representatives. This sort of behaviour was commonly linked to a disbelieving or dismissive attitude, and to clients' attempts to complain about work done or challenge the conduct of their case. Respondents whose cases appear to have been mishandled (for example, representatives demanding payment for legal aid work, failing to submit documents or applications, or otherwise generating unnecessary delay in a case) appeared to be particularly subject to threatening behaviour if they attempted to question or complain.

*Because every time when you try he will say 'do you want to do my job now? What do you know about asylum, huh? I've been to court several times so you know what, you don't tell me anything, I will be telling you'. So yeah, he will be telling you 'you don't know anything. You just have to listen to me'." (R29)*

## 2. Gathering and presenting evidence

A large number of respondents mentioned the importance of having **sufficient time with their representative to allow for the full details of their claim to emerge** gradually, preferably over more than one session, and to allow for **adequate additional research and gathering of documentary evidence**. Good evidence gathering practice was also described as allowing sufficient time and funds for the translation of all relevant documentary evidence.

*"He called [to] Jamaica to get the MP, just to get proof to show the Home Office, and talk to the Amnesty to ...get proof to show. He said to me 'Regina, get your doctor's report from your doctor. My solicitor said let's go on the internet and he go and search and searching he found something that was going on in Jamaica that would help towards the case.'" (R18)*

Respondents may not be in a position to evaluate the strength of legal argument in the case their representative prepared for them, but they have views on whether or not it appeared that their representative had made a **strong presentation of the evidence**.

*"[he] searched all the possible way to present the case: witnesses, expert reports, reports from international organisations, putting things in order in my statement" (R03)*

An important role for the representative is to **clarify and corroborate the client's story and evidence**, and carry out further research to present with the case, either at first decision or more likely at appeal stage. When this is done it can serve to bolster the credibility of the asylum applicant. Some of the respondents who felt their representatives had done a good job of evidence gathering were surprised at how much extra research had been done on their behalf, including the uncovering of information they themselves were unaware of.

Respondents noted that **client review of evidence** before submission should be allowed in order to edit out translation errors and other discrepancies, as later attempts to correct errors could undermine their credibility. Where solicitors appeared to adopt a 'cut-and-paste' approach to client statements this safety check was especially vital. A pre-submission check of evidence by clients was also vital to ensure that clients were aware of new information prior to a hearing; one respondent was unable to corroborate evidence presented on his behalf in court and felt it may have harmed his case. Respondent 8 compared his first and second solicitor's approaches to evidence;

*"My first solicitor did not research, did not care to find out what I was saying. All they were doing was to say that 'this is what my client presented, according him he said this'. So the second solicitor would say that 'according to publicly available information on this issue, this is what it is, and this is what the law said about it'. He also researched to confirm that what I said was OK, the correct thing. So when he was doing it he was... saying from a position of authority that 'this is what it is' and so on, whereby the other solicitor would say 'my client said...'" (R08)*

### Negative aspects

Where suggestions were made to clients that **evidence be fabricated** or certain facts of the case changed, this was especially disturbing to some respondents, for whom the truth of their story was paramount. This practice had a corrosive effect on client trust in representatives, and respondents were aware of how easily their fragile credibility could be destroyed. Similarly, **disregarding what the client saw as relevant evidence**, or **delaying the deployment of evidence until appeal** were tactics that worried respondents.

*"He kept telling me 'don't tell the Home Office everything, leave it for the court'. I gave him everything, my father's death report, and asked him please give this to the Home Office so they know. But he said 'no, leave it until after the interview'." (R02)*

*"Sometimes I would come up with a point that I would like him to put on my statement but he would just brush it away and say 'oh, this is not going to help you, you just forget about that one'." (R22)*

Weak presentation of evidence in the case was also an issue of concern, often linked to time pressures;

*"With my first witness statement it was about the whole story but there was a weak point: there was no obvious relationship between my statement and the evidence I submitted. If me and my legal rep had enough time maybe my witness statement would've been better." (R03)*

Several respondents reported that their representatives had carried out what they felt was **an insufficient amount of research or evidence gathering**. This may be related to having insufficient time to spend with each client and high caseloads, but also speaks to carelessness and a lack of thoroughness and rigor.

*"He should as well try to research as much as he can, not just to sort of scratch on the surface and that's it. He should really get right down to the roots of the problem and everything." (R29)*

### 3. Case management & conduct of the case

Quality case management is about the representative **handling the client's expectations** of their outcome as well as **working hard for the client**. When handled correctly, a client will leave the system (whatever the outcome) feeling that the representative did everything they could to manage the case with the interests of the client at the heart of the process. Respondents appreciated a sense that the representative had explored every possibility in their case, expressed as **'working hard'** or **'doing their best'** for the client. Respondent 1 explains;

*"Hard working means searching all the possible ways to present the case: witnesses, expert reports, reports from international organisations, putting things in order in my statement." (R01)*

**'Thoroughness'** and the more general descriptor of **'professional'** were closely linked to this notion. Respondent 8, for example noted that;

*"Even though he didn't know me ... he was bent on doing what he should do as a professional lawyer, as a professional solicitor, which is to focus on interpreting the way the law is. He was not looking at my face, how I looked like, he was looking at the facts before him, the evidence before him, and he was mindful of his duty. He was not looking for maybe money, he was just there to do his work, and he did it irrespective of whether he favoured me or not. He was neutral, he was meticulous in the facts presented from my side and the argument of the Home Office." (R08)*

The careful **management of client expectations** was highly appreciated by clients. Good quality representatives provided a realistic picture of the chances of success in their case, and did not raise false hopes. Management of expectations involves offering emotional support within professional boundaries, and 'telling the truth'.

*"When I went to Mr W he was... he said I cannot promise you anything. At the end of the day is Home Office decision, but he was really supportive." (R04)*

*"He told me we should be ready for everything but at the same time we should know that we are doing everything and not leaving anything. Those are some of the facts that I appreciated very much." (R24)*

Representatives who take a **proactive approach** and explore all possible legal routes were appreciated by respondents, most notably those who had been involved with other solicitors who had taken a more reactive approach to their case, and with whom months or even years went by without any apparent progress on their asylum case. Clients appreciated **routine and timely updates from their representative**, including notification of changes in personnel at new stages of their case or during holiday periods, and the provision of copies of correspondence and other documents. For example respondent 23 stated:

*"There was a system of some continuity whereby there was one individual who was handling my case but he had assistants who know so much...Even if he was to go away he would let me know by letter that between this date and this date I am not going to be there but this person is there if for any reason you have to contact this person" (R23)*

Many respondents described how they appreciated a sense that they were **working in partnership with their representative**, expressed as the representative showing **respect** for the client and their knowledge of the case.

*"He gave me the chance to be actively involved in the representation. I didn't participate but he was always wanting to know what I thought, even if they take a decision in my absence they will always tell me we want you to read it and tell us if wherever correction you need to make or tell us what you think about it and we go ahead. If we don't hear from you within so and so we will assume that everything is OK and we'll send it off". (R08)*

### Negative aspects

Among refugee respondents there was widespread comment on the **insufficient time** available to representatives and caseloads that appeared too large for individual practitioners to service and manage well. The effects of a lack of sufficient time are profound. Some respondents had been hurried through their statement by their representatives, encouraged to give only summaries of their case in the first instance. In the case of one respondent this had reportedly led directly to a refusal from the Home Office;

*"Time was too short. I had one and a half to two hours to make the statement without having the chance to make any correction. The solicitor said I was taking a lot of her time because my story was very long. I didn't have time to tell the whole story. She told me to give a summary, not the whole story. So the next day I was interviewed by a caseworker who asked detailed questions. When I answered the questions he asked why I hadn't given those answers in the statement. I told him the solicitor and asked for a summary, not detailed information. So two weeks after I got a refusal statement and one ground for refusal was that when I told the truth, the Home Office caseworker said it was false because it wasn't in my original statement." (R09).*

A sense that the caseload for the representative was too large is clearly linked to perceptions of a shortage of time.

A **reactive approach**, the feeling that the representative was **doing insufficient work** (especially on the statement) and leaving the **burden of work for the client** were frequently mentioned. Often these factors resulted in a 'thin' or inadequate statement. For some, this reactive approach meant an apparent lack of follow-up with the Home Office, whilst other clients reported that taking the full details of their claim appeared to be automatically deferred until appeal.

*"I gave him the full story and he kept telling me 'let's make it for after the appeal'. I said which appeal? He said let's take it to the court. I said why? My case is straightforward. Why take it up to an appeal? I want to take it to the interview. My case is true; they can find the records in the United Nations." (R02).*

Some respondents were disturbed to find that their representative appeared not to care that success or failure in an asylum claim might be a matter of life and death to an asylum applicant. A **casual attitude to the facts of a case** and the implications for the life of the applicant is a matter of deep concern to applicants. Respondent 9 stated;



*"We are fighting for our lives but they don't feel that effect their actions can have, even on one's life. That's what upsets me – when people act unprofessionally. We [asylum seekers] can't take any action, we are at their mercy. With my second solicitor they got the full facts to a certain extent. I later changed because he was not giving importance to the case, meaning he can't represent me. For me refusal is death sentence, but representatives don't feel like that." (R09)*

**Poor handling of court or Asylum & Immigration Tribunal hearings** was also an issue for respondents. This includes inadequate briefing of the client, poor presentation of the bundle, failure to attend a hearing, and what clients perceived as poor or inexperienced performance in court, including failure to challenge sufficiently.

**Incompetent or actively harmful advice** and general **carelessness** in work were together mentioned 11 times. The consequences or potential consequences for clients included homelessness, exacerbation of medical conditions, ongoing presence in the UK without permission (overstaying), missed court appearances, and loss of evidence.

## 4. Communication

By far the most important positive aspect of personal communication with the legal representative for those respondents interviewed was a sense that the representative was properly listening to the client. Giving the impression of attentive and active **listening to a client** is related to a representative having sufficient time (see section 3) and giving their undivided attention, but beyond that is also a personal skill or attribute. Respondent 8 stated that his representative;

*"has something that, maybe something that comes from a quality that is innate in him. He tried to listen to his client, what they're saying, where they're coming from. He was also professional." (R08)*

Good listening combined with appropriate questioning enables the representative to correctly interpret the client's situation and produce an accurate and tailored statement. Good listening also demonstrates respect and care for the client and their situation.

*"[Respect] means listen to that person, be a good listener. I would say in communication, how do I explain it? In communication not written, not verbal, but..." (R05)*

Positive body language similarly acts to demonstrate respect and openness on the part of the representative and further encourage discussion.

*"To me body language carries 75-80% of communication. The body language you give to people shows respect." (R05)*

### Negative aspects

**Lack of listening** to the client was mentioned in connection with insufficient time available with the representative and feeling of being hurried to give information for a statement. An **unpleasant, disbelieving or threatening manner** was reported by some respondents who expected their representatives to be 'on their side'.

*"The difficult part is that she was lashing at me. I would say that if she was somebody working for the Home Office I would understand, but I would have expected her to be on my side as she was representing me but she wasn't on my side at all. She was calling me a liar, asking me questions, when I tried to answer her before I had even opened my mouth she was calling me a liar, no evidence, no photographs, all that stuff...I was really down. I felt like saying to her 'just stop here, whatever happens will happen'." (R34)*

As facilitators of personal communication with representatives, interpreters play a significant role in the encounter between client and representative. Some respondents reported that they had been provided with interpreters unable to speak the correct dialect. Some respondents reported **unprofessional behaviour on the part of interpreters** who revealed opposing political viewpoints, harangued clients during or after meetings, failed to interpret all details of a story, and even demanded money from the client.

*"One of the interpreter I remember he was different political group and he was, even he didn't interpret my problem, he was arguing with me saying 'why did you destroy our agency, and I start arguing with him.'" (R13)*

*"The first time we can't speak English and we need interpreter. She bring interpreter, she not speak our [language] very well. One time he brings a girl, very sick, she says she has a flu and every time she take a rest... We don't understand everything, she sleep in the interview and she not translate everything." (R14)*

Some respondents therefore felt that interpreters held more power over their case than their representative, and that representatives had ceded control of the information flow to the interpreter.

## 5. Access

Respondents needed to feel that the **lines of contact with their representative were open** and that if they needed information or advice they could access the right person within a reasonable period of time. Respondents expected that good quality legal representation would involve taking and returning calls from clients, and using a range of appropriate forms of communication in order to optimise **information flow and exchange**, and minimise delays. This positive aspect of legal representation is related to but distinct from the provision of routine and timely updates on the case (see section 3). Ideally contact with the representative should be regular and informal.

*"When I called she would return my calls, she wouldn't ignore me, and she would listen to everything I had to say. She had a very good communication skills and she was just warm, warm generally and caring. And I needed that. I was really scared." (R34)*

*"I'd like to emphasise regular contact. I mean we don't have a formal way to contact each other, it's not about sending a letter, setting up a formal appointment. If some point needs to be explained now, my legal rep just calls me or emails me. I told her I communicate better by e-mail, I take my time to put my answers and it's good for my English. This point [communication] was really really crucial." (R02)*

### Negative aspects

In line with the above, the most significant negative aspect of contact with and access to a legal representative was the **inability of firms and representatives to either take phone calls from their clients, return phone calls at all, or return calls within a reasonable time**. Respondents describe endless unanswered phone calls. Long waits of several hours for a booked appointment were also mentioned. In addition to the personal frustration this lack of access clearly generates, additional delays are introduced into cases each time the flow of information is blocked through poor access to representatives.

Some respondents had great difficulty being **able to speak directly to or meet with their representative**. Some were passed to paralegals or secretaries who took the details of their case for their statement, such as respondent 24;

*"I was seeing his secretary called Mary, and she was telling me 'take away this part it's not good, take away that part, we haven't got the opportunity to translate all of this'. I have never seen my solicitor, not even once." (R24)*

The **absence of weekend or out-of-hours access** to advice for use in an emergency (for example if detained) was also felt to be a weakness in the service provision by some respondents.

# Appendix 1: Methodology

## Respondents

Respondents were recruited in three ways;

- Refugee support agencies and community organisations known to ICAR (17),
- Refugee & Migrant Justice (11 former clients) and
- Immigration Advisory Service (6 former clients).

Respondents had arrived in the UK within the last ten years (i.e. since January 1999), and had been granted refugee status or Humanitarian Protection or Discretionary Leave to Remain within the last two years. Seven respondents (20%) had received refugee status at first decision stage, and a further four respondents were successful under the legacy programme having been refused at first decision. Twenty respondents had received some form of leave to remain on successfully appealing a first refusal. One respondent had been successful at first decision in a fresh claim, and two respondents had fresh claims outstanding. Two of the respondents interviewed had their initial asylum application considered under the Detained Fast Track and their case later continued out of detention.

Respondents were from a range of countries: Afghanistan, Burundi, Cameroon, China (2), Cote D'Ivoire, Democratic Republic of Congo, Eritrea, Ethiopia (4), Iran (6), Iraq (3), Jamaica, Kuwait, Malawi, Nigeria, Somalia (2), Turkey and Zimbabwe (5).

All respondents were over twenty years old. Twenty seven were living in London, seven outside London. Twelve were women, twenty two were men. Respondents presented with a range of types of asylum application (e.g. single person application, family application, port application, in country application and so on). Half of the respondents (17) had used more than one legal advice firm or organisation during the course of their asylum claim.

## Interviews

Where possible interviews were carried out face to face by a member of the ICAR research team in a location suitable for research interviews and convenient to the respondent. Seven interviews were carried out by telephone. Respondents were given a £20 voucher in appreciation of their time.

Interviews were tape recorded where allowed or noted where the respondent did not want to be recorded. They were then transcribed by the research team.

## Analysis

Data was entered into NVIVO and a process of inductive coding was used, drawing themes out of the data.

## Ethics

The research was granted clearance by the City University Research Ethics Committee.



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