

Providing Legal Advice to Destitute Asylum Seekers who have Exhausted Appeal Rights



Evaluation of the Hope Projects (West Midlands) Legal Service:
Report 1, December 2021

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Executive Summary

This report presents the findings of the first phase of evaluation of the Hope Projects (West Midlands) Ltd. legal advice service, conducted by staff from Nottingham Trent University. It draws on a review of the academic literature, 28 interviews with clients, 26 responses by clients to a satisfaction and outcomes survey, analysis of a sample of 9 client care letters, 8 stakeholder interviews (a mixture of Hope staff, trustees, volunteers and partners), and a focus group attended by 2 clients.¹ Summary findings are outlined below, organised against each of the evaluation questions, and expanded on in the main body of this report.

The challenge of advice provision

The provision of legal advice to refused asylum seekers has significant challenges, both in terms of the complex needs of the clients and the legal process itself. The Solicitors Regulation Authority has previously identified worrying examples of legal practice including irregular and inadequate training, poor legal knowledge, lack of suitably competent interpreters and poor interview technique. They also reported evidence of some solicitors deliberately overcharging or confusing fee-paying clients.

Austerity policies have inevitably resulted in a significant reduction in free legal services offered by not-for-profit organisations. Changes to legal aid following the Legal Aid Sentencing and Punishment of Offenders Act 2012 have left many vulnerable clients unable to access high quality private advice. Whilst Staffordshire and West Midlands reportedly have 36 legal aid immigration providers, this does not mean that the firms have capacity to take new clients and the recent increase of arrivals to the region puts further strain on current provision.

At the same time, the immigration rules are incredibly complex and inaccessible without this specialist, professional advice. Even experienced judges report that they are struggling to interpret and apply the provisions.²

Refusals based on credibility are particularly difficult for clients to accept. Official transcripts of interviews can be far from accurate as they have been subject to repeat edit and summary by interpreters, transcribers, and caseworkers. Legal providers need to have the time and resources to unpick the case, including any previous legal advice, and explain it for the client. Clients need to know what they need and why before they attend a solicitor's appointment. Most further submissions depend on this evidence.

Lengthy delays in the asylum process contribute to destitution and susceptibility to exploitation. Refused asylum seekers are vulnerable to exploitation as they may have no income or accommodation and are fearful of asserting their rights. Delay also prevents recovery and can impact on the ability to recall events accurately and consistently, which can in turn undermine credibility. These factors represent particular challenges for legal advisors

¹ Some clients will have contributed through more than one of these formats, while some may have only contributed through one, for example giving an interview but not completing the survey.

² McKinney, CJ Tribunal judge publicly criticises Home Office presenting officers, 8th Nov 2017 Free Movement

who will first need to build trust, potentially following a client's experience of previous legal advice which might have been poor, so that they can provide the best possible service.

Summary of evaluation findings on the Hope Project legal service

- *Progressing the legal case:* In the client survey: 46% of respondents said Hope had helped them secure legal representation; 27% said they had made further submissions since coming to Hope; 12% said they now have leave to remain in the UK. This needs to be seen in the context that this initial round of participants had only signed up with the Hope legal service between 2 and 12 months previously. In interviews many clients expressed increased confidence in the likelihood of their case being successful since coming to Hope.
- *Promoting clients' understanding of their legal case:* Most clients who were included in the review of client care letters showed an understanding of the broad legal issues concerning their case, but for many it was not clear that they understood exactly what evidence they would need to submit. They also did not distinguish between further submissions and fresh claims, although this is understandable as they are formal legal terms that are typically used interchangeably. Client care letters were found to be written to a high standard, but in a format that might not be easily understandable by all clients. The distinctions between legal issues, evidential issues, and questions of fairness, were common points of confusion.
- *Improving clients' material circumstances:* 84% of survey respondents reported an improvement to their housing situation and 64% reported an improvement to their income since coming into contact with Hope, although the special measures introduced during the pandemic makes it more difficult to assess the cause of such improvements or how indicative they might be of what will happen in later years of the project. When asked about material circumstances clients generally referred to direct provision of housing or financial support by Hope or other third sector organisations, and this was widely valued. Some clients appeared confused about which organisation was providing what support. Some clients saw a move into Home Office accommodation negatively, in some cases due to its perceived poor quality and in some cases because moving out of Hope housing was associated with reduced contact with Hope more generally.
- *Clients' experiences:* A large majority of survey respondents (69%) reported being very happy about the service they have received from the Hope legal service, 19% being somewhat happy, and 8% (two individuals out of 26) reporting being very unhappy. This was consistent with interviews. Frequent themes in clients' positive comments about Hope included being listened to or having somebody check in with them and show they cared, the sense that Hope were now 'handling' their case (and consequent relief and increased confidence that their claim would be accepted), and an immediate improvement in their material circumstances, most frequently due to provision of housing. There were some indications of clients feeling they were undeserving and consequently lacking confidence to seek support.

Good practice in the provision of high-quality advice

Successful outcomes alone cannot be a measure of quality in individual cases as good advice and representation can still result in a negative outcome. The client's perception that the legal process has been fair has been shown to be extremely important to self-worth and esteem. It can also help clients to accept difficult outcomes. In an asylum process defined by a hostile environment where decision-making occurs in a culture of disbelief, the refused client will understandably view the process as unfair. Nevertheless, interventions by Hope which strength procedural fairness may help individuals' come to terms with negative outcomes and take ownership of their case, empowering them to make difficult choices. Enabling the client to have voice by listening without interruption is an example of a simple technique that can build trust and empower the client.

Although the Hope legal team does not represent most of its clients before tribunals, the principles provided by Trude and Gibbs³ can offer a useful guide for assessing the quality of asylum seeker representation and we have applied these to Hope's services. With reference to these principles, in summary it is evident from the data we have gathered that Hope are identifying and gathering relevant facts, evidence and argument that the client can then take forward to a legal representative. The case facts and history of previous refusals have been unpicked to provide coherent, balanced advice that addresses the strengths of the case and areas of weakness. Importantly, clients appear to trust the advice they have received from Hope which stands in contrast to some of their previous experiences.

That said, many clients do not yet appear to be fully in control of their case, in the sense that their articulation of the legal position and related options is generally quite poor. Recommendations to address this aspect of Hope's work based on Trude and Gibbs criteria can be found at page 34, followed by recommendations for the UK government and the next stage of the evaluation.

³ Outlined on page 33 of this report.

A. Introduction

Hope Projects (West Midlands) Ltd. (referred to hereafter as Hope) launched its legal service for destitute asylum seekers in June 2020, with funding for five years from The Oak Foundation. The legal service is delivered by two paid advisors qualified to OISC Level 3 and supported by volunteers, some of whom have extensive legal experience and qualifications. This represented an expansion of previous legal advice provided by Hope alongside its housing and destitution fund.

A team from Nottingham Trent University commenced an evaluation of this service, commissioned by Hope, beginning in January 2021. The evaluation has been supported by an Advisory Board made up of Hope staff, a Hope trustee, two Hope clients, a Hope volunteer, and a range of Hope partners.

This report presents findings from the first phase of that evaluation, drawing on a literature review, survey responses from 26 clients, in-depth qualitative interviews with 28 clients, a documentary case review of 9 clients, and in-depth interviews with 8 Hope staff, volunteers, trustees and partners. Initial findings were presented for discussion and feedback at a meeting of the Advisory Board in September 2021 and a focus group of two clients in November 2021, and a draft of this report was discussed with the Advisory Board in December 2021; the points raised at these meetings were used to fine tune the presentation of this report although the responsibility for any limitations of course lies with the authors.

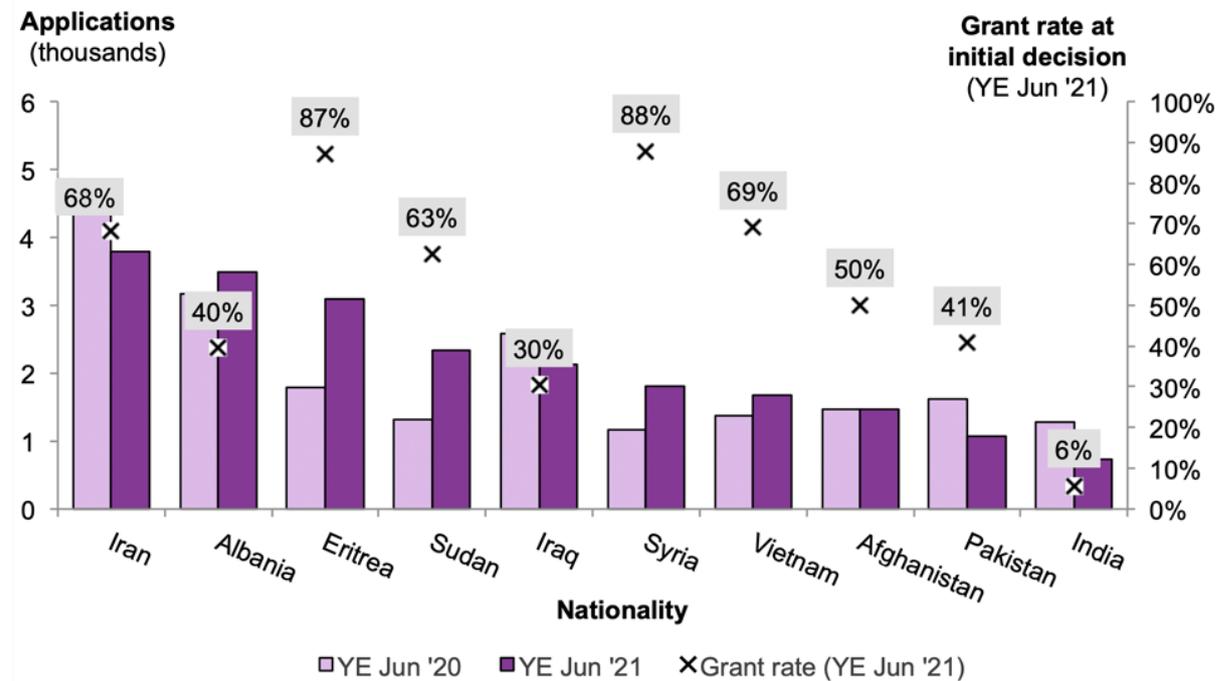
A1. Background

The target client group for the Hope legal service are destitute asylum seekers who have exhausted all rights of appeal, with the aim of supporting them overturning flawed refusals and preventing destitution, in many cases by supporting clients to make further submissions in their asylum case. As context to the work of the legal service it is therefore helpful to review aspects of the legal process and patterns of decision making.

Grant rate, Asylum Statistics 2021

In the year ending March 2021, for the UK as a whole there were 12,968 initial decisions made on asylum applications, and almost half (48%) of these were grants of asylum, humanitarian protection or alternative forms of leave (such as discretionary leave or UASC leave), slightly lower than the previous year (54%), but higher than levels prior to 2019 when around a third of initial decisions were grants. The overall grant rate can vary for a number of reasons, including the protection needs of those who claim asylum in the UK, along with operational or policy decisions. Some initial decisions (mainly, but not entirely, refusals) will go on to be appealed. There were 3,663 appeals lodged on initial decisions in the year ending March 2021, of the appeals resolved over the period, 47% were allowed (meaning the applicant successfully overturned the initial decision).

Figure 1: Top 10 nationalities claiming asylum in the UK and grant rate² at initial decision (%), years ending June 2020 and June 2021



The nationalities of refused asylum seekers – Hope’s primary client group – will not easily map onto this graph as most clients will have been in the UK for several years and are more likely to come from countries with a lower initial recognition rate. There may also be some regional differences – for the West Midlands, where Hope is based and the majority of its clients are resident, the top five countries of origin receiving Section 95 support in 2020-21 were Iraq, Iran, Albania, Pakistan and Eritrea. It should be noted here that this gives only an indirect indication of the nationalities of Hope’s client group because many Hope clients are not entitled to Section 95 support.

The Home office does not publish the number of fresh claims but in answer to a parliamentary question the Minister Chris Philip stated that in 2020, 7,341 further submissions were made in support of fresh claims. Only a small number will be treated as fresh claims. A Freedom of Information request submitted by the Director of the Hope Project found a large number of these further submissions led to a grant of asylum or some other form of leave to remain, outlined in Table 1.

Table 1: Number of people granted asylum or other form of leave to remain having been previously refused asylum⁴

| Year | Number of People |
|-----------------|------------------|
| 2015 | 1,522 |
| 2016 | 1,614 |
| 2017 | 2,112 |
| 2018 | 2,717 |
| 2019 | 3,942 |
| 2020 (Jan-Sept) | 2,244 |
| Total | 14,151 |

That so many people are initially refused asylum but later have a claim upheld following a further submission demonstrates the importance of allowing further submissions to ensure a just handling of claims. Furthermore, it indicates the level of need for organisations like Hope, to ensure that people are given the support they need to access this part of the asylum process.

Delay

Following an FOI request in 2021 the Refugee Council⁵ reported that the number of people waiting a year for an initial decision had increased almost tenfold over the last ten years, from 3,588 in 2010 to 33,016 in 2020. More than 250 people had been waiting for 5 years or more for an initial decision on their case, of whom 55 were children. Their analysis finds that the average waiting time for an initial decision on an asylum case is likely to be between one and three years.

Immigration Rules

353. When a human rights or asylum claim has been refused or withdrawn or treated as withdrawn under paragraph 333C of these Rules and any appeal relating to that claim is no longer pending, the decision maker will consider any further submissions and, if rejected, will then determine whether they amount to a fresh claim.

The submissions will amount to a fresh claim if they are significantly different from the material that has previously been considered.

The submissions will only be significantly different if the content:

- (i) **had not already been considered;** and
- (ii) **taken together with the previously considered material, created a realistic prospect of success, notwithstanding its rejection.**

⁴ <https://darkenedroomweb.wordpress.com/2021/05/04/justice/>

⁵ *Living In Limbo. A Decade Of Delays In The UK Asylum System*, Refugee Council 2020.

<https://refugeecouncil.org.uk/information/resources/living-in-limbo-a-decade-of-delays-in-the-uk-asylum-system-july-2021/>

If further submissions are rejected and there is no fresh claim the refusal decision can only be challenged by judicial review. Further submissions must be delivered in person to Liverpool FSU with a specific appointment unless there are exceptional circumstances. Applicants should be eligible for s.4 support, but this may be delayed leaving many refused asylum seekers destitute and unable to access justice.

In 2020 it was reported that the number of further submissions had plunged when rules were changed to require in person appointments.⁶ Due to Covid-19 submissions have been made by email or post in the last year, it is unclear whether this arrangement will continue.

A2. Challenges of advice provision

Immigration status is a passport to other essential services including non-emergency health care, bank accounts, employment, rented accommodation, driving licences and welfare benefits. Refused asylum seekers typically have precarious and insecure lives, finding themselves bounced between agencies in an effort to find the right to support to resolve their uncertain legal status. They may have told their stories multiple times to different actors, but they are unlikely to feel that they have been heard.

Providing legal advice to refused asylum seekers has a number of challenges both in terms of the particular client group and the legal process itself. In a report published in 2016, the Solicitors Regulation Authority (SRA) identified several factors, discussed below, that make it difficult for asylum seeking clients to access high quality representation in the UK.⁷ The SRA also revealed some worrying examples of poor practice, including: irregular and inadequate training, poor legal knowledge, lack of suitably competent interpreters and poor interview technique. They also reported evidence of some solicitors deliberately overcharging or confusing fee-paying clients.

Understanding the legal process

This stems from unfamiliarity with the British legal system and personal factors associated with arriving in a new country as well as additional barriers such as bereavement, mental health difficulties and understanding the language. The SRA expected that legal representatives would recognise this and “adequately explain the process in a way asylum seekers can understand”. However, the report found that asylum seekers were experiencing difficulties in getting these basic explanations of the process from their representative.

Legal aid and capacity

There are several explanations for this deficiency. Legal aid fixed fees are inadequate to cover providers for the work they undertake in all but the most straightforward cases. Jo Wilding has studied the provision of immigration legal advice by private providers since reforms to

⁶ The Independent 15th April 2020 <https://www.independent.co.uk/news/uk/home-news/asylum-seeker-claims-home-office-journey-miles-uk-charities-a8881481.html>

⁷ Solicitors Regulation Authority Quality of Legal Services for Asylum Seekers 2016, page. 3
Available at: <https://www.sra.org.uk/globalassets/documents/sra/research/asylum-report.pdf?version=4a1ab3>

legal aid were introduced in the Legal Aid Sentencing and Punishment of Offenders Act 2012 and concludes that there is “complete market failure”.⁸ This means that for many clients, legal advice was neither affordable nor accessible. Reductions in fixed fees for legal aid work meant that it was not profitable to offer legal aid work. Thus, the number of firms providing immigration and asylum legal aided work has decreased whilst the remaining system experiences significant capacity issues. It is not uncommon for clients to visit several solicitors and be turned away due to capacity. One provider interviewed by Wilding reported turning away hundreds of clients. There are twenty-six local authorities that receive dispersed asylum seekers but have no local free legal advice provision. Whilst Staffordshire and West Midlands reportedly have 36 legal aid immigration providers, this does not mean that the firms have capacity to take new clients.⁹

In September 2021, seven councils in the West Midlands, where Hope is based, commenced legal action against the Home Office and refused to accept more dispersed asylum seekers.¹⁰ Their complaint notes that the region now accepts 13.35% of new arrivals (up from 11.86% in 2019) and argues that there is insufficient available accommodation and resources to provide adequate support.¹¹

Refugee Action and the No Accommodation Network surveyed 92 organisations working with asylum seekers in 2018 and reported that 87% of respondents now found it more difficult to refer people to legal aid solicitors when compared to 2012.¹² Respondents noted that they would often need to collect evidence for clients to help secure a solicitor. In several regions of the West Midlands, there was a potential deficit of several hundred matter starts (the legal term for availability to take new legal aid clients).¹³ This research was undertaken before the recent increase in arrivals, so the strain is likely to be more apparent today.

This shortage of advice capacity is obviously bad news for clients and the not for profit (NFP) sector who are attempting to fill the gap but, as Wilding notes,

“the level of demand, plus limits on capacity in high-quality providers, mean that poor-quality suppliers are virtually assured of a supply of clients who are unable to move elsewhere once their case is taken on. Far from ensuring quality, the market as currently structured actively protects the market position of poor-quality suppliers”¹⁴.

Wilding argues the current situation results in a ‘lemon market’ in which the ‘seller’ is most rewarded for providing a below-average-quality service and is likely to incur financial losses when providing a better-than-average service. The consequence is that high-quality supply is reduced, while poor-quality supply is largely maintained or increased.

⁸ Wilding, Jo *Droughts and Deserts. A report on the immigration legal aid market 2019*
<https://www.jowilding.org/assets/files/Droughts%20and%20Deserts%20final%20report.pdf>

⁹ Wilding, p.9

¹⁰ BBC News West Midlands councils stop resettling refugees amid court bid, 16th Sept 2020
<https://www.bbc.co.uk/news/uk-england-58582874>

¹¹ West Midlands councils in High Court challenge over bid to exit voluntary asylum dispersal scheme Local Government Lawyer Sept 20th 2001

¹² Refugee Action *Tipping the Scales: Access to justice in the UK Asylum System 2018*

¹³ In Sandwell this was estimated at 942 (the second highest deficit in the UK) and in Stoke on Trent, 804.

¹⁴ Wilding p2

Whilst NFPs such as Hope can help to improve access to justice for clients, the regulatory framework and significant cuts to local authority funding have seen a consequent reduction in accessible free advice from the sector. Kirwan argues that legal aid cuts were underpinned by an assumption that voluntary agencies could simply step in and fill the gaps.¹⁵ This has not materialised, unsurprisingly given that funding for the sector falls far short of what this would require.

The regulatory framework pursuant to the Immigration and Asylum Act 1999, which is unique to immigration advice, generates its own capacity and resource issues. It is well known that there is a significant shortage of supervisors accredited to OISC Level 3, which in turn prevents the training and support of Level 2 advisors. The Paul Hamlyn Foundation recently investigated how NFPs were responding to the legal needs of migrants. They identified two broad categories of particular demand: people seeking asylum making further submissions (because their initial application has been unsuccessful), and people who have irregular status and risk exploitation, destitution or violence as a result. They noted:

“The cases which threaten serious consequences for clients if not resolved require specialist input (OISC Level 2 and above) to unravel and progress, particularly given that many may have compounded the seriousness of their situation through a combination of previous contact with immigration or asylum authorities, inaction, poor advice or (knowing or unknowing) criminal activity. The most acute dearth in immigration advice provision is at this specialist level (OISC Level 2 and above)”¹⁶

Austerity policies and consequent budget cuts have contributed to a 64% reduction in NFP providers between 2005 and 2018.¹⁷ Remaining advisors are now finding themselves doing much more for less.

Refused asylum seekers often present with exceptionally complicated cases that need to be unpicked by new advisors. Solicitors do not have the time or resources to do this work under the legal aid scheme so there is a vital need for intermediaries with good legal knowledge. Wilding’s research identifies in immigration an ‘exponential’ increase in the complexity of cases. She identifies three key issues: first, the nature of asylum means that cases are often difficult to evidence, and evidential requirements are constantly shifting; second, the politicised nature of the issue means that frequent changes to law and policy, often aimed at imposing a harsher regime on migrants, drive legal challenges which have to deal with the lawfulness of policies and other provisions, not merely the facts of the individual case; third, the UK’s precedent-based legal system requires legal argument about previous cases, not only the law itself, and when precedent cases proliferate, complexity increases.¹⁸ Recent ‘hostile environment’ measures have added further pressure as practitioners are now struggling to advise on the intersection of housing, health and employment with immigration law (re the right to rent scheme).¹⁹

¹⁵ Kirwan, S, (2017), ‘The End of ‘Tea and Sympathy’? The Changing Role of Voluntary Advice Services in Enabling ‘Access to Justice’’. in *Access to Justice and Legal Aid: Comparative Perspectives on Unmet Legal Need*. Hart Publishing, p179

¹⁶ Hutton, C and Harris. J *Methods of increasing the capacity of immigration advice provision*, PHF and Trust for London 2020, p.13

¹⁷ Refugee Action *Tipping the Scales* (2018); Bowcott 2019

¹⁸ Wilding, p.17 Wilding gives example of 49 substantive unlawful detention decisions in 2017 compared to 6 in 2007)

¹⁹ Vickers, T. (2019) *Borders, Migration and Class in an Age of Crisis*. Bristol University Press.

Hutton and Harris identify that initially NFPs' responded to these challenges by adopting a 'pragmatic crisis management' approach where they tried to control the flow of demand and do more work with less. Measures included more rigorous triage and prioritising, cutting down on 'open access' services and increasing advisor caseloads and pro bono work. They conclude, however, that "None of these methods were sustainable and, importantly, none could make any significant inroads into bridging the gap between provision and unmet need".²⁰ Thus NFPs are now seeking new ways of working that can better address these challenges through sharing of good practice, collaboration and networking.

Complexity and proliferation of immigration law

Whilst capacity and resources provide one explanation for some of the legal advice access and quality problems, it may also be suggested that the complexity of immigration rules leaves providers struggling to understand the system and identify the most appropriate route of challenge. Then explaining it to a client may be even harder.

Lord Neuberger, former President of the Supreme Court, has observed that upholding the constitutional principle of the rule of law requires that, "laws are clearly expressed and easily accessible. To put the point simply, people should know, or at least be able to find out, what the law is".²¹ Yet in countless immigration cases, judges are expressing their confusion and dismay over the state of immigration rules. Judge Nicholas Easterman of the First-tier Tribunal has gone as far as describing immigration law as "a total nightmare. I don't suppose the judges know any more about it than the appellants who come before them".²² In the Court of Appeal Lord Justice Jackson has condemned its complexity, stating that the "provisions have now achieved a degree of complexity which even the Byzantine emperors would have envied".²³

Recently the legislative scrutiny committee in parliament has examined the new 'simplified' immigration rules, which run to 507 pages and 50 pages of explanatory notes. The committee has raised concerns that they are not accessible to citizens and therefore cannot constitute good law.²⁴ Of course, this also serves to remind us of the vital importance of high-quality legal advice. The client is not in a position to navigate the immigration rules themselves, notwithstanding the contrary assumption underpinning legal aid reforms. The impact of 'doing the wrong thing' can destroy an appellant's credibility which is crucial to the success of asylum appeals. The number of unrepresented clients (litigants in person) before tribunals has increased in recent years. Some tribunal judges have recognised this, and Thomas notes how some judges adopt a more 'activist' approach to compensate for the absence of representation.²⁵ Whilst this might help some clients it generates inconsistency and cannot be viewed as a sustainable solution.

²⁰ Hutton and Harris (2020) p19.

²¹ Welcome address to Australian Bar Association Biennial Conference Lord Neuberger, President of the Supreme Court <https://www.supremecourt.uk/docs/speech-170703.pdf>

²² McKinney, CJ Tribunal judge publicly criticises Home Office presenting officers, 8th Nov 2017 Free Movement

²³ *Pokhriyal v Secretary of State for the Home Department* [2013] EWCA Civ 1568. See a series of quotes from judges collated for the Free Movement blog by Colin Yeo How complex is UK immigration law and is this a problem? 24th January 2018 <https://www.freemovement.org.uk/how-complex-are-the-uk-immigration-rules-and-is-this-a-problem/>

²⁴ Legislative Committee Government attempt to simplify immigration rules fails to make it more accessible 9th November 2020

²⁵ Thomas, R *Administrative Justice and Asylum Appeals: A Study of Tribunal Adjudication* Hart Publishing 2011

Provision of interpreters

The Solicitors Regulation Authority report recognised that with often only a limited understanding of English, asylum seekers can be heavily reliant on the skills and capabilities of interpreters. Asylum seeker interviews, together with evidence from other research reports, have raised concerns about the quality of interpretation, including the provision of interpreters who speak the wrong language.

Research has also shown that official transcripts of substantive interviews can be very far from accurate records as they have been subject to repeat edit and summary through interpretation, transcription and caseworker review.²⁶ Vianelli found that far from being accurate records, interview statements had been “diluted, filtered and transformed before reaching the judge”. When credibility can hang on small inconsistencies this is particularly troubling. The availability of accurate information in a language that the appellant understands is absolutely crucial. It has been recognised as a key principle in European Union Asylum law under the Asylum Procedures Directive.

Time constraints and provision of additional evidence

The asylum process is characterised by lengthy delays yet at times there are requests for additional evidence, such as medical reports and country of origin information, which need to be provided within a matter of days. For those with documentation to hand, short timescales are not an issue, however, for those needing information and supporting evidence from home, these timescales often result in applications being decided in the absence of such information.

It is evident from a number of studies, including the present evaluation, that clients do not always understand what evidence they need to produce and why it is relevant. Thus, there is a need to ensure that clients know what they need and why before they attend a solicitor’s appointment. Most further submissions depend on this evidence and although this is emphasised in client care letters it might not be apparent to the client (particularly when the evidence is very difficult or expensive to obtain). The legitimacy of documentary evidence is also likely to be questioned by the Home Office so clients should be told what they need to do for the purposes of authentication.

Understanding redress

Although mechanisms for redress exist for those asylum seekers who feel they have received poor quality advice from solicitors and barristers, take-up of such support is low. Two contributory factors to this are a lack of awareness of the availability of redress and a misconception among asylum seekers that pursuing redress will adversely impact on the outcome of their asylum application.

Wilding noted that most asylum seekers do not complain about poor-quality representation. The Legal Ombudsman jointly commissioned research on quality and redress because of

²⁶ Vianelli, L ‘The fiction of credibility assessment’ AsyFair conference July 2021

concerns that the complaints process does not work for this client group.²⁷ There is no legal assistance for the complaints process, and most clients do not feel able to undertake it alone, even if they understand their right to complain. That means they lack ‘voice’ and are further removed from the legal process.

As well as the above factors identified by the SRA report as undermining high-quality representation and advice, the impact of Home Office delays and poor quality first instance decision-making contribute to the challenges experienced by clients and advisors in this field.

Home Office delays and decision-making

The number of successful appeals against first instance decisions currently stands at its highest level of 48%²⁸, although the number of appeals being processed has dropped considerably due in part to the impact of the pandemic. The high rate of success suggests that there are significant problems with the quality of initial decision making and that applicants are having to appeal to find redress. There are also obvious problems with delays which push vulnerable clients into further into destitution and increase the risk of exploitation. Whilst there is little that legal advisors can do to improve initial decisions it should be recognised that this results in a state of ‘hyper-precarity’. For refused asylum seekers this susceptibility to exploitation is increased through an intentional policy of destitution which has intensified under the hostile environment.²⁹

Since the Home Office abandoned the target of deciding straightforward cases in 6 months (the EU’s target under the Asylum Procedures Directive) in 2019, delays have steadily increased so that the majority (78%) are now waiting longer than 6 months and it is not unusual for initial applications to take 18 months for a decision.³⁰ Initial delays also put pressure on the system which impacts on refused asylum seekers further down the line. Their cases are often complex and there is little incentive for timely decision-making.

Delay can also impact on recollection and accuracy. One participant in the LAPIS study noted that even though he spoke excellent English, it was difficult to recall statements that had been made at an initial interview almost two years previously. He noted how recollection diminished over time but also that this was necessary as part of the healing process. He did not want to spend years of his life reliving trauma. However, he recognised that any inconsistency could fatally undermine his case.

Research supports the view that delays undermine perceptions of fairness, resulting in feelings of anger and mistrust. As noted above, delays make it much more difficult for successful applicants to rebuild their lives after long periods excluded from work, education and social space. The LAPIS study in Nottingham found that boredom and a sense of worthlessness were common feelings for refused asylum seekers. This can pose real challenges for advisors who need to rebuild trust so they can best support clients.

²⁷ Wilding supra p35

²⁸ Home Office Asylum Statistics June 2021

²⁹ Lewis, H. and Waite, L. (2015) *Asylum, immigration restrictions and exploitation: hyper-precarity as a lens for understanding and tackling forced labour*. Anti-Trafficking Review (5). pp. 49-67

³⁰ UK Home Office Asylum Statistics June 2021.

Good practice in the provision of high-quality advice

Whilst it might be suggested that success in outcomes over a representative sample will indicate high quality legal work, outcomes cannot be a measure of quality in individual cases as good advice and representation can (and often do) still result in negative outcomes for clients.³¹ In term of assessing client satisfaction, outcomes are of course important but a perception of procedural fairness has been shown to have an even greater significance when people are asked to reflect on whether they have been justly treated.³²

Procedural fairness

Not only do procedural fairness judgements impact on satisfaction they also impact on compliance, and on individual feelings of self-worth and esteem. When thinking about procedural justice we cannot isolate one actor's intervention as determinative of the overall sense of fairness, so it will be difficult for Hope's intervention to demonstrate an improvement to perceptions of unfairness. We can also expect that clients will find it difficult to isolate how Hope's intervention has made an impact on their case. A further challenge occurs as, for clients, Hope may be perceived as part of the legal establishment that has so far refused to recognise their claim. Despite these difficulties, procedural fairness is an important measure of the standard with which an asylum claim is handled, and provides important context within which to interpret client's perceptions about Hope. Furthermore, even where a client's overall experience of the asylum process has been very negative, interventions by Hope to strengthen procedural fairness may help individuals' come to terms with difficult outcomes and take ownership of their case, empowering them to make difficult choices.

Six principles of procedural fairness

There are several factors identified in the literature which are determinative in the assessment of whether a procedure appears fair. Studies identify that some factors are more important than others depending on the legal context. The main exponent of the social psychology theory of justice, Tom Tyler, lists six:³³

- Control/representation – how much opportunity did an individual have to present their problem/be heard;
- Consistency – when compared to any previous experiences, expectations, what happened to others and recent experiences of others;
- Impartiality – lack of bias, honesty and effort to be fair;
- Accuracy – did the authorities secure the information needed to make a good decision;
- Correctability – was there an opportunity to complain or challenge unfair or poor treatment;

³¹ Review of quality issues in legal advice: measuring and costing quality in asylum work

³² Examples of literature include Thibault and Walker 1975; Walker, Lind and Thibault 'The Relation between Procedural and Distributive Justice' 65 Va. L. Rev. 1401 (1979); Lind and Tyler 'The Social psychology of procedural justice' 1998; Brems and Lavrysen 'Procedural justice in human rights adjudication: the ECHR' HRQ 2013 , 35, 1 176-200

³³ Tyler, T "What is procedural justice? Criteria used by citizens to assess the fairness of legal procedures" 22 law and soc review, 1, 1988 103.

- Ethicality – was the authority polite and responsive and did they show concern for the individual’s rights.

All of these factors are likely to be relevant to Hope’s clients, although there are underlying factors that make it very challenging for Hope’s legal advisors to change existing perceptions of fairness.

The asylum process itself is unlikely to be viewed as ethical – it is characterised by long delays and poor-quality decision making and is being delivered in a deliberately hostile environment. This does not prevent Hope from demonstrating concern for their client’s rights and showing them politeness and respect, but any effort to do so has to be viewed against these systemic issues.

Consistency is also a major problem for asylum seekers who regularly compare their cases to others (often from the same country or with comparable case facts) who have been given status. This undermines faith in the system. It is increasingly recognised that asylum outcomes are something of a lottery.³⁴ At the same time, Marshall argues the need to distinguish between experiential luck (beyond our individual control) and pure luck (beyond our collective control). She argues that asylum outcomes are not outside our broader collective control as they are influenced by structural practices that perpetuate injustice.³⁵

When so much depends on perceptions of credibility, accuracy can be difficult to assess. Often the Home Office requires a piece of evidence that the client cannot easily obtain, and this can feel profoundly unfair.

For example, one Hope client we interviewed (C10) needs to produce evidence to show that they have no family in their country of origin. This first requires remaining family members to be traced using the support of the Red Cross – it could be a lengthy and difficult process, but the case is unlikely to succeed without it.

Thus, while the burden of proof in principle rests on the applicant, the duty to ascertain and evaluate all the relevant facts is shared between the applicant and the examiner. Indeed, in some cases, it may be for the examiner to use all the means at his disposal to produce the necessary evidence in support of the application. Even such independent research may not, however, always be successful and there may also be statements that are not susceptible of proof. In such cases, if the applicant's account appears credible, he should, unless there are good reasons to the contrary, be given the benefit of the doubt. UNHCR [para.196]

Decisions may thus be taken without this evidence, but this does not mean they are accurate or just. The Immigration rules and UNHCR guidance state that asylum applicants should be given the benefit of the doubt if their story broadly appears credible.³⁶ Yet the Home Office

³⁴ Bail for Immigration Detainees ‘A nice judge on a good day’ 2010; Schoenholtz, Ramjo-Nogales, Schrag (eds.) *Refugee Routlette. Disparities in Asylum Adjudication and Proposals for Reform* 2007.

³⁵ Marshall, E ‘Are asylum outcomes really luck of the draw? Reconsidering the relationship between access to legal advice and structural injustice’ *Asyfair* July 2021

³⁶ UNHCR *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees* HCR/IP/4/Eng/REV.1, para. 196

are known to operate in a culture of disbelief and this principle does not appear to be embedded in decision-making.

Representation, described by Thibault and Walker as outcome and process control, will also impact on the client's satisfaction and sense of fairness. This is an area where Hope's intervention could have greater impact. Representation does not just refer to legal actors but to the client's sense of ownership of their case and the sense that they have been heard without judgement. The role of NFP legal services is significant here. Respondents interviewed in the LAPIS project particularly valued the opportunity to voice their experiences to a person who was willing to listen without interruption. One client who had been in the UK for nearly twenty years emphasised the value of this experience which she favourably compared to the experience of visiting a solicitor.

“she [solicitor] was doing our cases but not doing them, not engaging. You'd go and sign the legal aid form and give consent and then she'd get your information from the legal project and didn't do anything. Until she left and XXX [advisor] took over her case. I never looked back. I'm surprised that with all that workload, XXX went through it with a toothpick. He'd tell me things that I had forgotten and tell me where I was born and I'd forget. We'd laugh that I had three nationalities. I was able to relax and pour out my whole being”

In this respect it can be linked to impartiality and trust. Tyler notes that of the six criteria, judgements about how hard the authorities tried to be fair was the most important factor in assessing procedural justice. There is an obvious link here to empathy informed practice.

A3. Evaluation Questions

The specific research questions driving this evaluation are as follows:

1. How effective is Hope's legal advice service in **progressing the legal case** of individuals subject to flawed asylum decisions, including but not limited to:
 - a. securing clients legal representation and;
 - b. securing clients status/leave to remain in the UK?
2. How effective is Hope's legal advice service in promoting clients' **understanding of their legal case and what they can do to progress their case**?
3. To what extent is the legal service effective in **improving clients' material circumstances**, in particular in helping clients avoid destitution and street homelessness and secure sustainable forms of statutory support?
4. What are **clients' experiences** of Hope's legal service?
 - a. are the projects aims and approach clear and well understood by clients?

- b. to what extent do clients feel empowered by the legal support they receive and to what extent are they in control of their legal case and wider circumstances?
 - c. does the service respond to client needs in a person-centred and appropriate manner?
 - d. what are the strengths and weaknesses of the service from clients' perspectives?
 - e. how, if at all, could the service be improved from a client perspective?
5. What are the ***legal, policy and practice implications*** of this longitudinal evaluation for Hope Ltd., it's local partners and wider stakeholders, and national government?

B. Findings, Implications and Recommendations

This section presents findings from the first round of data collection, detailed further in the Appendix to this report. The findings below are organised in line with the evaluation questions set out in section A3. Where there were indications of different patterns of experience between groups of clients, for example between men and women, these are indicated below – where no differences are indicated it can be assumed that a similar pattern was evident across the lines of difference we considered. Some information about clients is provided alongside quotations, with information selected according to what seems most relevant to help the reader compare different clients' experiences in context, while avoiding information that might risk individuals being identified. When extracts from the interviews are used, ... indicates words have been removed to improve readability.

B1. Progressing the Legal Case

Three questions in the survey related directly to Hope's aim to progress client's legal case for asylum, by asking about gaining legal representation, making further submissions, and securing leave to remain. The breakdown of responses from the 26 clients who responded to the first round of the survey are provided below, alongside relevant findings from client interviews.

Figure 2: Hope assistance finding legal representation



Hope's aim to help clients secure legal representation is delivered through a mixture of direct representation by Level 3 OISC accredited Hope advisors and by signposting to external solicitors together with a client care letter summarising the case. For future rounds of the survey a question will be added to the survey to ask respondents to make clear whether legal representation has been secured through direct Hope provision or an external solicitor.

Capacity for direct Hope representation is limited, currently extending to 11 clients as of 10/09/21 (figures provided by Hope legal service's Director). Decisions about who to

represent directly and who to signpost are made on a case by case basis, taking into account the strength of the case, whether there is a need for psychiatric or country expert reports (which Hope does not have funding for), and current caseload. Where possible Hope tries to help clients find an external solicitor.

In interviews some clients reported having found a solicitor following advice from Hope, and there were some very positive reports of clients' experiences being represented directly by Hope:

"[Hope] helped in getting a solicitor and to write the statement of my case." (C48, man, Coventry)

"I got a solicitor whom I have handed everything to and she is in the process she is [named Hope advisor]" (C65, woman, Birmingham)

"they're helping me. You know, send emails, communicate with the Home Office as well as the courts, so that's a good thing... They haven't been to the court ... so we will see about that, in the future what happens. But they are doing the best... If they [Hope] represent me well in the court, then of course they will make a big difference, but we just have to wait for them." (C41, woman, Birmingham)

On the other hand, some clients expressed feeling quite hopeless about the prospect of finding a solicitor or said they had no idea how to do this. Money was the most frequently cited perceived barrier to getting a solicitor, raising questions as discussed above about the availability of legal aid. Some respondents said they had been given a list of solicitors by Hope but had either phoned all of them and been rejected or had not been able to face phoning solicitors after bad prior experiences:

"The only missing part is for them [Hope] to get a solicitor for me quicker than they are doing now." (C75, man, Birmingham)

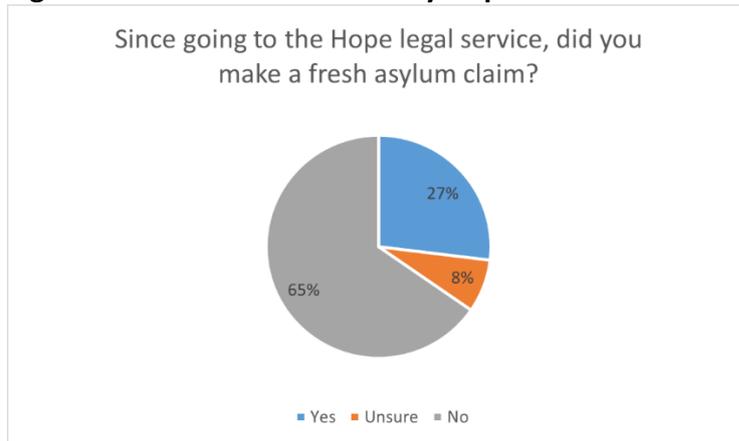
"I don't have any solicitor at the moment. I don't know how to go about it." (C16, woman, Coventry)

"The Hope Project sent me to the Red Cross [to get help finding a solicitor] that is all ... The Red Cross sent me a list of solicitors but each time I called they keep requesting for [money] that I do not have... they only insist that they need their fee." (C83, man, Birmingham)

Contextualising these findings, and helping to explain the relatively low proportion of survey respondents who had been helped to find legal representation, members of the Evaluation Advisory Board reported that there is a severe shortage of immigration solicitors taking on new clients at present in the West Midlands.

Overall, 27% of survey respondents said they had submitted new evidence since coming into contact with the Hope legal service.

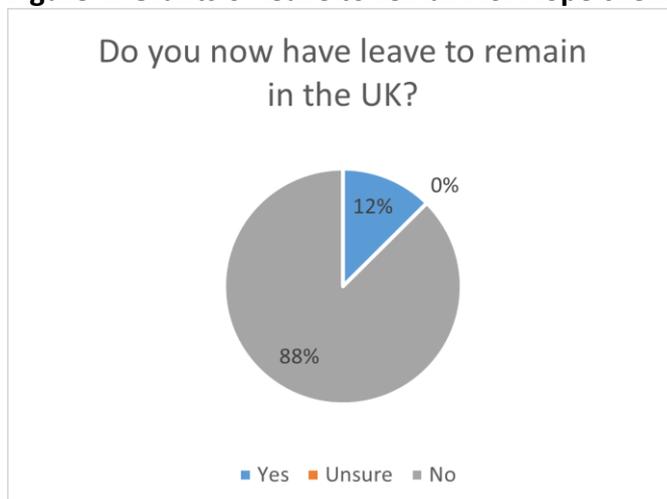
Figure 3: Further submissions by Hope clients



We do not know how many of these respondents already had a further submission underway prior to coming to Hope. Therefore, the figures above given an indication of a proportion of clients who did report this outcome following contact with Hope, but should not be interpreted as saying that 65% were unable to make a further submission. As discussed in Section B2 below, the difficulty obtaining the required evidence, and in some cases a lack of clarity on the part of clients about what evidence they need, is also likely to be an important reason that more clients have not yet made a further submission. The considerable work required to do so also needs to be taken into account, since the initial round of participants in this evaluation had only signed up with the Hope legal service between 2 and 12 months previously. Subsequent reports, which will be able to gather data from clients who have had longer to implement Hope’s advice, will give a fuller picture of such outcomes.

Three people reported in the survey that they had secured leave to remain since having contact with Hope. In addition to the above issue regarding the short time the service has been running, this may be an underrepresentation because it seems likely that clients who secure leave to remain may not update Hope with their new address as they no longer require the project’s services – this will be improved on for subsequent rounds of the survey by collecting responses by phone, as phone numbers are less likely to change following the granting of leave to remain.

Figure 4: Grants of leave to remain for Hope clients



There was a widespread feeling among clients we interviewed that now that Hope were involved in their case there was a high likelihood of success. Multiple clients spoke about this having a very positive impact on their mental health and wellbeing. However, this may also have some negative effects – given how difficult such cases are to win then having one’s hopes raised in the short term may lead to issues for these individuals over the longer term.

“If I had the support the hope project is offering me now from my previous solicitor then my application for leave for remain wouldn’t have been refused. There is a big and positive difference now as compared to the past.” (C02, Ethiopia, original claim 2015)

“The first day I met the solicitor assigned to me by the Hope Project, [named advisor], I was so happy after our first encounter, and I said in my mind that if I had this lady in my first application, the outcome would have been positive, and I would have had my leave to remain the UK by now.” (C65, Cote D’Ivoire, original claim 2015)

“Am expecting good results but the problem I got here is the evidence required of me that needs to come from my country and I have no way to get that from my country.” (C43, Iraq, original claim 2016)

“I’m sure that hopefully when we will, when we will get documents from Home Office, then [Hope advisor] will guide us properly, then what shall we do next. Because so many ladies in Hope project they have got their documents and, they said it, because [Hope advisor] advised them very good and she’s a straightforward woman” (C89, Pakistan, original claim 2010)

Clients’ hope and confidence is an extremely delicate element in the asylum-seeking process – without some hope of success clients may lack motivation to pursue their case, but overconfidence may lead clients mentally unprepared should their case be rejected.

In the focus group we explored how to best manage the information provided to the clients so that they have a better understanding of what Hope can offer and what they themselves can do. Interpreters are already provided but it was suggested that also having written materials translated into the client’s own language would be beneficial. One of the participants also suggested a follow-up call where the Hope team can check the client’s level of comprehension. The confusion clients experience is also related to the fact that they have interacted with different organisations over time which have diverse aims and purposes.

“Some people like me come from middle east and everything is different. Language is different, culture is different. Everything! We need someone who translates, interpreter. Need someone to call or be beside them (in the meeting). Many people don’t know English. Are shy. Don’t want to ask. Don’t know. People will choose their language because they prefer to read information easily in their language. They need more than written information; they need someone to call and ask if people understand. They need to make sure they understood. If they understood everything is fine. Hope project is completely different from Home Office so they need to understand what Hope does.”

It is also worth bearing in mind here that translation is not only about words but also concepts, further emphasising the importance of checking that everything has been understood even where it has been provided in the client's first language. The same participant discussed the importance of allowing time for clients to build trust because they have approached Hope after having had a refusal from the Home Office.

“Some people don't want to talk because they don't have trust. ... Because whoever come to Hope project, they are refusals. They have had a lot of bad experiences. They don't trust. For example, me, I see Home Office as enemy. Any time I see they are treating like I am enemy for them. ... But they don't help, it is like acting. Hope will get someone who is refused. Before had bad experience. They don't have good feeling about people. If you are giving the trust, ok, look we are going to help you.”

The kind of trust described above is clearly important if clients are to have confidence to act on the information provided by Hope.

B2. Promoting Clients' Understanding of their Legal Case

Nine client care letters produced by the Hope legal service were selected for comparison with clients' interview accounts, using criteria set out in the Appendix, in order to assess clients' understanding of their case, and to look for evidence of the extent to which the Hope legal service had helped to strengthen this understanding.

The client care letters examine all the details of the case history so far and explain the findings of the tribunal decision so as to identify where the evidential gaps lie. They also provide contact details for the advisor and explain the advisor's role at Hope. The law requires that for further submissions to amount to a fresh claim, clients must produce new evidence and there must be a real chance of winning. The client care letters reviewed were of a very high standard. It was easy for the review team to identify the legal issues and to get a sense of the case history. Some client care letters provided detail of the **new** evidence that might be required, but not all of them. Case prospects were not always easy to extract from the summaries.

Relevant sections of interview transcripts were assessed for the extent to which the client has shown they are able to:

- a) Explain the legal position with a degree of clarity and confidence
- b) Identify the prospects of success
- c) Identify the grounds to challenge the existing decision
- d) Show an awareness of the next steps required
- e) Or if they suggest little to no understanding of the current legal position

From the nine interviews included for comparison with client care letters there was a mixed picture. Most of the participants had awareness of the broad legal issues in their case but they did not always appreciate the precise legal issue(s) that needed to be addressed for a successful outcome.

Transcript analysis showed that participants struggled to distinguish overall fairness from legality and when asked about their understanding of the case they would consequently report that they could not understand the decision. In some cases, clients identified specific barriers to understanding such as lack of language support:

“I was given most of the letters in English and I could not understand what was in those letters. Also, I don’t know why my application was rejected. *Interpreter*: Now, how much control have you got over your case and life? *Client*: No control over my life, am hopeless and same thing to my case.” (C32, Iraq, in Home Office accommodation)

In some cases, on closer inspection it became apparent that they did not accept the decision and struggled to understand why they had not been believed. The legal issues of the case were often difficult to detach from this pervasive sense of unfairness. This is an important finding in itself, regarding the difficulty of supporting clients to understand their case in specifically *legal* terms. This needs to be taken into account for the next round of interviews, in order to frame questions to tease apart the client’s feelings about their experience of the asylum process and their factual understanding of the legal reasons for their refusal and Hope’s advice about their options and what evidence is required.

Most participants recognised that further submissions required them to produce new evidence but were less certain about what the evidence might be. For example, client C48 showed an awareness that they needed evidence and said they feel in control of their case. The client care letter suggests the case has limited prospects for success and sets out the evidence that would be needed, but the client does not show an awareness of the specific evidence that is needed. In another case, the client is under the impression that evidence is being gathered by another organisation, but seems to lack knowledge about the stage this process is at or what they need to do to progress it:

“I have asked the Red Cross to go and trace my family and am waiting for that document from them which seems not forthcoming” (C10, male, not requiring interpreter)

To some extent such uncertainty is understandable as decisions often suggest appellants produce evidence that is simply impossible to obtain, for example proof that there are no family members in a particular country (as was the case for client C10). This led some clients to struggle with how to implement the advice they had received from Hope:

“I can’t have the new evidence now. For example [a Hope advisor] asked me to go to the GP I was with then in 2007, but then I was not attending the GP surgery because I was out of the system.” (C63, male, requiring interpreter)

Such an account raises questions of whether all clients are feeling able to raise such concerns with Hope advisors, where they could presumably be addressed, or if some clients may be going away from Hope with advice they feel they cannot implement but without having raised this with their advisor. Clients’ confidence and experience raising such questions with Hope will be explored further in the next round of interviews.

In some other cases, Hope clients showed a partial awareness of their case, but seemed unaware of the need for new evidence. For example, C87 correctly outlines three grounds for his refusal, concerning contradictions over the date of his father's death, his tribal affiliation, and a delay in making the application. However, the letter also includes other grounds that were given for their refusal, including adverse credibility resulting from the journey to the UK, which C87 does not mention in his interview. They also do not seem to have recognised the need to provide fresh evidence for a successful claim and therefore may have an elevated view of their chance of success.

Only one interview demonstrated that the client understood fully what evidence was required and how they would obtain that evidence. This does not necessarily mean that other clients did not understand, but if they did this was not clearly articulated in the interview.

Three participants were unable to articulate their legal position with certainty and admitted to not knowing their current status (C33, C75, C65). There are two possible explanations for this i) lack of knowledge, ii) difficulties articulating the absence of status. It may not be reasonable to expect a participant to refer to themselves using legal terminology i.e. as 'refused asylum seeker'.

The crucial distinction between legal and factual/evidential issues was not well-understood. This is understandable as cases are often complex and refusals can highlight different issues, but it was surprising how few respondents could articulate the main reason for their refusal. For example, the client care letter for C02 confirmed that their case centred on the risk of persecution resulting from membership of a particular organisation. Unless it could be shown that this group was proscribed by the government the case prospects appear weak. C02 made some general observations about their legal case, explaining their understanding of the reasons for their refusal as follows:

"the first reason was that I did not have a body scar showing that I was detained and assaulted in Ethiopia. The second reason was that is that my case is not strong enough." (C02)

Yet they did not mention the issue of their organisation membership at all, meaning that C02's may have an unrealistic view as to the prospects of success.

There was a marked difference by gender in expressions of confidence about the client's legal case, and the sense of control expressed. Some, though far from all, male participants expressed very strong confidence in their prospects for success:

"I had a mastery of my case because I had confidence on what I was saying... I am preparing for the fresh claim by looking for the evidence required. So am in control." (C48)

"Now that the Hope project is take time to see into my case and most importantly the fact that all is being provided to me in my language [a relatively uncommon language in the UK], I think I have more control over my case and even my life." (C50)

“Before the hope project, I was zero percent in hope and control of my case but now I can boast of 90 percent in control of my case. The 10 percent is because I haven’t been given a lawyer yet and I think if a lawyer is given to me I would be complete.” (C75)

It was more common among women clients to express muted feelings of control, more focused on confidence in Hope than self-empowerment, or a lack of control:

“It is better now than before. Now I am able to talk about my case because the Hope project involves and engage me in the process than before where the solicitor was absent.” (C2)

“I don't really know what to do. Yes, I am simply a simple person in a complicated world... I’ve tried all the options but there is no way out. So I’ve put it in God.... I don't know what to do.” (C16)

“I think the Home Office is in control. We just put everything, give them whatever. Ah, I don't think I have it controlled because they know what they are doing. I don't, I don't, I don't feel control at all. OK, and I don't know what to expect from them.” (C84)

“every time [the Hope legal advisor] email us that what the Home Office said: ‘Today you have to do this, this, this...’ So now we have little bit of hope that there's somebody who is standing with us. If any problem today then [named Hope legal advisor] is there for us. So, it's very relaxing.” (C89)

B3. Improving Clients’ Material Circumstances

84% of survey respondents reported an improvement to their housing situation and 64% reported an improvement to their income since coming into contact with Hope, although the special measures introduced during the pandemic makes it more difficult to assess the cause of such improvements or how indicative they might be of what will happen in later years of the project.

Figure 6: Changes to housing situation since going to Hope

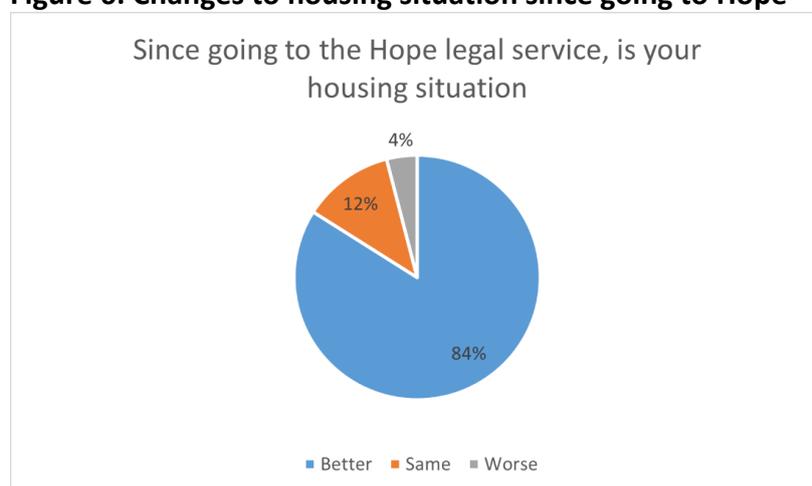
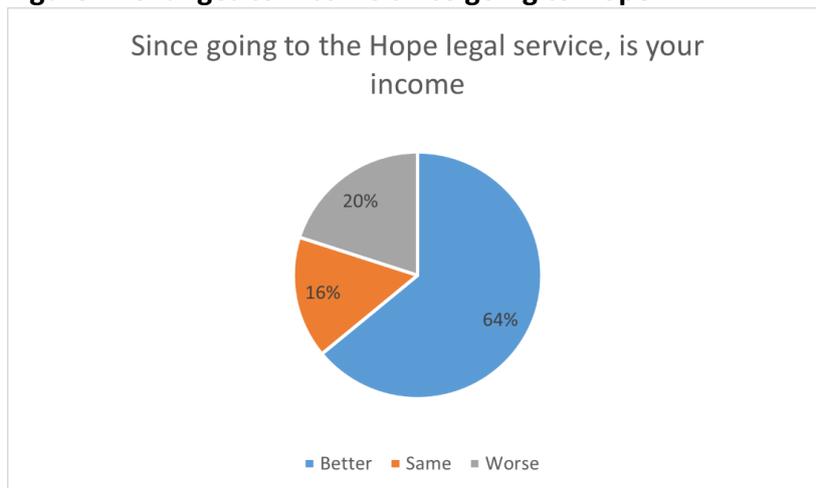


Figure 7: Changes to income since going to Hope



In qualitative interviews clients speaking about improvements to housing and income focused overwhelmingly on immediate charitable support from Hope or other projects, this was highly valued but there was little indication of a desire to move on into mainstream NASS support, or of this being seen positively where it had occurred:

“They [Hope] have done many things to me. They have given me a house, money and they have done so many things to me... The hope project to me is like having someone to go to when in need.” (C44, charitable housing)

“*Interviewer:* Is there any significant changes in your circumstance now? *Client:* Yes, they [Hope] took [me] out of homelessness. It is very important to accommodate someone even for a night.” (C48, Home Office housing)

“They [Hope] gave me housing support and if am in shortage of food, [named advisor] of the Hope Project helps me with the food bank.” (C71, charitable housing)

“the Hope project give me a house... You can be hungry but being under a roof is something you can appreciate. Being under roof, getting water, that something I really appreciate more than anything else.” (C33, Home Office housing)

This suggests some clients’ goals and priorities relating to material support may differ from Hope’s aims to help them move on - the quality of NASS accommodation is likely to be a factor here, as is the positive sense of community and support from Hope staff that some clients report experiencing within Hope housing. However, it is worth noting that some of these same clients who restricted their comments on housing to direct provision by Hope were in Home Office accommodation by the time of the interview, which suggests that although they may not subjectively view this as a result of Hope’s intervention, or view this positively, the move into sustainable statutory accommodation was an objective outcome.

Many participants situated support they received from Hope within a wider array of sources of support, from sources that included other organisations, the Home Office and informal networks:

“Hope Project is one of those who helped us free of accommodation and don't have to pay anything. They will give us destitute funds... like 20 pounds weekly, so at least you can buy something.” (C89, female, Birmingham)

“The LGBT Birmingham is helping me with food and clothing, and they are looking for a good accommodation for me. I also have the weekly £27 from the home office.” (C22, male, Birmingham)

“So and then my friend recommended Hope to me to come and I just talked with them in Birmingham and then I came once, I came for it and then I stayed in her house.” (C84, female, Coventry)

“Hope project is the main group supporting me but I do go from time to time to collect food from charity food banks.” (C02, female, Birmingham)

This is positive in that these clients are not solely reliant on any one source of support. However, in some cases confusion was expressed about exactly where support was coming from:

“I don't know if it's Hope or Baobab. I don't know. They helped me with accommodation... Well, with Hope I know that we are doing like zoom meeting every... week and then I'm getting like £10” (C16, female, Coventry)

“The Refugee Council is helping me too. They offered me a house now.” (C48, male, Coventry)

In the latter case, it is unclear exactly what ‘the refugee council’ is being used to refer to, as the Refugee Council does not provide housing and this may refer to either the Home Office or a charity. Where clients are unclear who is providing what support, this may reduce their ability to clearly articulate any concerns they have with the support they are receiving, or to proactively access additional support. Another form of confusion was shown by some clients regarding the relationship between legal advice and material support, as shown in the following interview that specifically asks about their case but receives a response about housing:

“*Interviewer:* What do you think the Hope Project is doing to your case? *Client:* They are trying to link me to houses through the Red Cross.” (C83, male, Birmingham)

Some clients evaluated a move from Hope to NASS housing negatively, on the basis that they associated this with a reduction in the support they received from Hope.

“when I was in Birmingham, they [Hope] used to help me. But since I moved to Derby, now they are not helping me now with anything now... because now I'm on Home Office accommodation.” (C33)

“When I was in Birmingham, they were helping me with food and accommodation, but now that am in Manchester, they are only concern with my case.” (C50)

“one day they told me that, when you fill in the application... They will give you accommodation... So they sent me to appeal. I am taking their house now. He has helped me with that one. After that, I hadn’t hear back from him.” (C30)

This highlights that while the provision of housing by Hope to some legal service clients is beneficial in the level of contact this enables, additional contact points may be called for after clients move on to other housing.

During the focus group both clients talked about perceptions that Home Office accommodation was often of a very poor standard. One of the clients had eventually moved to HO accommodation and was pleasantly surprised by its standard (although it is important bear in mind here the feeling expressed in section B4 below that as an asylum seeker they do not deserve much):

Everything is good. Good house, Electric, good. I am happy with that. Everything is ok.

Interviewer: Did you think it would be ok?

To be honest no. I used to see people, 4 or 5 people say the house is no good. everything. ... I wasn’t thinking Home Office accommodation would be this good. They keep three people in the house. We got living room. Everyone has their own room. We have double bed, table chair. Everything is ok. Maybe some places are not good.

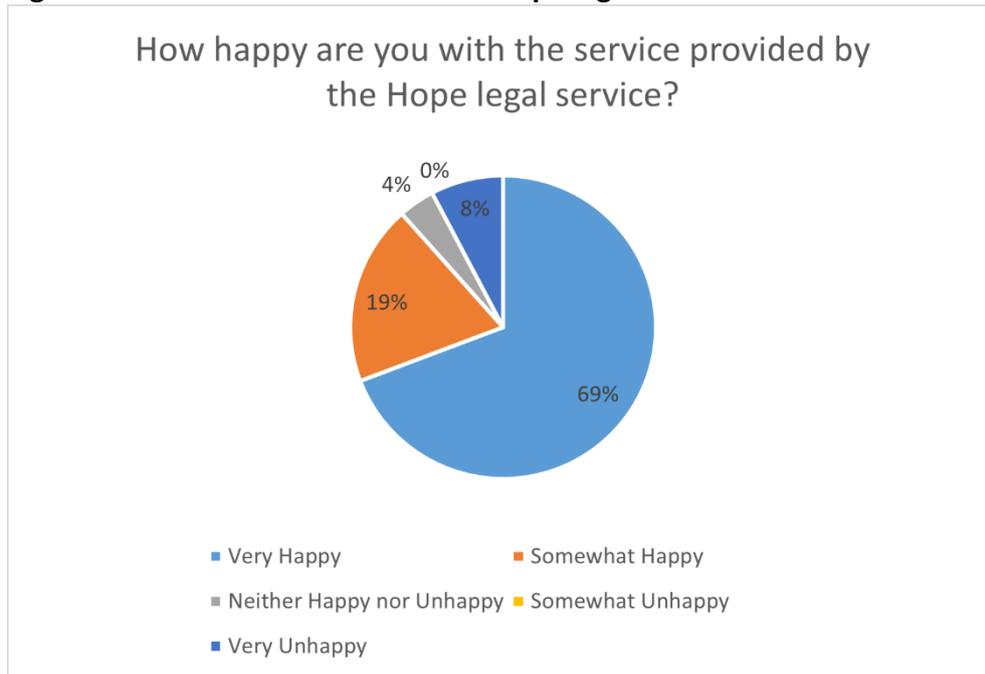
The other participant had not experienced HO accommodation and was really concerned about losing Hope accommodation. While living conditions are very important, safety due to number of people living in a house during coronavirus threat, and internet to pass the time were singled out as very important. Both were seen to be lacking in HO accommodation.

Yes, because I heard many, many, bad things. Even mentions some places are really dirty, they don’t provide facilities. Don’t have internet. One of most important thing to help me pass this situation better especially in corona, especially as we are not in good mood. Personally, I had nightmares and internet was very good for me. Why? Because I came to the internet, I try to learn... I could search and spend my time. And I learn more... Internet was my friend. Anytime when I need internet was best friend. I could not pass my time. If I go somewhere and they [are] living together and don’t have facilitates and don’t have internet, I am worried because I would get depression, anxiety. Definitely scared of that (getting sick because of corona when sharing)... I am very worried about HO accommodation. I don’t want to lose what I have. You know we are under pressure, under anxiety, depression, mental health.

B4. Clients’ Experiences

A large majority of survey respondents (69%) reported being very happy about the service they have received from Hope, 19% being somewhat happy, and 8% (two individuals out of 26) reporting being very unhappy.

Figure 8: Client satisfaction with the Hope legal service



A similar picture emerged from the in-depth interviews, where the majority of clients were very positive, two expressed some reservations only in that they felt they had received less help since moving out of Birmingham, and two said they had no knowledge of Hope (one of these citing severe memory problems caused by an accident).

Frequent themes in clients' positive comments about Hope included being listened to or having somebody check in with them and show they cared, the sense that Hope were now 'handling' their case (and consequent relief and increased confidence that their new evidence would be accepted), and an immediate improvement in their material circumstances, most frequently due to provision of housing:

"I have got a big difference in my life and case based on the huge support provided to me by this project. I got advice for my case and a lawyer and also financial support for myself." (C10, man, Coventry, Home Office housing)

"People who are seeking asylum or people who maybe have mental issues about. They will advise them – do they apply, do they appeal, do it this way... they give people confidence... They will not let people down... Hope Project, they've helped me ... for my life. Because they referred the case... They are providing us with care. They help you share your feelings... with other people. Help... by saying your problem. They make you to calm down ... your pain is minor... They let you be happy" (C30, woman, Home Office housing)

"what I've seen that they just want to see as being saved as being protected... they meet me halfway during my hard timesthey meet me halfway to manage to stand up.... because you know, I was very down when I meet them, but just meeting them... they honestly... After even Home Office took me from the accommodation which I was given in Coventry ... they still came to me again. They were still working with me...

they lifted me. They lifted me. They motivated me. [A worker] took her time to come to where I was staying.” (C33, woman, Derby, Home Office housing)

Where clients expressed frustrations about Hope, these tended to relate to frustrations with the speed of the legal process, or difficulties implementing Hope’s advice because of solicitors not taking on their case or necessary evidence being unobtainable. It is important to recognise that these things are all outside of Hope’s control. Some clients also expressed a lack of knowledge about exactly what Hope would be doing next.

“I can say they have done one thing by contacting the Home Office and they have all other papers from my previous court actions but I don’t know what they are to do next.” (C87, man, Home Office housing)

This suggests more regular updates might be helpful, and may be a role where non-expert volunteers could play an effective role in expanding capacity.

Some clients mentioned positively assistance they had received from Hope in helping them to access other services, including college, GPs, psychiatrists, and other organisations such as Red Cross and Freedom from Torture. It was not unexpected to find that many of the study participants expressed dissatisfaction with previous legal advice and the representation they had received in tribunals. It is worth noting that this is in marked contrast with their much more positive experiences of Hope’s Legal Project.

We must exercise some caution in interpreting clients’ assessment of the support they have received from a particular organisation as participants do not always identify who has provided them with support and can easily confuse different organisations and actors in the interviews. The close relationship with partner organisations can make it difficult for clients to appreciate different organisational affiliations. For example, in one interview the client repeatedly cited the excellent support received by a named individual. However, in the course of analysis the research team recognised that the individual was not a member of the Hope team, although they had referred the participant to Hope. This is understandable given the complexities of their cases and the insecurity that characterises their lives. Going forward, we could consider using a photo sheet of the Hope team at the outset. This could ensure we correctly identify that it is a Hope team member who has offered the client this support.

During the focus group an important feature of client’s experiences was highlighted. The participants spoke about their worry of asking for things which has implications about the nature of engagement with organisations like Hope. The confusion of what Hope offers, was combined with their internalised fear of what they should be entitled to ask for and deserve to receive.

I don’t have too much expectations. ... Asylum seekers can’t complain. This is what it is. ... I was speaking to the priest who said I look good and I said yes, because I don’t want to show my problems. If I share my problems, my feelings, your day will be ruined. I don’t want to do that because this is my person problem and I prefer to keep it hidden. ...

The same participants reported that accessing Hope can be difficult because of travel expenses.

Personally, I eat once a day because I want to cover other things. I want to pay bus ticket... whenever I go to Hope they are far away. If they can increase the financial things it would be helpful.

Interviewer: Have you asked about these things to the Hope project?

No, because I thought if it is available, they would give it to me. I don't want to ask for more. We are asylum seekers. I know we are human but we listen to what they give and we are thankful for that. I never ask or I don't know they can provide that. I have never heard anything from the others.

B5. Legal, Policy and Practice Implications

B5i. For the Hope Project

- Most of the information given to clients is in English and written for a legal audience. The client care letters are very detailed and often give examples of evidence that clients need to produce. We recommend that clients are presented with a simplified list of examples of the evidence they need to gather, in a language they can understand when reflecting on documents after their interview. This can be attached to the diagram of the legal process that has been prepared. This document also needs to be translated into the languages most commonly spoken by clients.
- It is important to recognise that clients digest information in many different ways and at different speeds/times. If we want them to have ownership of their case and understand their options we need to find different ways to provide the key information. This may appear time consuming for staff who are focussed on achieving the best legal outcomes, but it will reduce time and anxiety in the longer term. Clients will be more likely to obtain legal representation and as they have already secured relevant evidence or identified alternative sources of evidence.
- We suggest increasing efforts to explain to clients how unpredictable the outcome of asylum claims can be, that even many people with very good reasons for seeking asylum are refused. Emphasise that Hope wants to do what they can to support the client, but that the case belongs to the client.
- Review how options around housing, the limited duration of housing available from Hope, and processes to move on to other housing, are communicated.

B5ii. For the UK Government

- Increase funding for legal aid.

- Increase resourcing for decision making to reduce delays at first instance.
- Investigate the reasons that so many initial decisions are being overturned at appeal, with a view to reducing the number of incorrect initial decisions.
- Maintain the right to make further submissions, taking into account the evidence of frequent misunderstandings in earlier representations and the high numbers of further submissions that have led to a grant of asylum or other leave to remain.

B5iii. For the next stage of the evaluation

- We propose to review client care letters in advance of each client interview and provide a short summary to interviewers to help guide questions to more fully explore their understanding of their case.
- In subsequent interviews we need to be clear to distinguish a client's understanding of how the HO could reach such a decision (most clients do not understand how/why they could be refused) from their understanding about the evidence they now need to obtain and their legal options going forward.
- Be more explicit in asking clients whether they feel Hope has helped to improve their understanding of their case.

C. Discussion: Assuring quality in legal advice and representation

When seeking to measure the quality of legal representation in asylum cases Trude and Gibbs also suggest we focus on outputs rather than hard outcomes.³⁷

Having interviewed providers, stakeholders and asylum seekers, they proposed the following definition of high-quality asylum legal representation:

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

Although the Hope legal team are not often representing clients before tribunals, these principles provide a useful guide. The six principles of procedural justice advanced by Tyler and discussed in section A2 above can be implied into this definition.

It is evident from the client care letters and related files, that Hope are identifying and gathering relevant facts, evidence and argument that the client can then take forward to a legal representative. The case facts and history of previous refusals have been unpicked to provide coherent, balanced advice that addresses the strengths of the case and areas of weakness. Clients appear to trust the advice they have received from Hope and that stands in contrast to some of their previous experiences.

That said, many clients do not yet appear to be fully in control of their case, in the sense that their articulation of the legal position and related options is generally quite poor.

Research by Trude and Gibbs with the Information Centre about Asylum Seekers and refugees (ICAR) reported that asylum seekers identified five important aspects of legal work. These are points we would like to draw out more in subsequent interviews. The red highlighting is where

³⁷ Trude, A and Gibbs, J *Review Of Quality Issues In Legal Advice: Measuring And Costing Quality In Asylum Work* 2010 Available at <https://www.refworld.org/pdfid/4c6249a52.pdf>

we would suggest there could be some improvements. The green is where there is some evidence* of good practice (based on interviews with clients and with stakeholders).

*At the moment it is too early and there is insufficient rich data so say more than this.

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. We would add here that information needs to be presented to the client in different ways and in a language which they understand. It should also be non-legal/simplified so they will be able to reflect post interview.

- **Access** to the representative/advisor 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 as important by some stakeholders.

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.**”

Appendix: Methods and Sources of Information

The evaluation has adopted a mixed methods approach, organised through four work packages and accompanying focus groups and an Advisory Board.

Work Package 1: In-depth qualitative interviews with clients, the first round aimed for 28 clients who had registered with the Hope legal service between June 2020 and April 2021.

Hope provided contact details for 92 clients who were registered between June 2020 and April 2021. 92 were texted an introduction, and most were also phoned by Vickers. 6 numbers not recognised, 57 answered and were spoken to. A very small number of these did not want to engage, either citing a lack of support from Hope (generally meaning rejections of housing), or saying they had never heard of Hope, or that they were so early in their contact with the legal project that they felt they would have nothing to contribute to the evaluation yet. The vast majority we spoke to were very positive about Hope and said they would be happy to contribute.

28 in-depth interviews were initially arranged, but because of deteriorating personal situations, generally of a medical or housing nature, five of these had to withdraw and were replaced with another five volunteers, some of whom also subsequently withdrew. Between July and early November 2021, 28 interviews had been concluded and analysed. These interviews were conducted by Acha and Durdiyeva. The sample characteristics are provided below:

- Interpreter: 12 clients requested and were provided an interpreter, 16 said they were happy to be interviewed without an interpreter.
- Accommodation: 7 housed by Hope or another charity, 13 housed by Home Office, 5 housed by friends, family or other private housing, 1 housed by Social Services, 2 unknown.
- Country of origin: Afghanistan (4), Algeria (1), Cote D'Ivoire (1), Egypt (2), Eritrea (1), Ethiopia (4), Guinea Conakry (1), Iran (2), Iraq (4), Nigeria (1), Pakistan (1), Palestine (1), South Africa (2), Sudan (2), Unknown (1)
- Year of birth: Ranging from 1962-2000 (21 – 59 years old)
- Gender: 17 Men, 11 Women
- City of Residence: Birmingham (15), Coventry (6), Wolverhampton (1), Stoke on Trent (1), Nelson (1), Derby (1), Dudley (1), Manchester (1), Walsall (1)
- First Claim for Asylum: 2001 (1), 2003 (1), 2005 (1), 2008 (1), 2010 (1) 2015 (9), 2016 (3), 2017 (4), 2018 (2), 2019 (1), Unknown (4)
- Many clients were unsure of the name of their advisor, but for those who could remember there was a broad spread.

Data from client interviews was thematically coded according to 12 themes derived from the research questions listed in section A3 of this report. Comparative thematic analysis was then carried out to explore patterns of differences in whether clients required an interpreter, current accommodation provider, country of origin, year of birth, gender, city of current residence, and time since first asylum claim.

Work Package 2: An outcomes and satisfaction survey delivered to all clients who registered with the Hope legal service between June 2020 and April 2021.

A short survey was sent to 85 clients by phone or email, of which we received 8 responses by web form and 18 by post, for a total of 26 responses. This is a reasonable response rate of over 30% but for future rounds the evaluation team plan to conduct the survey by phone to further increase response rates.

Results were used to produce basic descriptive statistics that are presented above.

Work Package 3: Review of a sample of client case files for comparison against the understanding of their case demonstrated during the interview.

Of the initial 27 clients interviewed in the first round of WP1, 11 discussed aspects of their legal case in some degree of detail enabling the reviewer to make sense of the data so that it could be legitimately compared with the casefile. The preliminary data from all these respondents was checked to ensure a broad range of nationalities were represented. Two were subsequently discounted as the file data was not available (in one case the client had left the area and in another there was no client care letter). It was decided that the remaining nine files should be reviewed. Of these nine files, 5 clients were men, 4 were women, 8 nationalities were represented, and the age breakdown was as follows:

- 1 - 20-30
- 5 - 30-40
- 2 - 40-50
- 1 - unknown

Unfortunately, the responses to interviewer's questions about clients' understanding of their case were not always sufficiently clear and sufficiently detailed to assess whether the participant had formed a good understanding of their case or their options. Going forward, we will ensure that we ask participants to do their best to explain their legal case in their own words and ask them what evidence they are being asked to produce to enable further submissions or a fresh claim. We propose for subsequent rounds of data collection HO will read the Client Care letters first and provide a short summary so that interviewers know what information they might expect to hear.

Further, we should acknowledge that some clients cannot be expected to reveal all the relevant details due to the sheer complexity of information. In some cases this was the client's third further submission attempt so it can be hard for them to distinguish between initial refusal, tribunal hearings and subsequent refusals of further submissions. For example, participant C63 refers to 27 different reasons contained in the refusal letter.

A note on confidentiality: The decision to review a sample of case files was based exclusively on the availability of richer interview data. Given the particularity of legal cases it is possible that members of the Hope legal team may recognise clients from the snippets of case facts presented. The team has attempted to minimise this in three ways: i) requesting a much larger number of files than those that have actually been reviewed, so that it is not obvious which

have been used and ii) providing only a brief reference to case facts and, iii) removing personal characteristics, such as age, nationality and gender. Hope staff were not made aware of which case files were being examined in more depth.

Work Package 4: Interviews with Hope staff, volunteers, trustees and partners, aiming for a total of 10 interviews split between 2021 and 2024. As part of the first round 8 interviews were conducted in the summer of 2021, focusing on the context and origins of the Hope legal service.

Focus Group: 8 Hope clients that took part in interviews were invited to participate in the focus group. Of these, 4 agreed to participate. One could not be contacted on the day of the focus group and the other, could not be contacted at the time of the focus group. Two participants took part in the online focus group which lasted 69 minutes. Participants were asked to reflect on some of the key findings from the interviews. This included questions about what the aim of Hope organisation is, what the roles are for Hope and clients, expectations and knowledge of HO housing, communication strategies to enhance client engagement and comprehension, and best methodologies to employ in the NTU evaluation.

Advisory Board: Established at the outset of the evaluation, the Advisory Board comprises two Hope clients, four Hope staff, one Hope Trustee, one Hope volunteer, and two staff from partner organisations. The Board meets once every quarter and has contributed to the evaluation design, delivery, and refinement of findings.