



**REFUGEE GOOD
ACTION PRACTICE**

**CONSUMER
BARRIERS TO
COMPLAINTS**

**A research report into complaints
about immigration advice**

January 2022

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REGULATING BARRISTERS

CONTENTS

Acknowledgements	4
Aboo's story	5
Executive Summary	7
1 Introduction	10
2 AIMS AND OBJECTIVES OF THE RESEARCH	12
2.1 Aim	12
2.2 Objectives	12
2.3 Outcome	12
3 METHOD	13
3.1 Desk work	13
3.2 Recruitment	13
3.3 Interviews and focus group	14
3.4 Analysis	14
3.5 Limitations and gaps	14
4 FINDINGS	16
4.1 Demographics	16
– Immigration status	16
– Age	17
– Gender	17
– Ethnicity	18
4.2 Reasons advice was sought	18
4.3 Geographical area of residence and advisor at the time of advice	19
4.4 Type of advisor	20
4.5 Complaints made about the poor quality advice experience	20
4.6 Barriers to complaints	21
– Lack of awareness of the right to complain	21
– Fear of complaint affecting application or status	22
– Lack of awareness of the legal routes to immigration	23
– Language and interpreters as a barrier	24
– Lack of support to complain	24
– Home Office Requirements	25
– Lack of time and focus in the face of immediate priorities	25

4.7	Effect of poor quality advice experience	26
	– Powerlessness	26
	– Loss of Documentation	26
	– Mental health	26
	– Physical health	28
	– Intersecting issues	28
4.8	Improvements	30
	– Information and Support	30
	– Information on how to choose a solicitor	30
	– Information on the process of application	30
	– Dissemination of information	31
	– Advocacy support	31
	– Addressing wider systems issues	31
5	DISCUSSION	32
5.1	Information and support	33
5.2	Exploitation within communities	34
5.3	The role of empowerment through ‘user-voice’ and co-produced solutions	34
5.4	Systems impact on quality of representation	34
6	CONCLUSIONS	35
6.1	When people have a poor advice experience they are unlikely to complain	35
6.2	There are several reasons why people do not complain when they have a poor advice experience	35
6.3	Solicitors are mostly responsible for the poor advice experiences of asylum seekers	35
6.4	Poor advice experiences can result in severe negative consequences for the individual	36
6.5	Existing procedures for handling complaints are not fit for use by asylum seekers	36
6.6	Alternative strategies to encourage complaints need to be co-produced with asylum seekers	36
7	RECOMMENDATIONS	37
7.1	Recommendations for regulating bodies	37
7.2	Recommendations for Refugee Action	37
7.3	Recommendations for community-based organisations	37
7.4	Recommendations for Home Office and Local Authority commissioners and other funders	38
7.5	Recommendations for further research	38
	APPENDIX A: Interview Schedule	39
	Endnotes	43



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We would also like to sincerely thank Kieran Vaghela, James Conyers and Carolina Albuérne of Refugee Action, for initiating and commissioning the research and for working as genuine partners with us throughout the process. Your solution-focused approach and your passion for improving the circumstances of refugees and other migrants have made our job meaningful to undertake and our goals easier to achieve.

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ABOO'S STORY*

I am Black African and 27 years old. I arrived here in 2019 and now I live in Liverpool. The first thing I did when I arrived was to ask around everyone I met to find out how to make an Asylum application. I went to Croydon to claim asylum.

After claiming asylum, I met someone who recommended a solicitor so I went to see them, making sure to take all my papers with me. They did not want to see my papers but they opened a case for me. I thought they might give me some information about how the Asylum Application process worked but I received nothing, so I just thought 'well, I have no choice. I just need to trust them.' Anyway, months went by and I didn't hear anything.

**Note: Aboo is not a real person. Participants gave compelling accounts of harm and suffering brought about by poor immigration advice and service, which we could not reproduce in full for reasons of confidentiality. To preserve the power of their accounts, we amalgamated the common elements to produce Aboo's story. It is a composite overview of their experiences as described to us.*

Later, I found out from a friend that I should have received a letter showing what they were going to do for me and then I started to get worried. I contacted the office and said I hadn't received it and they were quite rude to me on the phone. Basically, they just said I would receive one at some stage soon but didn't really make a firm commitment or apologise for the mistake. I asked them how I could complain. They didn't answer but they said they would look into why a letter hadn't been sent and make sure one was sent as soon as possible.

I did not receive any information on my claim after this and I kept trying to contact them. In the end they told me that my claim had been unsuccessful. I said I wanted to appeal but was told it was too late to do so and all I could do was make a fresh claim.

All of this seriously affected my mental health. I already had very bad stress symptoms from my experiences in my country of origin but my fear of not being accepted for asylum in this country was so stressful for me that it made them so much worse than ever before. I didn't have anyone to talk to and I was too scared to go out. When I had to go out to get food, I just kept my head down. I was terrified if I saw the police, even from far away. I often felt suicidal as I just didn't have the energy to carry on and I had lost all hope.

People are scared to challenge. I know I was too scared. As people seeking asylum, we are already afraid for our lives and we just want to stay quiet and not cause any trouble. I was even scared to change solicitor because I thought my new solicitor would read on my case that I had done this and would think I was going to cause trouble. Anyway, I didn't have time to complain. I was too busy sorting out the mess my first solicitor had made of my life. I did not see the point as it would not help me.

The system is harsh and if you don't understand it, it is almost impossible to find your way through it on your own. However, going through the system with a bad solicitor is probably even worse. Because they can misrepresent your case, send in your applications late or with the wrong details. And if they don't communicate well with you then, sometimes, you might not even know your application has been refused.

I am lucky I got a good solicitor in the end and they are helping me with my new claim. Now I can tell my story properly.



People are scared to challenge. I know I was too scared. As people seeking asylum, we are already afraid for our lives and we just want to stay quiet and not cause any trouble."

EXECUTIVE SUMMARY

This research took place between June and October 2021, commissioned by Refugee Action's Good Practice & Partnerships Team in response to widespread concerns about low levels of complaints regarding poor immigration advice service experience. It aimed to better understand the experiences of people that had received poor quality advice and any barriers to making a complaint. This understanding can be used to inform how service levels can be improved.

Recruitment was mainly via organisations in the Refugee Action networks. People self-selected for interview and members of Refugee and Asylum Seekers Voice group (RAS Voice) participated in a focus group. Thematic analysis techniques were used to produce the findings. Most interview participants were Asylum Seekers, reflecting the recruitment strategy. Almost all experiences were with solicitors. We recognise that fear of the impact on immigration status may have been a barrier to participation in interviews. This may have led to the under-representation of this issue as a barrier to complaint in the findings. There were gaps in participants from Wales and Scotland, from rural areas of England and from under 18 year-olds, but a good gender balance amongst participants.

Only 3 out of the 23 interview participants made a complaint about their poor advice experience, with mixed outcomes.

Clear barriers to complaints emerged from the interviews and focus group, most notably and in order of numbers reporting:

- lack of knowledge about rights to complain and complaints processes
- fear of impact on their application– i.e., a belief that their solicitor or even the Home Office might seek to punish them for making a complaint
- lack of understanding of the immigration process which meant that people did not know they had received poor quality advice until much later when they had developed a knowledge of the system
- lack of support to complain
- Home Office requirements and other practical barriers such as not having enough time, emotional energy or focus to prioritise a complaint.

Reported negative impacts of poor quality advice experience included mental and physical health impacts and feeling a lack of power, agency and confidence in moving forward. Loss of documentation by solicitors or barriers in getting documentation returned having changed solicitor, was another consequence. The resulting lack of ID often led to delays in the ability to work, study and find good accommodation.

The findings lead us to conclude that the existing complaints process is unfit for purpose for Asylum Seekers who are a highly vulnerable group, especially when newly arrived. Alternative strategies to encourage complaints need to be co-produced with Asylum Seekers themselves if barriers to complaints are to be meaningfully addressed. Other strategies outside of complaints processes should also be tested to better address poor standards of service.

Our recommendations are that:

For community-based organisations

- Refugee organisations, faith groups, food banks, housing providers and others in regular contact with newly arrived migrants take a role in ensuring that people know the role of an immigration adviser, how an immigration adviser is supposed to behave, as well as their rights to complain and processes of complaint, and that they consider developing support and advocacy provision to help people complain.

For regulating bodies

- Regulating bodies work in collaboration with each other and with other stakeholders to consider ways to ensure that solicitors and other advisors include clear information on the right to complain and the process of complaint.
- Alternative strategies for registering complaints are developed and evaluated.
- A specific alternative method of anonymous review of advisors is developed, piloted and evaluated for its potential in highlighting episodes (and serial episodes) of poor advice with individual solicitors and other advisors. This should be co-designed with people with lived experience of poor quality immigration advice experience and reflect more efficient ways of improving service levels. This could also draw on experience and good practice in other fields and seek to prevent quality declining and reward good practice.

For Home Office and Local Authority commissioners and other funders

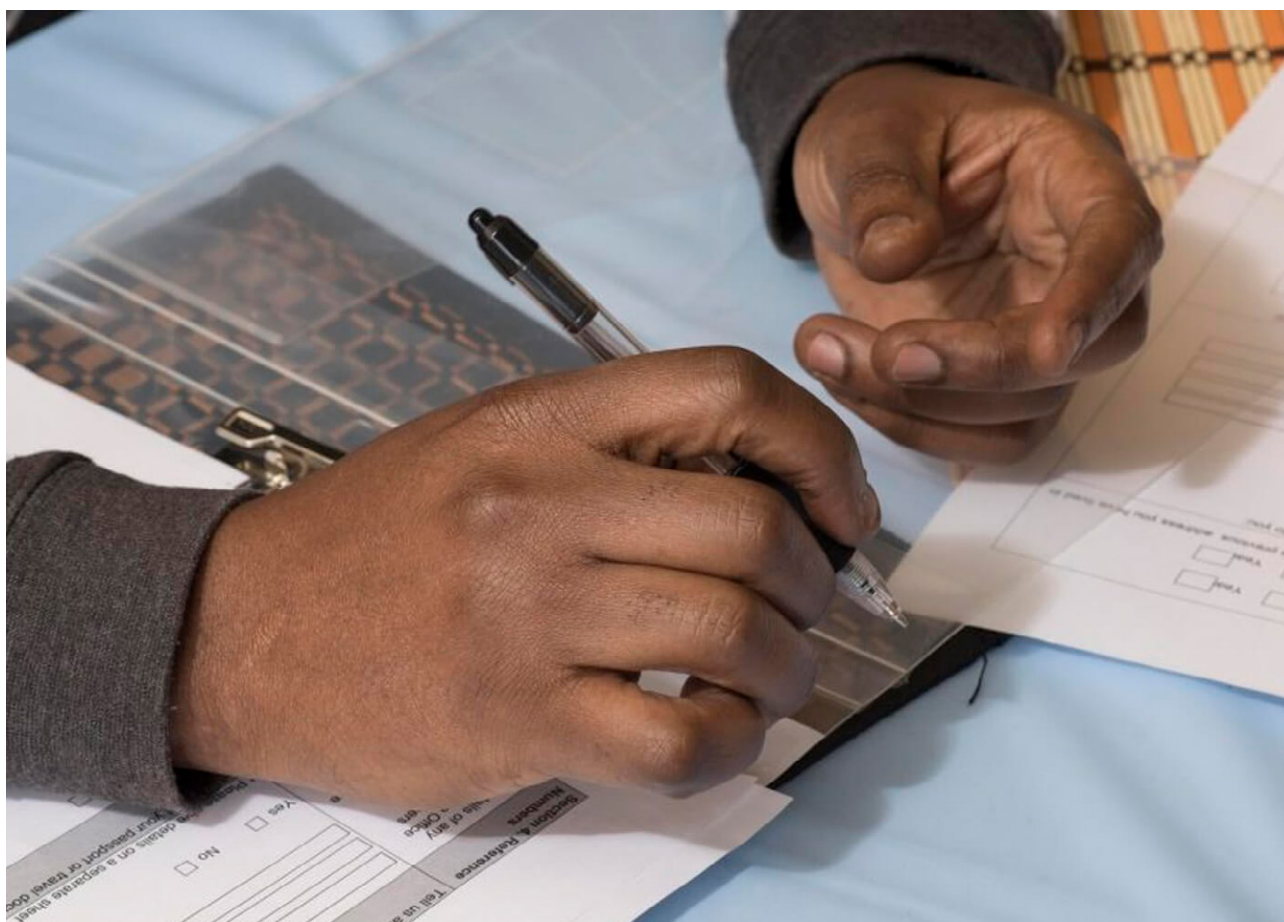
- Local Authority commissioners and other funders include a requirement in their contracts with Housing Providers and other voluntary, community organisations to provide basic information on right to complain and the complaints procedure to any migrant people with whom they are in contact.
- Home Office contracts with accommodation providers include a requirement to provide basic information on right to complain and the complaints procedure.

For Refugee Action

- Undertake a process of knowledge exchange with users of community-based organisations, the organisations themselves and other partners to a) disseminate the findings and recommendations of the research and b) to gain feedback which may further test, broaden or triangulate the findings in this report.
- Consider how an information campaign can be developed which maps Home Office Asylum Seeker application processes clearly and in accessible formats that meets the needs of Asylum Seekers newly arrived in the country. This should emphasise the independence of the formal complaints process from any immigration application and use different forms of media to improve accessibility.
- Develop and test a model of a 'complaints mediation' service.
- Consider piloting a specific alternative method of anonymous review which has been co-designed with people with lived experience of poor quality immigration advice experience. This should be done in collaboration with relevant regulators.

Further research

- More in-depth research is undertaken into possible solutions to the problems and barriers to complaints identified in this research. These should include:
- Ways of ensuring that information on the right to complain are provided to all those seeking formal immigration advice
- Co-producing (with those with lived experience of poor quality advice) a pilot to identify key social media outlets, provide information on complaints processes and assess reach and impact
- The feasibility of providing a centralised point of contact across multiple regulators
- Research is undertaken with a specific focus on recruiting non-Asylum Seeking migrants particularly those from the EU to investigate whether they have different experiences of complaints and barriers to complaints and whether the barriers and wider problems are as serious for groups other than Asylum Seekers.
- Targeted research is undertaken to identify the specific experiences of under 18s and child migrants, any barriers to complaints for this group and appropriate ways to address these.
- Research is undertaken to further explore issues of exploitation by solicitors and other advisors within communities to which Asylum Seekers navigate on arrival. This should be undertaken by an appropriately diverse and culturally competent research team.
- Further investigation of the role of interpreters in enabling or colluding with poor advice and/or acting as a barrier to changing advisers or making a complaint.



1. INTRODUCTION

There are no definitive figures on the numbers of people who have sought and are receiving immigration advice. There is however concern that demand outstrips provision. In their report, *A Huge Gulf: Demand and Supply for Immigration Legal Advice in London*, Jo Wilding and colleagues¹ estimate that there is capacity for just over 10,000 immigration and asylum legal aid 'matters', and a maximum of 4,500 pieces of specialist immigration casework outside of the scope of legal aid per year in London. On the demand side, Wilding et al., estimate that at least 238,000 people who are undocumented in London would be eligible to make an application to regularise their immigration status; 23,000 individuals need to extend their leave to remain; and an unknown number of EU citizens who did not apply for settled status before the deadline on 30 June 2021 will need specialist advice². These figures are for London alone.

Within this context there is concern over the ability of providers to maintain the quality and quantity of Immigration legal aid work due to the financial constraints that providers are working under (particularly within the legal aid schemes operated in England and Wales.) A recent report of the All Party Parliamentary Group on Legal Aid highlighted 'Some organisations have opted for more of a pyramid structure, with caseworkers and paralegals doing the majority of the legal aid work. This renders the work more financially viable, but given its complexity, more than one witness raised concerns about it being managed by juniors. Mr Luqmani also flagged issues around career progression as the fees payable for immigration and asylum cases under legal aid were insufficient to justify the promotion of junior staff into more senior roles.'³

Within this broader context, there is a concern both from regulators and practitioners over the low level of complaints regarding Immigration advice as well as concerns over overall standards of service. Immigration advice is a highly regulated environment, seeking to both protect the consumer from poor quality advice experience and increase the overall standard of services offered. However, regulators report relatively low levels of complaints and investigations, giving limited scope for understanding and rectifying bad practices in the market.

In 2020/21 The Office of the Immigration Services Commissioner (OISC) received 67 complaints against regulated advisers compared to 113 received in the previous year, in 2020/21 45 (67%) complaints were resolved in favour of the complainant. They took a total of 50 witness statements in the same year pursuant to criminal cases and prosecuted a total of 8 people⁴. The Legal Services Ombudsman noted in a report the severe impact that poor service can have for those seeking Immigration advice. It went on to note 'In these cases consumers took steps to complain and access redress. Those who have used a solicitor, barrister or legal executive have access to redress through our scheme should something go wrong.' It went on to note however that, 'research commissioned by the (Solicitors Regulatory Authority) SRA and our office in 2016 into the quality of legal services for asylum seekers found that a significant proportion of interviewees did not know they could complain or how to go about doing so. This is reflected by the relatively low number of complaints we receive in this area and mirrors the findings of our own research that generally people become aware of our scheme through their own efforts rather than because they were signposted by their service provider.'⁵

Regulated practitioners are required to have a tiered internal complaints procedure but in practice this appears to have had a limited impact on levels of complaints received, hence the concern over the level of complaints. There is a relatively high volume of immigration cases funded through the legal aid budget. Preliminary figures show that 10,133 legal aid casework matter starts were closed in the period January to March 2021. (This does represent a reduction of 11% compared to the previous year) but it illustrates the number of people in need of legal advice in frequently very traumatic circumstances. In February and March 2019 Refugee Action carried out a series of workshops with practitioners that sought to understand the reasons why levels of complaints were so low, given the number of cases and concerns over complaint levels. The primary aim of this research was to better understand what prevents a caseworker or advisor from assisting a migrant to make a complaint about poor immigration advice. A secondary aim emerged during the research, this being to find out caseworkers' insights on factors that prevent migrants from making complaints. Seventy-seven caseworkers were consulted via a range of workshops across the UK. It noted that the main barrier identified by caseworkers in the study was "a client's unwillingness to pursue a complaint". Other frequently cited concerns were the adviser being unsure of/lacking legal expertise, the adviser being unsure of procedure and a lack of time to pursue a complaint.⁶ This research with caseworkers was updated in 2021 with some initial limitations addressed. The results broadly confirmed the original findings.

The 2019 research informed the commissioning of this current research to explore and share the experiences of those receiving immigration advice directly. This would help gain insight into people's experience of that advice and identify any barriers to complaining and consider how best to improve systems in the most effective way possible, by involving those most directly impacted by bad practice in thinking about possible solutions.

The stories that were shared through this research have been analysed together to produce the findings to follow. In order not to lose the power of these stories through amalgamation, we have used some of them as a basis for Aboo's story which is a composite overview of the common elements of experiences described to us and their impact on individuals' lives. We have also quoted from participants throughout our analysis. The pseudonyms attributed to the quotes are culturally and gender-aligned (to our best knowledge).

Finally, it is important to acknowledge here that the predominance of poor quality advice experience from solicitors is not a reflection on the quality of practice of immigration advice solicitors per se. Solicitors have a larger share of the relevant immigration advice market, especially as it applies to the interview and focus group participants in this research (the majority of whom were Asylum Seekers). The research recruitment excluded people who had not had a poor quality advice experience and the findings need to be read in this context.

2. AIMS AND OBJECTIVES OF THE RESEARCH

2.1 Aim

Our primary aim in this research was to interview people who have received immigration advice to better understand barriers to complaining about poor advice and/or poor service experiences.

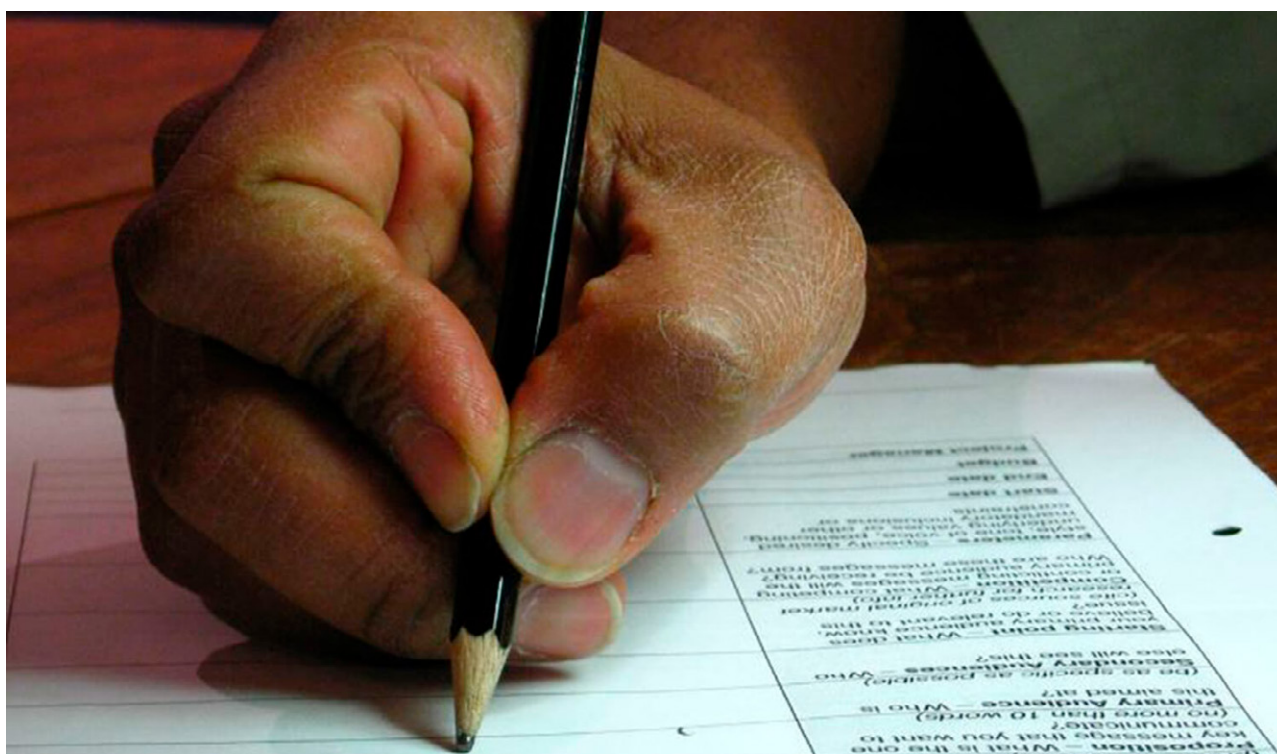
2.2 Objectives

These were:

- To research and understand the processes by which a complaint is lodged and pursued with the legal ombudsman and any relevant regulator and the practical import of these processes
- The experiences of people who did complain – who they complained to, the challenges they encountered, and whether the matter was satisfactorily resolved.
- The experience of people who did not complain, focusing on the reasons why complaints were not made or continued.
- The role of any external support that was known to the person that could or did help them to make a complaint and the extent to which this was necessary.
- A full list of data collection is outlined in the interview schedule attached as Appendix A.

2.3 Outcome

In conducting the research, we aimed to be in a position to make evidenced recommendations to improve accessibility and meaningful benefit of the complaints process, thereby improving accountability and overall standards of immigration advice in the longer term.



3. METHOD

The research method was as follows:

3.1 Desk work

Initial desk work was undertaken to: i) map complaints systems and procedures with the legal ombudsman and related processes (including through OISC) as well as any statistical information on the level of complaints nationally; ii) draft and agree with Refugee Action an information sheet for organisations and prospective participants and a consent form; iii) prepare interview questions and address any comments by Refugee Action representatives including the Experts by Experience manager to maximise relevance and accessibility. This agreed interview schedule is attached as Appendix A.

3.2 Recruitment

Recruitment of potential participants was undertaken primarily through organisations well known to Refugee Action and routes of referral were largely through these organisations. Organisations were selected to cover every UK region and for their representation of a range of migrant groups, albeit predominantly refugees and asylum seekers. They were then provided with promotional materials and invited to identify and refer participants. However, most organisations did not refer any participants. Often, this was not for want of trying. Anecdotally, several organisations expressed enthusiasm and some indicated that they had identified potential participants but were subsequently unable complete the referral within the timeframe of the research.

To reach target numbers of participants we supplemented this process through organisations that the researchers had established connections with (namely Gatwick Detainees Welfare Group, Jesuits Refugee Service). Our inclusion criteria were that interviews had had a poor quality advice experience, whether or not they had complained at the time or since. The scope of poor quality advice experience covers not only incorrect or incomplete advice but also poor service, poor representation, mistakes, negligence, poor communication and poor treatment through the experience.

We aimed to capture the experiences of those receiving advice, support and information from different sources in communities, regulated practitioners (including solicitors) and not for profit organisations (so, across OISC levels). Demographics and immigration circumstances of those interviewed are outlined in section 7. Of the 26 participants who volunteered to be interviewed by the research team, 3 pulled out of the research due to varying reasons (health and unfavourable immigration decisions) between the time of agreeing to be interviewed and being invited for an interview. The final number of interviewed individuals was twenty three.

3.3 Interviews and focus group

Interviews were undertaken with 23 people who have received immigration advice in line with the agreed interview schedule. Interviews were done at flexible times to suit the participant, including evenings and weekends.

A focus group was held with members of RAS Voice hosted by Refugee Action. Five members of this RAS Voice meeting contributed directly to the discussions.

Due to the geographical spread and the Covid-19 pandemic, interviews were carried out remotely using the preferred communication means identified by the participants. The most popular preference of being interviewed was through a phone call, with 15 participants (65.2%) choosing this medium, followed by the Zoom video conferencing software accounting for 8 participants (34.8%).

Interpreters were arranged via Refugee Action as required. Refugee Action was notified when interviews were complete. A token of appreciation was offered to each interview participant by Refugee Action in the form of a £15 voucher of their choice.

The interviews were conducted between mid-July and 1 October 2021. The focus group with RAS Voice (see above) was held on 8 October 2021.

3.4 Analysis

Thematic analysis was undertaken of these 23 participants and the 5 people providing feedback in the focus group to produce our findings.

3.5 Limitations and gaps

It is important to note several limitations and gaps in this research.

The main limitation was that most of the people who came forward to be interviewed were current or former Asylum Seekers. This may be due to the recruitment strategy outlined above, namely, to recruit people via Refugee Action's existing network of charitable organisations, volunteer-led groups and faith organisations. While this network included organisations that worked with other migrant groups, and some of these organisations were invited to take part, participants from a non-asylum background were nonetheless rare. In addition, the participants that came forward almost exclusively spoke of poor experiences with solicitors. A further piece of research with a recruitment strategy specifically geared towards EU and other non-Asylum seeking migrants would enable useful comparisons with the findings outlined in this report (see Recommendations).

Anecdotal evidence from contacts within Refugee Action's existing networks indicated that prospective participants sometimes decided not to take part, believing that doing so might affect their status or claim. Given that people self-selected in to be interviewed, the extent of this issue as a barrier to taking part is unknown.

This was a qualitative research project and as such the findings are based on subjective experience. There were some cases where chronology was unclear. There were also cases where people understood at the time that they were being represented by solicitors but then expressed doubt in the interviews that their representatives were in fact solicitors. This was mainly due to them not being given clear information on their rights (for example, regarding legal aid). Many of the issues raised would amount to serious breaches of the relevant professional standards. Additionally,

some of the issues raised about interpreters were perceptions rather than substantiated with specific examples but we have referred to these in the findings as we felt perception and lack of trust was an important issue to reflect.

All interviews were done remotely due to Covid-19 pandemic precautions. There were challenges in some interviews being undertaken in online video calls or by phone. These included poor connections and poor audio quality in some cases. It was the case that several participants opted for telephone interviews for the greater anonymity this provided, so this option may have been helpful in terms of inclusion.

As shown by Figure 5 below, the participant sample was not representative of the whole of the UK. Participants tended to come from specific areas of England. Wider representation of Scotland, Wales, Northern Ireland and more rural areas of England should be addressed in any subsequent research (see Recommendations). The views of people who received poor advice in Scotland or Northern Ireland may show distinct experiences (for example, because of different eligibility for legal aid).

Participants' poor experiences were reported as being almost exclusively with solicitors rather than community-based advice organisations (see below **Type of Advisor**⁷. This may also be linked to the recruitment strategy, where community-based organisations were the main gatekeepers for people finding out about the research.

As Figure 2 shows, the research did not reach any young people, although the Refugee Action Networks included support organisations for children. To address this gap would require a separate piece of research with a very targeted recruitment (see **Recommendations**).



4. FINDINGS

4.1 Demographics

The following demographic breakdowns are for interview participants only. For reasons of anonymity, the demographic details of focus group participants are not reported.

■ Immigration status

Figure 1 below shows the immigration status of people that were recruited and went on to complete an interview. It shows that by far the majority of people that came forward to be interviewed (20 out of 23) and representing 87%, had made, or were in the process of making, an Asylum claim. The sample included 2 former detainees (one granted leave to remain, another awaiting immigration decision) and 1 current detainee. One EU citizen had an issue with documentation related to work, made a work visa application whilst two others went through detention as foreigner national offenders. Data on types of application for members of the focus group were not collected, however the members were all drawn from RAS Voice, a group for Refugees or Asylum Seekers.

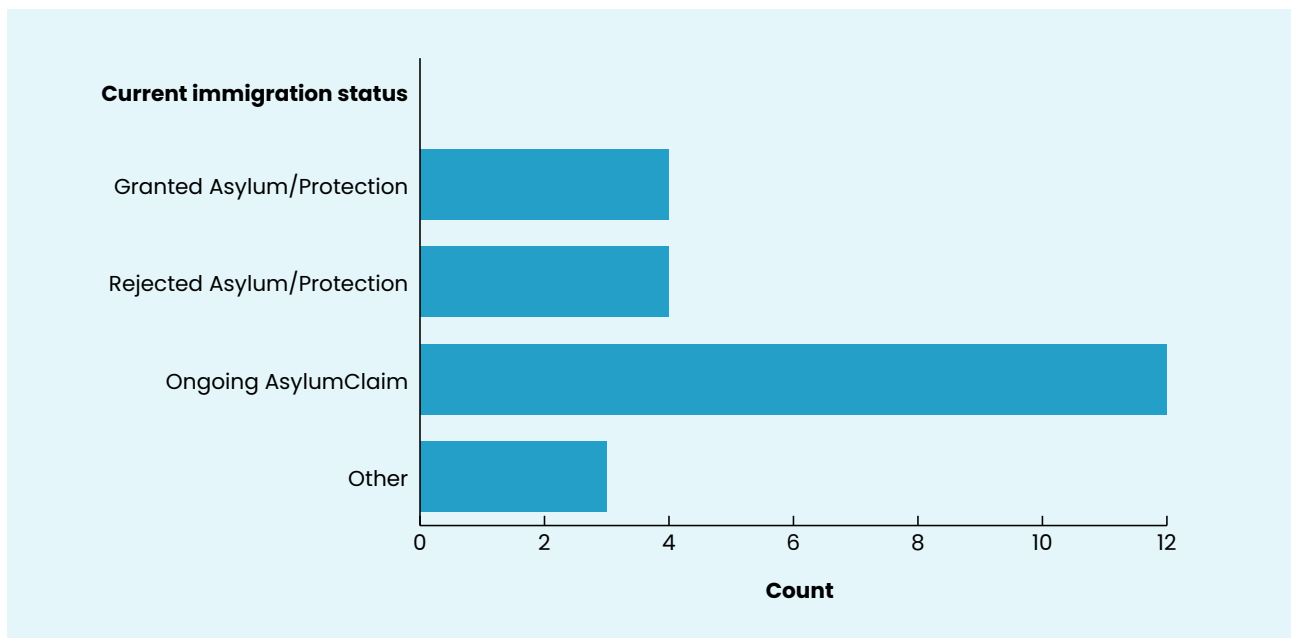


Figure 1: Count of Immigration Status of Participants

■ Age

All interview participants were over the age of 18 years old with the oldest recorded in the 55–64 age range. The age range most represented by the interview participants was the 25–34 years (8) followed by the 45–54 years old range (6). The 35–44 years old age range had 3 participants. The 55–64 years old range had two participants whilst the 18–24-year range had only one participant. However, 3 individuals declined to state their age range see Figure 2 below.

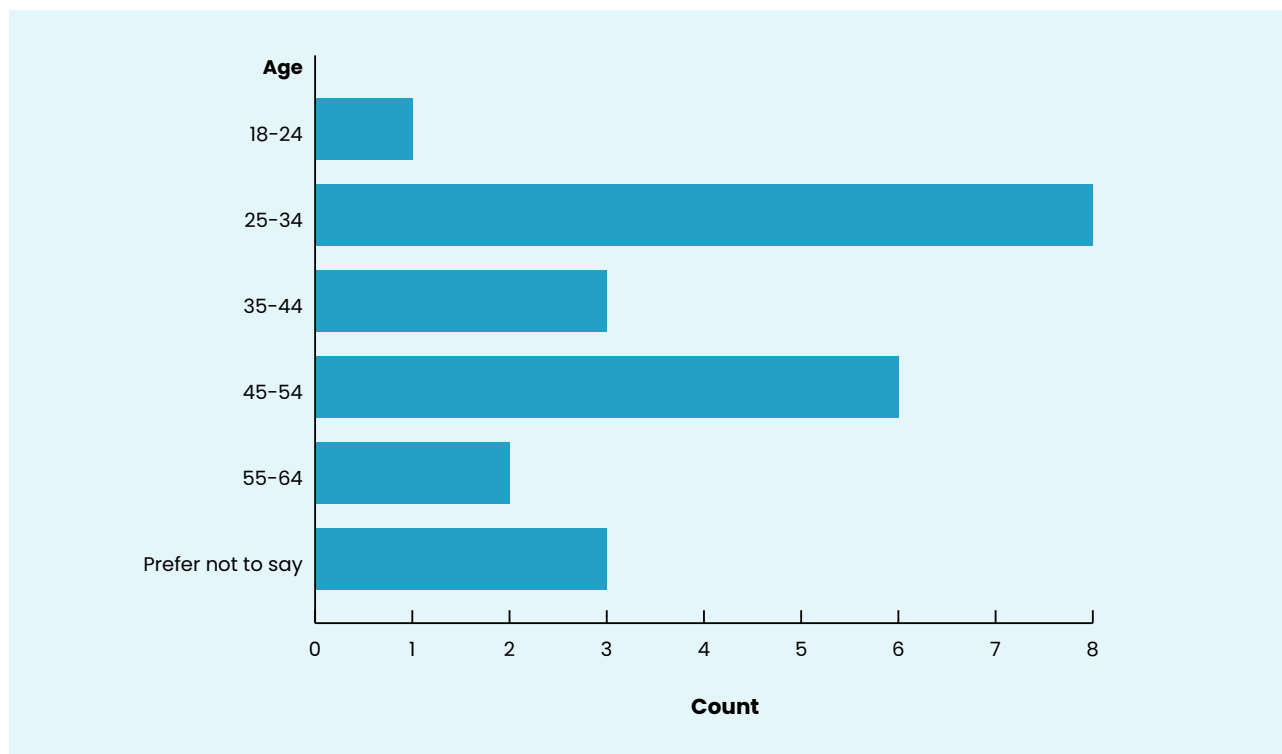


Figure 2: Age range of participants proceeding to the full interview

■ Gender

Most of the participants (14) identified themselves as male (60.9%) and the rest (9) identified themselves as female (39.1%).

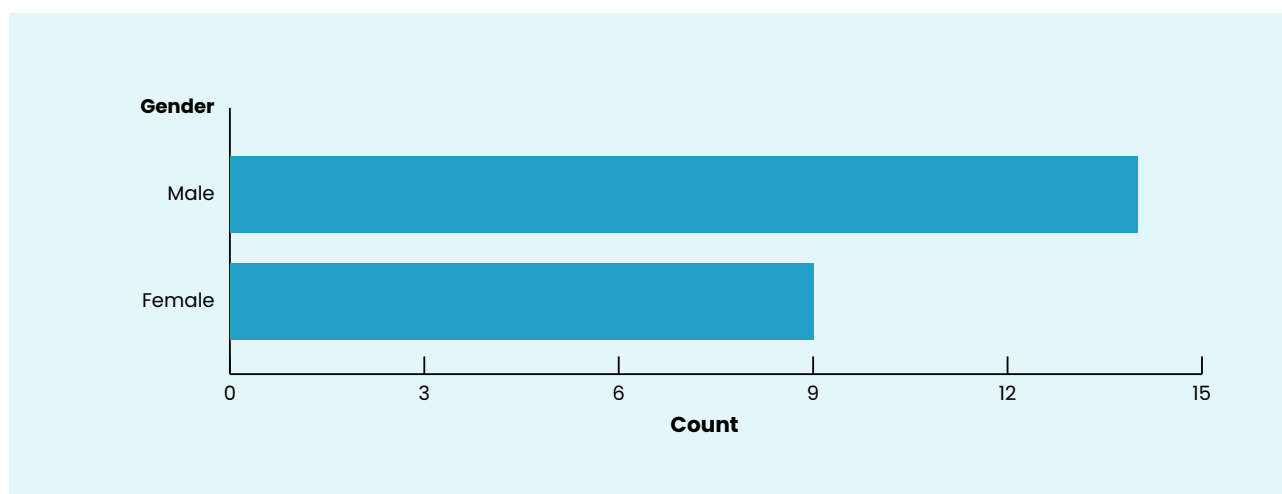


Figure 3: showing the gender of participants

■ Ethnicity

The ethnicity with the largest number of interview participants was Black African (39.1%), followed by White Europeans (17.4%). Those who preferred not to say accounted for 13%, Asian, Pakistanis were 8.7% of the study participants. Individuals who identified themselves as Chinese, Indian, Malaysian, and Persian represented 4.3% of each of the ethnic demographics. Figure 4 below shows a summary of participant ethnic characteristics.

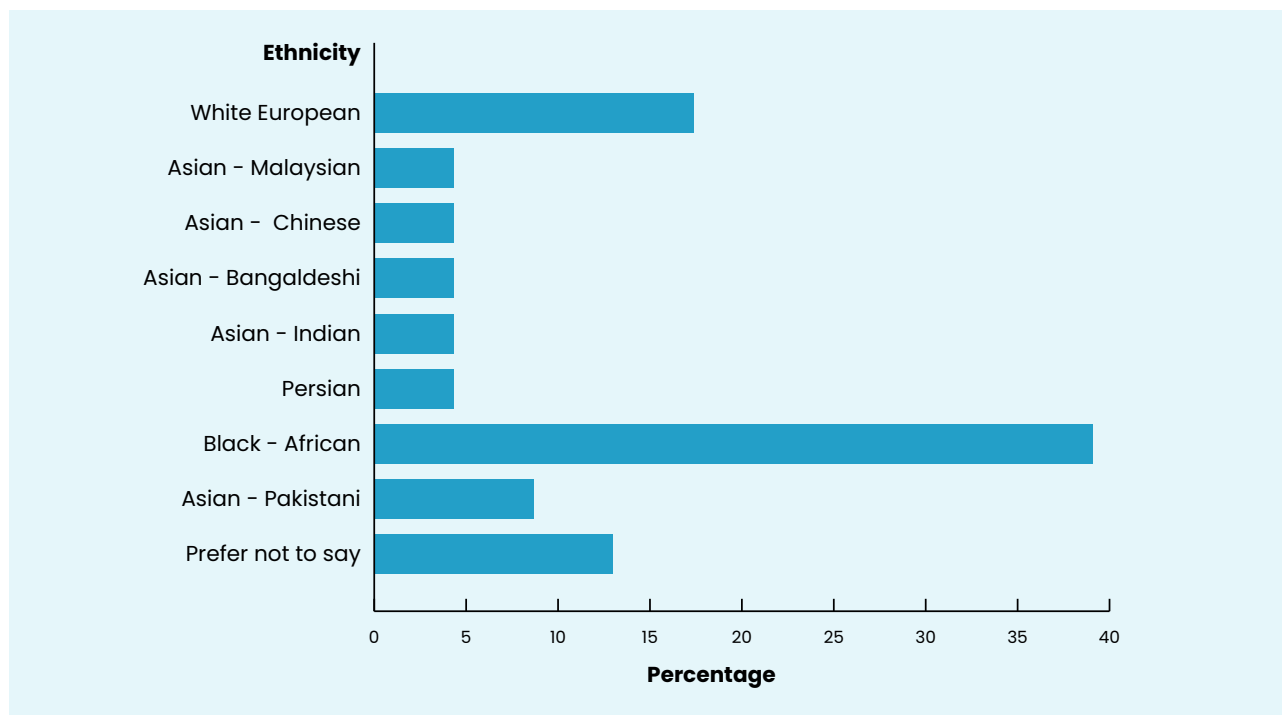


Figure 4: showing the ethnic background of participants proceeding to the full interview

4.2 Reasons advice was sought

Figure 5 below shows the breakdown of reasons for interview participants seeking immigration advice. The most sought-after advice regarding immigration status by interview participants was for asylum (20) with only one individual stating that they sought advice for a work-related issue (an EU national). Two participants of interviews had been detained further following prison sentences. One of these was Eastern European and one with nationality unknown.

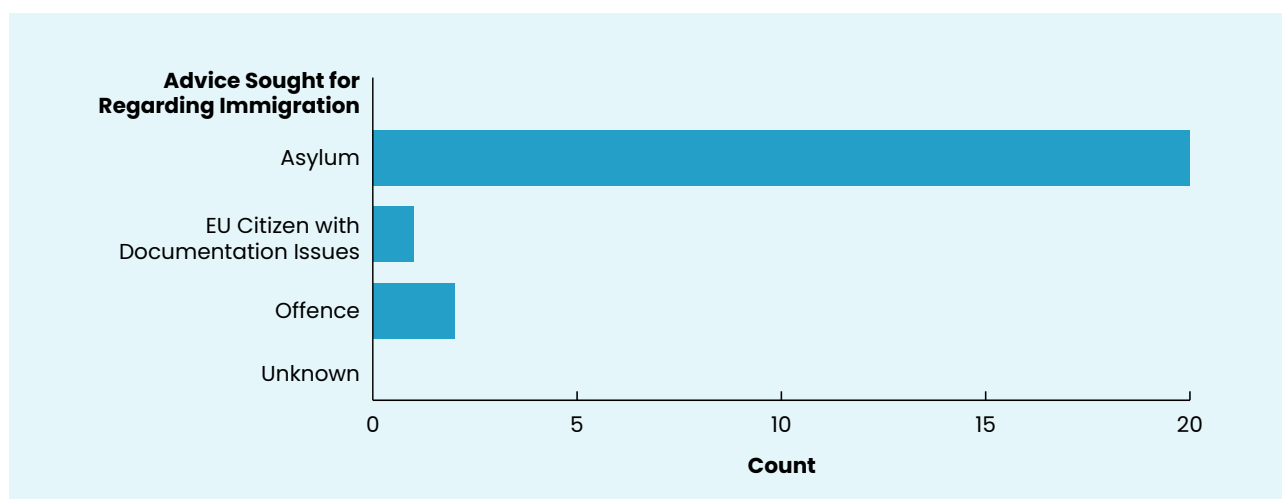


Figure 5: Immigration matter sought

4.3 Geographical area of residence and advisor at the time of advice

London and the Northwest were the geographical areas mentioned most by the participants as to where they were residing at the time of accessing the immigration advice. Some of the participants mentioned they had also accessed advice online or had multiple cities they accessed advice from. This may explain the discrepancy in advisor location and physical location of participants. See Figure 6 below for a breakdown of the geographical location of residency at the time of advice-seeking.

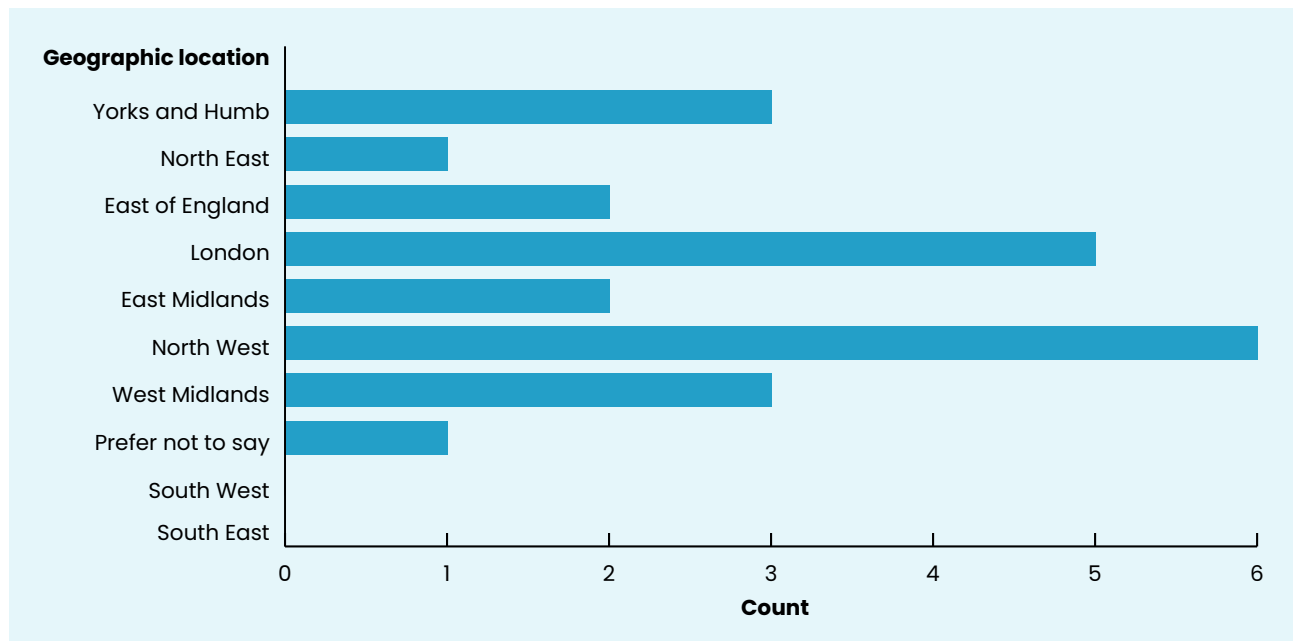


Figure 6: showing the geographic location of residency at the time of advice-seeking

Figure 7 below shows the geographical location of advisors with whom poor quality advice was experienced. Some participants had multiple advisors across different geographical areas. This explains the frequency totals in Figure 6 exceeding the total number of participants.

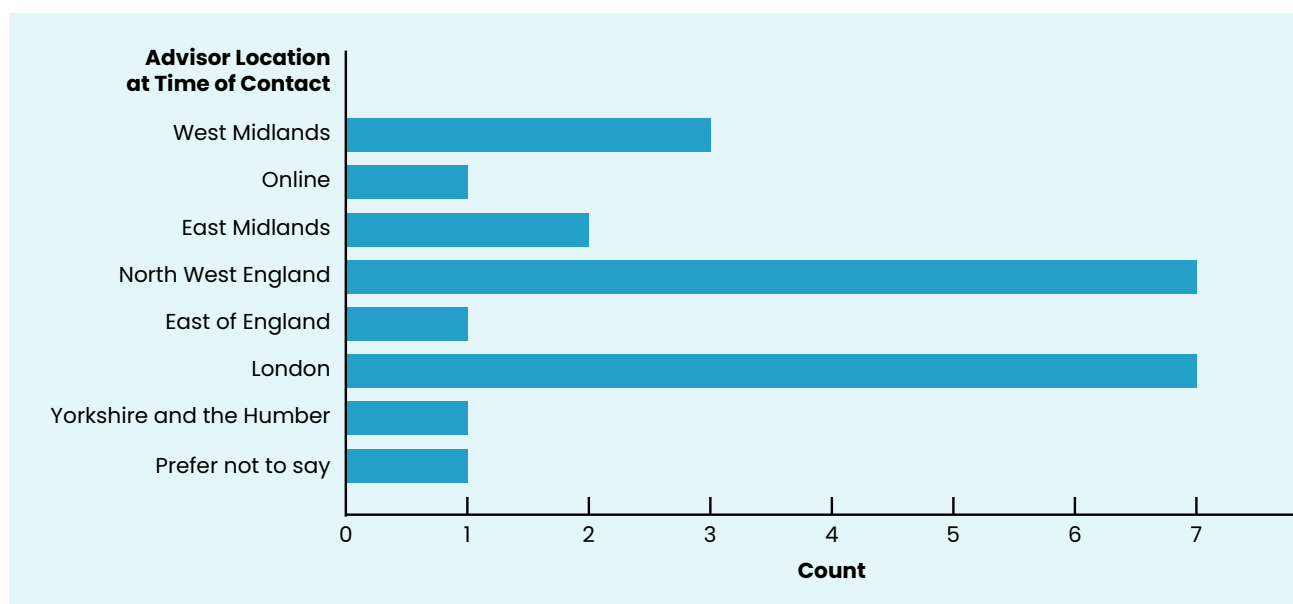


Figure 7: Geographical location of advisors with whom poor quality advice was experienced

4.4 Type of advisor

Most poor quality advice experiences related to people receiving advice from someone they understood to be a solicitor. Two individuals stated their experience also related to unregulated advisors and people that implied they were a solicitor but that they later suspected were not. Some individuals had experiences across several advisors and solicitors. Several people were engaged with voluntary sector and community sector organisations, but these were not reported as the primary cause of poor quality advice experiences. One individual expressed concern at a national charity when they mistakenly informed him that he had been successful in the granting of Asylum. He subsequently found that this was not the case and he that had actually been turned down. Four individuals complained about interpreters and, in some cases their acting as proxy, unofficial roles as advisors. Issues regarding interpreters are outlined further below (Language and interpreters as a barrier).

It is also worth noting here that a number of participants did report receiving high quality advice from solicitors subsequent to the poor advice they received initially. This tended to be when they were referred by a voluntary agency and this demonstrated to people the impact of having high quality provision, further illustrating the poor quality of service they had experienced before.

Several interview participants told stories of solicitors or advisors being recommended by people that they had met within their communities. Two participants specifically cited what they saw as corrupt systems in their communities, which exploited newly arrived immigrants. They stated that they had heard reports of advisors extorting money from people by keeping their documentation, demanding payments for tasks which would have already been paid for and not explaining entitlements to legal aid for those migrants that were struggling financially. Several stories shared by other participants suggested that this may have been the case for them, although this could not be confirmed.

4.5 Complaints made about the poor quality advice experience

Of the 23 participants interviewed, the total number of participants who complained was 3. One of these complaints was made through a support organisation, one to the law firm partners and only one to the ombudsman (via their new solicitor). The outcomes were mixed. The complaint made to the solicitor via the support organisation did not receive a reply. The complaint directly to the law firm resulted in a 'nice letter' that did not explain or directly address the reason the specifics of the complaint. The claim to the ombudsman resulted in the individual's documents being released to their new solicitor.

The rest of the interview participants (20) reported that they did not complain.

4.6 Barriers to complaints

The following section details findings on barriers to complaints as reported by interview and focus group participants. They are listed in order of the number of people reporting each barrier.

■ Lack of awareness of the right to complain

“I didn’t know there was a complaints process” Farai

“[I was] not aware of OISC or complaining to senior partner or Ombudsman.” Arman

Whilst all participants (in line with inclusion criteria) confirmed they had had a poor experience of advice; 20 of them did not complain. The most often cited reason for not complaining was a lack of knowledge of the right to complain. “I did not know it was possible” was what 16 of those who mentioned this as a barrier to complaining stated. This view was unanimously supported by the focus group members.

“The solicitor’s letter doesn’t encourage you to be assertive. Basically, it says ‘don’t call us, we’ll call you.’” Ying

Lack of awareness of who to complain to, even if you wanted to complain was further supported by four other participants who also alluded to the solicitors holding power over their lives.

Related to awareness, three participants were not sure if the advice they had been given (about what kind of application to make) was good or bad at the time, so they had not complained. This was linked to their lack of awareness about the immigration application system meaning that they were unable to judge at the time that the advice was poor (see below **Lack of awareness of the legal routes to immigration**).

“I didn’t realise that his advice was a problem. It was only later I realised.” Ying

Lack of knowledge of the complaints process was a barrier that was raised in the focus group. One member told the story of a very traumatic experience due to poor immigration advice. She was exploited for thousands of pounds with no progress made in her family’s application. She explained that *“I couldn’t complain because nobody controls them. Who will control the solicitors? Nobody will do this.”* This story emphasises the link between lack of knowledge of the complaints system and lack of confidence in the system to work for the benefit of the person receiving the poor quality experience.

Although lack of knowledge that complaints procedures existed was consistently cited as the biggest barrier to complaining about poor quality advice experience, some participants said that, although they did not know at the time that they could complain, they probably would not have done so if they had known. The reasons identified for this are explored below.

■ Fear of complaint affecting application or status

"If you are standing in my place, you can just having only fear." Tarifa

Fear of negative impact on applications was the second most common reason why individuals did not complain, after (and for many, running alongside) lack of knowledge of the right to complain. This was also the key issue raised in the focus group. As Farai said, *"I was worried it would jeopardise my application."* Similarly, Jahanara mentioned *"Because you were afraid that it would affect your application or status."*

"The main thing is fear. People that do not have a group like this they don't have any sense of power – just a strong sense of fear." Gertrude, focus group

"[You] are advised not to complain as can have an impact when you go for your interview." Milad

Milad's story offered insight into the informal peer advice passed by fellow migrants.

Several participants mentioned people are scared for their lives in their former countries of residence and seek safety in the United Kingdom. For this reason, they *"...prepare to be quiet and obedient so we stay safe"*. This is exacerbated by the sense of feeling unsafe in the country and the community. Tarifa clearly explained the impact of lack of sense of belonging in the community, including, *"I saw the policeman they were just passing from me, and they just say hi, hello. And I was thinking 'do they know? Maybe they know we are asylum seekers'"*. This lack of a sense of safety whilst waiting for an appeal of the refusal of their asylum claim informed their reluctance to complain about the poor quality advice they received.

"These kinds of situations make us extra careful, and we don't want to say anything. Because if we say anything maybe they will complain about us to the Home Office so it's better not to say anything, just leave that place and stop going to that place." Tarifa

Adheem worried about *"losing the solicitor and legal aid"* if a complaint was made. Linked to this was a fear strongly expressed in the focus group that any complaint to a solicitor could result in that solicitor acting punitively, for example in their attention to the case going forward. There was a very strong sense of powerlessness whilst in the hands of solicitors right across the interviews and focus group. Barriers to complaints were recognised very clearly as a systemic problem. People were more likely to change solicitors and, in some cases, shoulder the cost of that rather than complain.

"We need someone to guide and teach us how to deal with solicitors – educate us about our rights. Some find this through charities but some don't, or some don't find for many years when it is already late." Daria

"Solicitors are unaccountable for their mistakes, negligence. There is no oversight of them when they have our humanity in their hands." Daria

Several interview and focus group participants observed that advisors were primarily motivated by money, unprofessional and not engaged with the case.

“Applications which were made after payments of significant sums were piecemeal and seemed to be linked to generating more funds for the firm.” Anwar

“But he kept taking money from me the second solicitor. I was so angry, and I said I will never use a solicitor again.” Myra

In some interviews this was the person’s own money as in Anwar’s case:

“I am concerned about the waste of money. She has got legal aid for my case but done nothing. She stated I am just one in a lot of cases so therefore she is getting money for nothing and saying quality is not a concern. I am concerned about corruption here.”
Daria

In other cases, it was legal aid funding that people felt was not being used properly.

Taking into account indications from the recruitment process that fear of impact on applications was, for some, a barrier to taking part in interviews, it may be that this issue is more prevalent and strongly felt than our findings suggest.

■ Lack of awareness of the legal routes to immigration

One theme that emerges strongly from the interviews and the focus group is that lack of knowledge of systems and the processes of how to claim asylum reduces the willingness of people to complain as they do not know what they are entitled to and their focus is on being accepted.

“Estimate that when you arrive you are aware of around 40% of the system with 60% not known. Greatly helped by speaking English and without that you would really struggle. When asked around seeking help your main wish is not to be rude and you want to be accepted so you do not demand a service but keep returning to try and get one.”
Bante

This lack of understanding of the system exacerbates feelings of helplessness. Tarifa and Farai voiced the view indicated in many of the interviews that the only realistic option at the initial stages of entry and application was to put complete trust in the advisor.

“if my solicitor is giving me advice it means that he is right” because “we don’t know anything, so we just follow like sheep.” Tarifa

“At the time, because of lack of understanding of the immigration system, I really just took his advice. So, really whatever he was saying I just said okay. It was only later, when I went through the asylum process I realised I wish I had gone for an asylum application earlier.” Farai

What seems to have occurred in several cases is that as people became more aware of their rights or became aware of others getting cases resolved before them that they become more willing to complain or at least to seek a change in representation. For three of the participants, it was only when the experience was at least partially behind them that they could reflect on how the advice experience was inadequate or poor. For some increasing knowledge of the system appeared to have created motivation to confront poor quality practice, but only in hindsight.

“If I had that experience again, I would have complained sooner and been more assertive – not just waiting. I would have communicated more with my solicitor because I have learned that you can’t just wait, you have to keep pushing. This would be even harder for people who don’t speak English very well.” Ying

■ Language and interpreters as a barrier

Language and interpreters, who should be an aid to overcoming communication barriers, were identified by four participants as being an additional barrier in some cases. Five individuals highlighted issues with interpreters. There was frequently a lack of clarity around who interpreters were working for and how they were being regulated, which impacted on how trustworthy they were seen to be. There were several stories of people feeling pressured by solicitors to pay for an interpreter, even when they did not feel it was necessary. Aadil’s statement – *“He told me to take an interpreter which I had to pay for even though I didn’t need one”* – was echoed in several of the interviews.

“All communication is through the interpreter and not the firm.” Arman

One participant (Atifa) identified that they could *“be very powerful”* thus preventing an individual from making a complaint, especially if the interpreter is working alongside their solicitor and not keeping information confidential. The issue of the safety of people’s stories and how its integrity was protected is a clear theme and was particularly expressed in some instances when interpreters were involved, although examples were not specific but rather implied. This view was further supported by several other participants who highlighted that interpreters were not always seen as trustworthy or independent from the system.

When given the information on the complaints procedure, Arman mentioned that *“[I] cannot read card”* because it was in English, which would then have required the use of the interpreter who is working with the solicitor.

In several cases, intending to complain about, or change the solicitor was hampered by the interpreters.

“I want to change solicitor, but interpreter says will make no difference.” Milad

It should also be pointed out here that there were reported examples of good practice too when interpreters had intervened or been helpful.

■ Lack of support to complain

Two interview participants and three members of the focus group highlighted the lack of support and advocacy capacity of charities, although the best intentions of organisations were acknowledged. It was recognised that charities are under resourced in the face of high demand. One person noted that this in itself could lead to a less than ideal advice experience but felt that this was negligible when compared to experience with solicitors. This was a view expressed by only a few participants and was not a question specifically asked and therefore is limited in its significance in the research findings. It is worth comparing this with the findings of the Refugee Action research with not for profit caseworkers. They found that the most common reason given by caseworkers for not complaining was because the individual they were supporting did not want to complain. Other barriers included lack of knowledge and lack of time. What both pieces of research do highlight are that there are multiple barriers to using the complaints process and that it is not addressing the needs of anyone engaging with the system.

■ Home Office Requirements

The need to sign in constantly as required by the Home Office regulations was also seen as a practical barrier to several individuals complaining about poor quality immigration advice experience. This was highlighted by several participants. Jahanara and her daughter had to travel to sign in regularly which left them with no time to make a complaint against the poor quality advice experience to which they had been subjected.

"For the Home Office at one stage, I was signing in every day. And both of us had to carry our bags and queue up all day so, where is the time to complain?" Jahara

For Farid, Home Office restrictions had a restrictive impact on normal functioning,

"You stay in this room. You are not allowed to stay out of the accommodation for 24hrs for the first six months. After six months you are allowed 48hrs. It is a good looking prison."
Farid

■ Lack of time and focus in the face of immediate priorities

In addition to speaking of Home Office sign in requirements being a barrier to complaining (see above), Jahanara also explained that she faced much more urgent priorities that were taking up her time and focus.

"I have got so many problems and complaining might bring me more problems. Right now I am pregnant and they have stopped the support for my housing and I am getting evicted in one week so when would I have the time to complain? I was just praying God I hope things can change."

4.7 Effect of poor quality advice experience

■ Powerlessness

The most cited effect of the poor quality advice experience was a sense of powerlessness over the outcome of the participant's immigration matter and the impact it had on their lives. Adheem felt *"lost and powerless"*, whereas Ying felt *"stranded, ... left hanging and ... powerless."* Milad summarises these feelings by mentioning they felt *"weak and not empowered."*

Dehumanisation is linked to a sense of powerlessness and invalidation of identity.

"I didn't feel like a human, other being looked down on." Farid

For Farai, his mother's murder in his birth country resulted in grief and loss which he expressed as compounding his sense of powerlessness at that time.

"Trapped and at the same time grieving so it was very strange." Farai

A sense of powerlessness was linked in the interviews to a direct and significant mental health impact (see below).

■ Loss of Documentation

An often-cited impact on advisor action and advice was the length of time it took for cases to be resolved and the lack of access to their documentation, which was being held by the advisor, sometimes for years on end. One person was yet to recover their documentation. At times, no reason was given for withholding documentation. Sometimes people were required to pay for their documentation to be handed back to them.

"This has gone on for 15 years ago. I never got my documents back from him." Myra

■ Mental health

Most of the participants referred to a significant mental health impact resulting from the poor quality advice experience. Farai articulated this most clearly. The impact of the poor quality advice experience meant that he became depressed and isolated and lost confidence despite having been a successful student in the UK beforehand. For some, like Ying, they had to be medicated as a result, *"I had to rely on medication for anxiety and depression, it affected my mental health"*.

"Finding it hard... I stayed in my room... I think I lost part of myself during that time... I lost all my confidence." Farai

One participant stated they had already been diagnosed with post-traumatic stress disorder (PTSD) before arriving in the UK. The stress caused by the poor quality advice experience led to a new form of PTSD coupled with the old reasons for diagnosis. Suicide and self-harm were contemplated and attempted by 3 participants. They felt that the effect of the poor quality advice experience had stopped them from accessing professional support needed for their mental health, with some relying entirely on friends.

"I was in terrible times, and I didn't find anyone to help me." Abdo

Five participants highlighted in their stories how this mental health impact was exacerbated by a lack of access to support.

"I lost 7 years of my life." Ying

"I am suffering very much. I have depression now. I feel so much in pain. I might have made an attempt on my life had it not been for a friend who is supporting me. I do not feel happy." Mathilde

For many of the participants, the experience was quantifiable in years of experiencing depression and anxiety.

For Jahara this was not only for herself but also for her child, highlighting the generational impact of poor quality advice experiences.

"He ruined our lives. He knew what he was advising us and him expecting us to give him money." Jahara

Physical health

The mental health impact of poor quality advice experience was described as linked to physical health problems, which were the second most mentioned negative impact highlighted in the interviews. Some showed time-limited physical symptoms such as Farai who experienced constant migraines in the period during and following the poor quality advice experience.

"I was trying to be strong but all the health issues I have now is because of the stress I encountered because of the solicitor." Samira

Several others reported that they had developed long-term physical health issues which they identified as directly resulting from anxiety and stress.

"Sometimes you can't even eat. I've lost weight – because I feel terrible inside... even my hair went white." Abdo

For the Janahara's the stress resulting from the poor quality advice experience led to an acute physical response resulting in hospitalisation.

"My daughter was so stressed she ended up unwell and in hospital." Jahanara

Mukisa developed physical complications throughout the time his case was pending. His sugar levels due to diabetes were sometimes high when receiving news of a negative decision resulting from poor quality advice. He has since developed more complications:

"When I had diabetes thought had type 2 diabetes and now type 1." Mukita

Intersecting issues

The impact of poor quality advice experience on the individual was most evident in the different aspects of their lives it affected and how at times the snowballing effect of the poor quality advice experience meant individuals dealing with several more stressful situations all related to the poor quality advice experience. For example, one of the most cited impacts was the issue of a loss or lack of status which meant for many that they could not work or fully use banks and other services.

"I couldn't work and didn't have ID." Abdo

Lack of money and lack of control of their lives meant that most of the participants experienced years of destitution and living in substandard accommodation.

"I was destitute and struggling for 7 years." Ying

"I am now living in a very bad accommodation which is dirty and very cheap." Marceau

Families were sometimes separated because of the impact of the poor quality advice experience. Tarifa described how she lost the connection with her son who gave up hope on the immigration process and moved back to his country of birth to face the very dangers they were seeking shelter from. Because of this voluntary return, Tarifa lives with the fear that she will never see her son again, or at least not for many years.

"He said he was losing his years of youth, so many years doing nothing. I am so afraid I will never see him again." Tarifa

Ying was also separated from her family for many years even though they were in the UK. This was a direct result of poor advice in the first instance and the consequent loss of income and freedom to travel.

4.8 Improvements

We asked people their views on what could be done to address barriers to complaints. Whilst this is a complex issue to address without in-depth knowledge of the system, both interview and focus group participants put forward insightful perspectives that can inform future research and development.

Information and Support

Suggestions made by most of the participants focused on information and support, which is unsurprising given that this was the most oft-cited barrier to complaint. People felt that this information should cover the right to complain and the process of complaint.

“You say you welcome refugees here who need help – if they need help, then help them. They have to feel safe. People do not know their rights and it makes the whole system take advantage of them. The immigration authorities and the solicitors and the interpreters are all working together so it is hard to make a complaint when you know it is not going to be taken seriously because you are immigrant.” Marceau

Information on how to choose a solicitor

Two participants also said that information on how to find a good solicitor was important, in the face of their experience of being recommended to solicitors who had gone on to give a poor quality advice experience.

“People need information about the system and awareness of the risks that they face in going to solicitors without proper ratings.” Aadil

Information on the process of application

Most participants felt it important that information be provided on the Asylum Seeking process itself. This relates to the findings above which showed that most people had little or no knowledge of this on arrival and therefore had little choice but to believe the advice solicitors provided.

Provision of information on what was supposed to happen when seeking Asylum was something participants felt would go at least some way to enabling people to complain and perhaps change advisor, if they wanted to. Specific suggestions were that information should include what exactly the process was, with timelines for appeals and also available funding to support Asylum seeking claims. They should also be available in different languages and in a variety of formats to aid understanding.

It is worth noting that some resources do already exist. However, establishing whether these resources were known to participants and if so, at what stage they became aware of them and how useful they found them was beyond the scope of this research.

Dissemination of information

Specific suggestions for how this information could be shared included dissemination by charities, food banks and accommodation providers. One person also suggested dissemination of information via social media channels where it could reach more people and be shared amongst peers. One person pointed out that it is easier for people to get translations through digitally shared information. Use of videos was another specific suggestion, to overcome language barriers and as an information vehicle that was easily shared.

Advocacy support

The provision of advocacy support was also specifically suggested by one participant. This should reach people as early as possible after arrival. It was further suggested that use of short videos and other digital methods should be used as part of an 'induction package' which would be relatively inexpensive and effective. This simplification would help both the applicant and the agency helping them.

Addressing wider systems issues

Although this was not always specifically articulated, there were strong indications in the data that the integrity of the process itself was doubted. This was clear in the links made by most of the participants between the solicitor and the Home Office. The assumption most often made was that the complaints system was not independent of the Home Office and this was a major contributor to people's fear that complaining would affect their application (see above). Two participants mentioned that this should be acknowledged and addressed in any information developed and disseminated.

There was also concern over restrictions imposed by being in a detention centre and the lack of accountability for power held (particularly on the part of the Home Office) and how this impairs people's ability to complain. One person expressed the view that if people are put in detention, then it should be doubly reinforced that they have the right to complain about levels of service because they are even less likely to do so.

There was also concern expressed over the purpose of the complaints process with one person considering it not fit for purpose as you are complaining to the same people who are providing the advice. Another person reviewed the service online in order to help others and there is learning from this which can inform solutions (see **Recommendations**).

5. DISCUSSION

Our findings support those of the SRA report⁸ (November 2016) that the complaints process as it stands does not meet the needs of people (in this case Asylum Seekers specifically) who have bad experiences of immigration advice. The 2021 research by Refugee Action *Barriers to Complaints – Caseworker Research Report* (published alongside this report.) shows a majority of case workers having come across cases of poor quality advice experience provided to their clients. Case workers also reported anecdotally that their clients' lack of awareness of how the system should work was a major barrier for them to complain, reflecting our own findings. The caseworker research also shows some interesting mirroring of barriers which emphasise the systemic nature of the problem. This previous research was undertaken with case workers to identify factors that might prevent them supporting a service user to complain. This findings of this previous research were that, in order of prevalence, the barriers for case workers were:

- 1 Unable to get client consent (greater than 42%)
- 2 Insufficient time / low priority / pressure of other work (40%)
- 3 Unsure whether a complaint was appropriate / lack of legal expertise with which to assess a legal adviser's actions or advice (30%)
- 4 Unsure of the appropriate regulator's procedure for complaints – who to complaint to first, how to make the complaint, etc. (22%)
- 5 Unsure which was the appropriate regulator (19%)
- 6 Fear of jeopardising a working partnership, where the legal adviser takes referrals from the caseworker's organisation (13%)
- 7 Fear of giving unregulated immigration advice in the process of complaining / belief that helping someone complain requires regulation (8%)

Percentages represent the proportion of caseworkers identifying with a given barrier. Some identified more than one barrier. For this reason, the percentages add up to more than 100%.

The most often stated barrier – that of being unable to get client consent – reflects the reluctance of people to complain that is exhibited in our own findings. The specific barriers shown in our findings: lack of knowledge of complaints procedures; fear of retribution and insufficient time to prioritise a complaint in the midst of other pressures are clearly shown as barriers for caseworkers themselves. For these issues to be barriers to individuals with limited or no support and power in the system to be replicated by case workers with a role to support them, highlights the severe challenges that these systemic barriers represent.

To attain the outcome of an improved level of advice service to individuals and across the system, simpler systems are needed that provide a more immediate resolution, together with better more preventative systems being put in place to monitor quality rather than relying on complaints to remedy bad practice. It is imperative that these solutions address the power issues raised by participants (that is to say, they need to place meaningful power in their hands to complain without fear of retribution or impact on their applications). But it is also the case that more capacity is needed in the parts of the system that provide direct support to migrants so that they can play a meaningful role in helping individuals overcome barriers to complaint.

Based on our findings we have identified several key areas where actions could result in positive systems change. These are outlined below.

5.1 Information and support

The most fundamental challenge is to get accessible information to refugees and migrants as soon as possible after their arrival and certainly by the start of any Advisor contact. This must include information on:

- how the asylum or other relevant process works
- the respective roles of a legal advisor and the Home Office within the process (important to avoid complaints about matters within the Home Office remit and therefore beyond the Advisor's control)
- the professional standards that regulated advisors must adhere to
- the right to complain about an advisor and on the complaints process itself

It should also include clarity on what people should expect from advisers, on the role of interpreters and on how to address any concerns people may have about them. These issues are already well covered in the Right to Remain toolkit (www.righttoremain.org.uk/toolkit) However, data collection on the awareness and use of the resource was beyond the scope of this project.

A variety of media should be used to communicate the above information and could be distributed through community-based support agencies, food banks and faith organisations, housing providers and Advisors themselves. Commissioners in Local Authorities and the Home Office could also play a major role in driving this forward, simply by including a requirement in their contracts with Housing Providers and other voluntary, community organisations to distribute this information consistently in an appropriate format with any migrant people they reach or to whom they provide services.

Use of targeted social media and digital tools such as videos would enable greater accessibility, for example reducing the reliance on understanding and reading English. A pilot involving those with direct experience of an Asylum and Immigration claim should be developed to identify key social media outlets and assess reach and impact. This could be highly beneficial in addressing information needs. In addition, information needs to be provided in key languages.

Our findings, however, indicate that information alone would not be sufficient to create any widespread change. For change to occur, people need to have support and advocacy to empower them in making complaints. The findings from the previous Refugee Action research with providers aligns with our own findings to suggest that community-based support organisations do not, on the whole, have capacity to actively support complainants, or the skills and understanding to do so. Other research suggests that caseworkers frequently don't understand complaints procedures, confirming that these procedures are not fit for purpose.

5.2 Exploitation within communities

Several interview participants told of particularly traumatic experiences of being referred to solicitors within their own communities. These were people who spoke the same language and were known within the communities. These participants experienced financial exploitation and negligence, and several spoke of solicitors making what they saw as deliberate mistakes or omissions so that they could ask for more money for appeals. The word 'corruption' was used by 5 participants in interviews. Further research should be done to ascertain the extent of any alleged exploitation within communities. Prospective researchers will need to demonstrate sufficient diversity and cultural competence within their teams to be both trusted and independent in the communities where the research takes place. Where possible, efforts should be made to recruit peer researchers from within communities.

5.3 The role of empowerment through 'user-voice' and co-produced solutions

There appeared to be a correlation between organisations (such as Jesuit Refugee Services, for example) where there was a strong 'user-voice' emphasis and the numbers of people coming forward from those organisations. This is not surprising given the empowerment inherent in well-run 'user-voice' groups and was something that the focus group participants also highlighted. User forums provide opportunities to see people as an asset, recognising their potential for making 'game-changing' contributions to solutions. It is important that, in taking recommendations forward, user voice and direct involvement is integral in research and in design, implementation and evaluation of pilots.

5.4 Systems impact on quality of representation

An issue that was outside the direct remit of this research but was a common thread in participants' experiences was how people's previous experiences in their country of origin were reduced. This led to feelings of disempowerment and not being sufficiently represented. It appeared to be further compounded by the need to use interpreters as intermediaries. There is a concern that the system and numbers of cases involved means solicitors can be de-incentivised to provide quality of advice and fully represent the complexity of people's risk in their countries of origin in order to achieve the best outcome. On the contrary, the outputs focused system, largely focused on fixed fees, incentivises solicitors to deal with cases with as little time input as possible to access payment. This seems to apply both to Legal Aid and non-Legal Aid cases. This is a wider systemic issue that is outside the scope of this research. However, it is important to raise here as it requires addressing for any chance of equity and quality improvement in immigration advice.

6. CONCLUSIONS

6.1 When people have a poor advice experience they are unlikely to complain

Of the 23 people interviewed, all had suffered a poor advice experience, but only 3 had actually made a complaint. Only one of those people received a significant benefit from their complaint, via the return of their documents.

6.2 There are several reasons why people do not complain when they have a poor advice experience

The barriers preventing people from complaining can be grouped as follows, in order of prevalence:

- 1 Lack of awareness of the right to complain
- 2 Fear of a complaint affecting an application or a person's status
- 3 Lack of awareness of the legal routes to immigration – i.e. an inability to tell whether advice is good or bad until long after the event
- 4 Language and interpreters – with interpreters sometimes discouraging or obstructing complaints
- 5 Lack of support to complain
- 6 Home Office reporting requirements, and other things that detract from the time and emotional space people need to make a complaint

Overall, there was a lack of faith shown in the objectiveness of the process, linked to suspicion of interpreters and solicitors and how complaining might negatively impact application outcomes. In the case of #3, by the time someone realised a complaint was appropriate, dealing with the consequences of their poor advice experience was often their focus.

6.3 Solicitors are mostly responsible for the poor advice experiences of asylum seekers

Nearly all participants' poor advice experiences were at the hands of solicitors or people presenting themselves as solicitors. Where a participant was in receipt of legal aid, this is likely down to solicitors' dominance of the legal aid market. However, participants also spoke of being charged by solicitors. It may be that some 'solicitors' were only presenting as such.

6.4 Poor advice experiences can result in severe negative consequences for the individual

Negative impacts of poor quality advice experiences are difficult to map exactly due to lack of certainty concerning attribution but most participants felt that poor quality advice experiences had led to further, complex and serious impacts on their lives, both since and into the future. These included:

- Anxiety, stress and other impacts on mental health and wellbeing
- A lack of power, agency and confidence in moving forward
- Impacts on physical health
- Lengthy periods without status
- Inability to work and study
- Destitution
- Separation from family

‘Lost years of life’ was a recurring theme. Participants’ children were sometimes caught up in these impacts.

6.5 Existing procedures for handling complaints are not fit for use by asylum seekers

Asylum Seekers are a highly vulnerable group, especially when newly arrived. There is no direct correlation between a complaint and its potential to redress the central issue, i.e. getting Immigration Status resolved – a specific issue noted by some of the participants. While good advice can only provide the outcome that is possible within the legal framework, it should increase certainty and confidence.

Due to the limitations of the research, we cannot comment on whether the procedures are fit for other users.

6.6 Alternative strategies to encourage complaints need to be co-produced with asylum seekers

These should be piloted and evaluated with asylum seekers if barriers to complaints are to be addressed in any meaningful way.

7. RECOMMENDATIONS

Based on the findings of this research we recommend the following:

7.1 Recommendations for regulating bodies

- That regulating bodies work in collaboration with each other and with other stakeholders to consider ways to ensure that solicitors and other advisors include clear information on the right to complain and the process of complaint.
- That alternative strategies for registering complaints are developed and evaluated.
- That a specific alternative method of anonymous review of advisors is developed, piloted and evaluated for its potential in highlighting episodes (and serial episodes) of poor advice with individual solicitors and other advisors. This should be co-designed with people with lived experience of poor quality immigration advice experience and reflect more efficient ways of improving service levels. This could also draw on experience and good practice in other fields and seek to prevent quality declining and reward good practice.

7.2 Recommendations for Refugee Action

- That Refugee Action undertakes a process of knowledge exchange is undertaken with users of community-based organisations, the organisations themselves and other partners to a) disseminate the findings and recommendations of the research and b) to gain feedback which may further test, broaden or triangulate the findings in this report.
- That Refugee Action consider how to maximise the reach of the Right to Remain toolkit. This should include use of different forms of media to improve accessibility.
- That Refugee Action develop and test a model of 'complaints mediation' service.
- That Refugee Action considers piloting a specific alternative method of anonymous review which has been co-designed with people with lived experience of poor quality immigration advice experience.

7.3 Recommendations for community-based organisations

- That refugee organisations, faith groups, food banks, housing providers and others in regular contact with newly arrived migrants take a role in ensuring that people know their rights to complain and processes of complaint and that they consider developing support and advocacy provision to help people complain.

7.4 Recommendations for Home Office and Local Authority commissioners and other funders

- That Local Authority commissioners and other funders include a requirement in their contracts with Housing Providers and other voluntary, community organisations to provide basic information on right to complain and the complaints procedure to any migrant people to whom they are in contact.
- That Home Office contracts with accommodation providers include a requirement to provide basic information on right to complain and the complaints procedure.

7.5 Recommendations for further research

We would suggest the following:

- That more in-depth research is undertaken into possible solutions to the problems and barriers to complaints identified in this research. These should include:
 - Ways of ensuring that information on the right to complain are provided to all those seeking formal immigration advice
 - Co-producing (with those with lived experience of poor quality advice) a pilot to identify key social media outlets, provide information on complaints processes and assess reach and impact
 - The feasibility of providing a centralised point of contact across multiple regulators
- That research is undertaken with a specific focus on recruiting non-Asylum Seeking migrants particularly those from the EU to investigate whether they have different experiences of complaints and barriers to complaints and whether the barriers and wider problems are as serious for groups other than Asylum Seekers.
- That future research recognises the time that is needed and the trust that must be built to recruit participants, many of whom are inherently distrustful of the idea of making a complaint and provides additional resource for partners engaged in recruitment.
- That targeted research is undertaken to identify the specific experiences of child migrants, any barriers to complaint for this group and appropriate ways to address these.
- That research is undertaken to explore further issues of exploitation by solicitors and other advisors within communities to which Asylum Seekers navigate on arrival. This should be undertaken by an appropriately diverse and culturally competent research team.
- That further investigation is undertaken into the role of interpreters in enabling or colluding with poor advice and/or acting as a barrier to changing advisers or making a complaint.

APPENDIX A: Interview Schedule

Introduction

Thank them for taking part. Reiterate it is voluntary and they can stop at any time. Reiterate that answers will be used along with answers of others to produce a report aimed at making positive changes in the system – to make it easier for people who have had bad experiences to complain.

Reiterate anonymity but the limits of confidentiality if they tell us anything that is a current safeguarding or significant risk of harm to self or others issue.

Confirm was poor quality advice experience

This research is for people who have had a bad experience of asking for advice and support. Do you feel that you have had a bad experience of getting advice? If yes,

Basic demographics

Age

What age category do you fit into?

- ☐ 18-24 years
- ☐ 25-34 years
- ☐ 35-44 years
- ☐ 45-54 years
- ☐ 55-64 years
- ☐ 65 or over
- ☐ Prefer not to say

Ethnicity

How would you describe your ethnic background?

White

- ☐ Gypsy or Irish Traveller
- ☐ White EU background
- ☐ Any other White background

Mixed or Multiple ethnic groups

- ☐ White and Black Caribbean
- ☐ White and Black African
- ☐ White and Asian
- ☐ Any other Mixed or Multiple ethnic background

Asian or Asian British

- ☐ Indian
- ☐ Pakistani
- ☐ Bangladeshi
- ☐ Chinese
- ☐ Any other Asian background

Black, African, Caribbean or Black British

- ☐ African
- ☐ Caribbean
- ☐ Any other Black, African or Caribbean background

Other ethnic group

- ☐ Arab
- ☐ Any other ethnic group
- ☐ Prefer not to say

Gender identity

How would you describe your gender?

- ☐ Male
- ☐ Female
- ☐ Non-binary/gender fluid
- ☐ Prefer not to say

Geographical area

Which town or city (or other area) were you living in when you received your advice?

Do you know what county this is in? If so, which one?

Which town or city did you meet with your Advisor to get the advice?

- ☐ Online
- ☐ Don't know

The Immigration Matter

Note: if needed affirm we are unable to comment or give advice on the matter

Can you start by telling me a bit about the immigration issue you were asking for advice about (when you had your bad experience)?

- What was the situation that you wanted to get advice and support about?
- What was the problem or information you were trying to get advice on at that time?

Type of Advisor

Who was it that that you were asking to give you advice if you know (at the time you received poor quality advice experience)?

- ☐ Unregulated advisor
- ☐ OISC Adviser
- ☐ Solicitor
- ☐ Barrister (or Advocate if in Scotland)
- ☐ Legal Executive
- ☐ Don't know

How did you find out about the Adviser service?

- ☐ Friend
- ☐ Someone in the community
- ☐ Community organisation (such as a faith organisation - church, mosque etc.)
- ☐ Other (specify)
- ☐ Can't remember/don't know

Can you tell me about your experience of asking for advice?

Were there any things that were not helpful? Can you tell me about those things?

- What was not helpful about it?

Overall, how did you feel your Advisor treated you?

- How would you have liked the treatment from your Advisor to have been different?

Overall, how did you feel about the service advice that you received?

- How would you have liked the service you got to be different?

Can you tell me what you were not happy about **in particular**/what you were **most** unhappy about?

Effect of poor quality advice experience

Can you tell me about what happened because of the bad experience of advice that you had?

- How did it make you feel?
- What did it make you think?
- How did it affect your life? For e.g. Did it prevent you getting accommodation, jobs, social life etc.
- Did it change what you did next? Can you tell me about this?

Barriers to complaint

If you were not happy about how you were treated by your Advisor or the advice you received, did you make a complaint about this?

If you did make a complaint:

What made you decide to make a complaint? What were you thinking/feeling at the time?

Who did you complain to? (be aware that there are two stages of complaint and try to unpick which stage answer relates to)

What was your experience of making the complaint?

- How easy or difficult was it to do? Can you tell me about why it was easy or difficult?
- Was there any support available for you to help you with making the complaint? If so, who provided this support? Did you use this?
- Were there any particular challenges that you faced when you were making the complaint? Can you tell me about them?

What happened when you made the complaint?

Did it change anything for you?

- If it did, can you tell me about this?
- What did it change?
- Did the complaint improve the advice or the situation for you?
- Were you glad that you made the complaint? If so, why?
- What happened next?

Do you feel glad that you made the complaint?

Would you do the same thing again if you had poor quality advice experience?

If you didn't make a complaint:

Did you know that you could make a complaint?

If you did know, why did you decide not to make a complaint?

What were you thinking/feeling at the time that made you decide not to make a complaint?

Can you explain the reasons why you didn't make a complaint?

If they struggle then this list can act as prompts: were any of the following reasons why you didn't make a complaint? *For each that applies, ask them to give more details.*)

- ☐ Because you didn't know that this was possible
- ☐ Because you weren't sure whether the advice was bad or not
- ☐ Because you didn't know who to complain to about that Advisor
- ☐ Because you didn't know where to start or who to ask for help about how to do it
- ☐ Because it felt too difficult or stressful to do
- ☐ Because you had other things that were taking up your time and energy (children/other things)
- ☐ Because you could not speak English
- ☐ Because you were afraid that it would affect your application or status
- ☐ Because you were afraid that it would affect how others in your community see you
- ☐ Because you did not want to tell your story again or disclose traumatic details about your life to yet another person
- ☐ Because your adviser threatened you or threatened to tell the Home Office about you

Recommended changes

What things do you think should be changed to make it easier for people to make a complaint, if they have received poor quality advice experience?

Final

Is there anything you want to tell me that I haven't asked you about?

Anything else you want to say?

Thank them for taking part and sharing their experiences. Explain that they can see the report if they give us permission to share with them (record). Explain we may do follow up interviews as part of this project or a later project and ask them if they would like to be contacted about this (record).

Ask them if they have any other questions.

Endnotes

- 1 Wilding, J., Mguni, M., & van Isacker, T. (2021). A Huge Gulf: Demand and Supply for Immigration Legal Advice in London. <https://www.phf.org.uk/publications/a-huge-gulf-demand-and-supply-for-immigration-legal-advice-in-london>
- 2 [A Huge Gulf: Demand and Supply for Immigration Legal Advice in London – Paul Hamlyn Foundation \(phf.org.uk\)](https://www.phf.org.uk/publications/a-huge-gulf-demand-and-supply-for-immigration-legal-advice-in-london)
- 3 [Parliamentary commission publishes report following comprehensive inquiry into the condition of legal aid | Electronic Immigration Network](#)
- 4 [OISC Annual Report and Accounts 2020 – 21 : Part 1: Performance Report – GOV.UK \(www.gov.uk\)](#)
- 5 [Thematic report: immigration \(legalombudsman.org.uk\)](https://www.legalombudsman.org.uk/thematic-report-immigration)
- 6 Refugee Action Barriers to Complaints research April 2019

Full note of reasons Results #5 – What stopped participants from complaining?
 - Client did not want to – 77.6%
 - Unsure / lack of legal expertise – 68.4%
 - Unsure of procedure – 59.2%
 - Lack of time – 59.2% (moves up 1 when answers are weighted)
 - Fear of giving unregulated advice – 52.6%
 - Fear of jeopardising a working relationship – 47.4%
 - Unsure which regulator was appropriate – 46.1%
- 7 We asked participants who provided the advice and have counted numbers who reported the advice was provided by solicitors which correlates with the types of Immigration cases they had. It may be, however, that this may not always have been the case as this was reported rather than objectively confirmed.
- 8 [SRA | Quality of legal services for asylum seekers | Solicitors Regulation Authority](#)