



**REFUGEE GOOD
ACTION PRACTICE**

CASEWORKER BARRIERS TO COMPLAINTS

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

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INTRODUCTION

In 2019 we conducted research with frontline advisers and caseworkers into poor immigration advice and why consumers receiving poor advice do not make complaints, even with support. We found that caseworkers were often coming across consumers who had experienced poor advice. We also found a range of different barriers that might prevent a caseworker from helping a consumer to make a complaint. One of the most prevalent barriers was that the consumer was unwilling to complain, even with the support of the caseworker. We are conducting separate research with consumers to find out why they do not want to complain.

For the sake of convenience, unless otherwise stated, the term “poor advice” includes poor service, poor advice, poor representation, mistakes, negligence and any other form of malpractice by an immigration adviser.

The methodology for the 2019 research involved presenting a likely barrier to a room full of caseworkers and taking a quick headcount of the caseworkers who identified with that barrier. We began with a list of barriers that had been drawn up by the researcher in advance. We then asked caseworkers to propose further barriers.

There was a flaw with our initial list; while we identified consumer reluctance as a barrier, we did not treat it as a single barrier. Rather we broke it down into three barriers according to the reason for the consumer’s reluctance:

- Fear a complaint would jeopardise a current or future application
- Fear of enforcement action
- Other reasons

This made it impossible to estimate the extent to which consumer reluctance was a problem, as a consumer might be reluctant for more than one reason.

There was also a possibility that conducting a headcount in a roomful of caseworkers might itself bias the results. For example, a caseworker might feel that admitting a specific barrier in a room full of their peers might reflect badly upon them. Alternatively, they might be influenced by the room to identify with a barrier they had not themselves experienced.

This research focusses solely on the factors that might prevent a caseworker from helping a consumer to complain. The aim was to address some of the flaws of the previous research and to try to quantify the relevant importance of the different caseworker barriers more accurately.

CASEWORKER BARRIERS FROM THE 2019 RESEARCH

The main caseworker barriers we found, in order of prevalence, 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%)

The percentages represent the percentage of participants who identified with a given barrier. All the barriers mentioned above were identified in the design of this research. There were some other barriers raised, but these generally were identified by one caseworker only.





METHODOLOGY

The Survey

This research was conducted using an online survey. Participants were sourced from online training webinars delivered as part of the Frontline Immigration Advice Project. The survey was introduced during breaks in training sessions. Participants were put into breakout rooms for roughly 20 minutes to discuss their experience of consumers who had received poor immigration advice. This was primarily to jog their memories and get them thinking. Participants were then introduced to the survey and briefed on the meaning of the different options for responding, to ensure consistency. They were then asked to complete the survey based on their own casework experiences (not those of the people they had been talking to in breakout rooms.)

Problems or Issues Encountered

In the original study, we knew what types of adviser we were looking for and we had a fairly good idea what the caseworker barriers to complaining would be, however we did not have a pre-prepared list of issues that someone might have with an immigration adviser. This data came from an exercise, discussing one case and making notes on a form which was collected at the end. Participants did not select from a menu of choices, they simply described the problems in their own words. These were collated and categorised. However, the categorisation was rough and imperfect. For instance, *"poor information, poor communication"* and *"not responding to calls / e-mails"* were categorised separately. The old categorisation, in order of decreasing incidence, was as follows:

- Wrong advice, casework errors, etc.
- Poor information, poor communication
- Not responding to calls / e-mails
- Not informing client about legal aid
- Unprofessional conduct
- Not taking instructions
- Failing to attend a hearing
- Pursuing unmeritorious matters
- Poor quality work
- High fees

In the present study, we improved the categorisation. The categorisation was as used in Question 4 below. There was little practical difference between *"poor information, poor communication"* and *"not responding to calls / e-mails."* We replaced these with *"poor service"* and gave examples to clarify the meaning.

"Wrong advice, casework errors, etc." was broken down into *"poor advice," "factual errors"* and *"other forms of negligence."* Factual errors can affect a migrant's credibility.

We considered that *"pursuing unmeritorious matters"* would be covered by *"poor advice,"* while *"not taking instructions,"* failing to attend a hearing" and *"poor quality work"* would come under *"other forms of negligence."*

"unprofessional conduct" was broken down into *"sexual advances"* (e.g. flirting), *"threats"* (a consumer barrier, in the previous study) and *"other inappropriate behaviour."* While the first two were low incidence, they were deemed sufficiently serious to warrant recording separately.

As an oversight, we did not include *"High fees,"* however a significant number of caseworkers did mention this in response to the open question.

We provided the finalised list of choices and allowed caseworkers to select as many as they had observed based on the totality of their experience (as opposed to a single casework example.)

The finalised list is as shown in Question 4 of the Survey, below.

The Survey Questions

The survey used in this research is a second version. An earlier version was created and tested. It yielded a surprising result around the issue of consumer consent. On closer inspection, this could be attributed to participants misunderstanding the intended meaning; three respondents reported never finding a consumer consent to be an issue, despite saying in comments that consumer's preferred to simply change solicitors rather than pursue a complaint. This led to a change of wording in question 6: *"Unable to obtain client consent"* became *"Client did not want to pursue a complaint or was reluctant to pursue a complaint (for any reason)."* It also led to clarification being added to the *"Sexual advances"* option in Question 4. The quantitative responses to this earlier survey were discarded for the purposes of this research.

The survey contained seven substantive questions:

- 1. How often do you come across clients who you think have a valid reason to complain about an immigration adviser?**
- 2. How often are you able to help them make a complaint?**
- 3. How often do you come across potential complaints against the following types of advisers?**
 - Unregulated advisers
 - OISC advisers
 - Solicitors
 - Barristers
 - Legal Executives
 - Unknown
- 4. In the potential complaints you have seen, how often do you see the following issues?**
 - Poor service (e.g. poor communication, late communication, not responding to phone calls, etc.)
 - Poor advice (e.g. around merits, requirements, evidence required, etc. leading to poor choices)
 - Factual errors
 - Other forms of negligence (e.g. late / incomplete / invalid applications)
 - Sexual Advances (e.g. inappropriate comments, flirting, asking out client, etc.)
 - Threats (e.g. to inform the home office)
 - Other Inappropriate behaviour (e.g. verbal abuse, disrespect)
 - Failure to explain legal aid eligibility (for 'in-scope' matters)
- 5. Have you come across any other reasons for making a complaint?**

6. Can you say how often the following reasons prevent you from making a complaint?

- Unsure whether a complaint was appropriate / lack of legal expertise with which to assess a legal adviser's actions or advice
- Unsure which was the appropriate regulator
- Unsure of the appropriate regulator's procedure for complaints – who to complaint to first, how to make the complaint, etc.
- Fear of giving unregulated immigration advice in the process of complaining / belief that helping someone complain requires regulation
- Fear of jeopardising a working partnership (where the legal adviser takes referrals from you)
- Insufficient time / low priority / pressure of other work
- Client did not want to pursue a complaint or was reluctant to pursue a complaint (for any reason)

7. Can you think of any other reasons why a complaint was not made?

For questions 1, 3, 4 and 6 there were three possible responses – often, sometimes and never. These were defined as follows:

Often = it happens more than half the time

Sometimes = it has happened at least once, but less than half the time

Never = it never happens

These definitions were included in the introductory text of the survey and in the briefing given to participants before taking the survey.

Questions 3, 4 and 6 were matrix questions, in which one of the three responses could be given for each of the options presented.

For question 2, there were four possible responses – the three above and one additional “Always”

The survey also collected data about where participants were based (by UK region) with an option to leave contact details.

Participants answering “Never” to question 1, were directed to skip questions 2 to 6 and proceed to the ‘geography questions.’

Participants

In all cases, participants were sourced from training webinars and were staff or volunteers working for organisations providing free services to migrants. Participants on these webinars had various levels of experience. However, for some webinars the average level of experience was expected to be higher.

Participants for the first survey came from an OISC Level 2 (Asylum & Protection) course on 18 March 2021. As mentioned above, quantitative results were ignored due to problems with the survey questions. However, qualitative results were retained as the relevant questions were not affected by these problems.

Participants for the second survey came from the following training sessions:

- **26 March 2020 – Domestic Violence & Immigration (6)**

- 12 April 2021– OISC Level 1 Immigration (26)

- 22 April 2021 – Boundaries pt 2 (18)

- **29 April 2021 – Update Course (12)**

- 30 April 2021 – OISC Level 1 Asylum (35)

- **10 May 2021 – OISC Level 2 Immigration (14)**

The number in brackets is the number of participants from that course who completed some or all of the survey. Not all attendees from a given course completed the survey. Those who completed the survey were self-selecting.

We divided participants into two cohorts:

1. The boundaries course and the level 1 courses (79 caseworkers in total) were assumed to comprise less experienced caseworkers on average. This was because these courses are aimed at people who are not regulated and are learning about immigration for the first time.
2. The Domestic Violence, Update and Level 2 course (32 caseworkers in total) were assumed to comprise more experienced caseworkers on average. This is because these courses were primarily aimed at caseworkers who had already attended courses with us previously, and attendance was discouraged for those who had not. This cohort was expected to include several regulated immigration advisers. The titles of these courses appear in bold text in the list above.

It is worth noting that there is an inevitable bias to this research arising from the method of sourcing participants. The majority of course attendees will be from organisations supporting refugees and vulnerable migrants, with a smaller number supporting EU nationals. Few, if any, participants will be supporting less vulnerable migrants in work, business or study routes.

Data Cleansing

In total, we received 131 responses, however there were cases of people filling out the survey incorrectly. This included responses that were internally contradictory – e.g. participants saying that they never encountered poor advice in Question 1, and then proceeding to answer questions 2 to 6.

Another problem was people failing to give complete responses to the 'matrix' questions (questions 3, 4 and 6.)

Sometimes this took the form of individuals answering either "Often" or "Sometimes" or giving no response, strongly suggesting that a 'no response' indicated that they had never encountered the issue. This interpretation was strongly supported by the fact that for question 3 there were very high numbers of 'no responses' for 'legal executives.' Legal executives are a very uncommon form of immigration adviser (a search of the CILEx directory brings up a list of only 6 CILEx immigration practitioners.) It is very likely that the overwhelming majority of participants will have never encountered poor advice from a legal executive.

However, on other occasions individuals would answer "Often," "Sometimes" or "Never" as well as giving no response within the same matrix question. In these cases, it was not possible to infer that a 'no response' was equivalent to "Never"

To tackle the above issues we carried out the following actions:

Step 1:

We removed the responses to questions 2, 3, 4 and 6 for people who answered "Never" to Q1 and then went on to answer subsequent questions against instructions. This led to 8 participant's responses being removed.

Step 2:

One person failed to answer either question 1 or 2. Their subsequent responses were removed.

Step 3:

Where a 'no response' was given in a matrix question and the individual did not use the "Never" option within that question, the 'no response' was counted as "Never."

Step 4:

Where a 'no response' was given within a matrix question in conjunction with a "Never" response, this was treated as 'no response' – i.e. it was not counted at all in any subsequent analysis.

Steps 3 and 4 mean the number of respondents within the matrix questions varies.

Data Analysis

For all questions, we looked at three things:

- The total available data for that question
- The data for the less experienced cohort
- The data for the more experienced cohort

For questions 1 and 2, we calculated the percentage of participants giving that response.

For the matrix questions, we did look at weighting the responses to enable us to rank the various issues in order of importance (i.e. giving more weight to “Often” responses than to “Sometimes” responses.) However, weighting was found to make very little difference to the overall ranking. Therefore, we calculated the percentage of caseworkers giving either an “Often” or “Sometimes” response as a proportion of the total number of responses (counting ‘no response’ as “Never” in the circumstances outlined above.)



RESULTS

Q1: How often do you come across clients who you think have a valid reason to complain about an immigration adviser?

There was a total of 109 responses to Question 1. Table 1 shows the results as percentages of the total number of responses (rounded up or down to the nearest whole percent). The effect of the rounding is that the sum of "Never", "Sometimes" and "Often" is, in one instance, greater than 100%.

Table 1:

Answer	Overall Results	More Experienced Cohort	Less Experienced Cohort
Never	30%	13%	38%
Sometimes	60%	72%	54%
Often	10%	16%	8%
Not Never	70%	88%	62%

The "Not Never" row is the sum of the "Sometimes" and "Often" rows. The obvious takeaways from this table are:

- Overall, 70% of the combined cohorts have encountered consumers who have experienced poor advice
- The more experienced cohort was significantly more likely to have encountered consumers who had experienced poor advice (88% compared to 62%)

There are two likely explanations for the greater incidence of poor advice seen by the more experienced cohort – greater sensitivity and greater exposure:

- **Sensitivity: They are more likely to identify poor advice**, either because they are better able to recognise it, or because they are more likely to ask questions that would reveal it
- **Exposure: They are more likely to have met consumers who have experienced poor advice**, e.g. because those consumers are more likely to be referred to their service, or because they have been working longer in the sector

Q2: How often are you able to help them make a complaint?

There was a total of 76 responses to this Question 2, the remaining participants having indicated that they had never come across consumers who had experienced poor advice. Table 2 shows the results as percentages of the total number of responses (rounded up or down to the nearest whole percent) . The effect of the rounding is that the sum of "Never", "Sometimes", "Often" and "Always" is, in one instance, less than 100%.

Table 2:

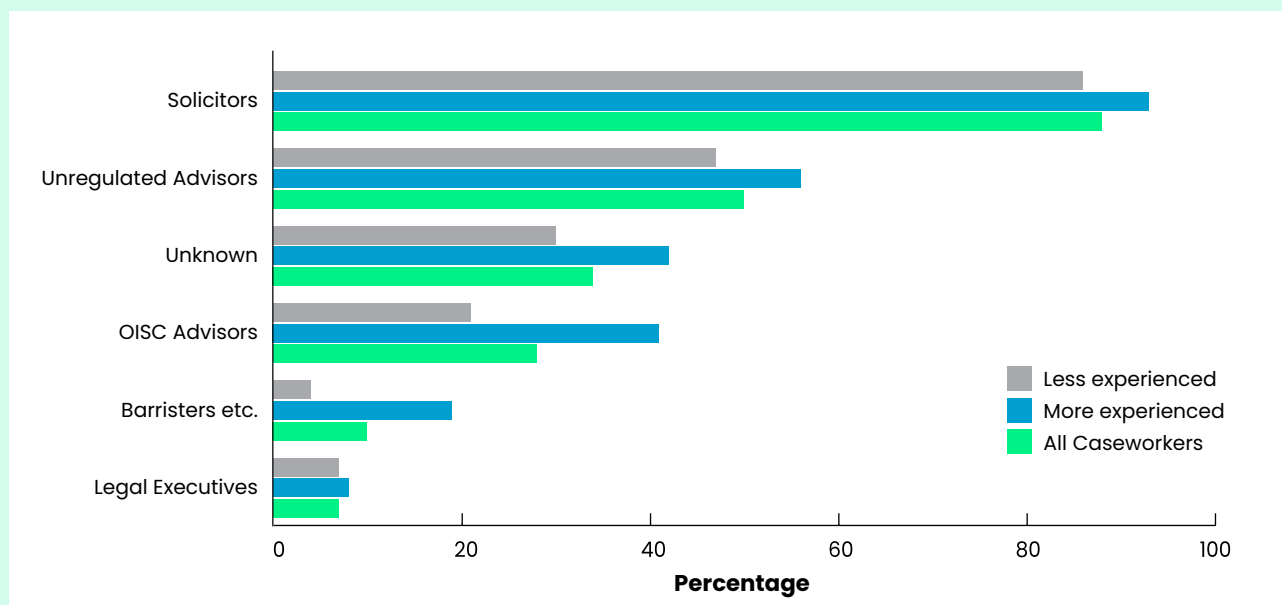
Answer	Total	More Experienced Cohort	Less Experienced Cohort
Never	51%	46%	54%
Sometimes	42%	46%	40%
Often	4%	7%	2%
Always	3%	0%	4%
Not Never	49%	54%	46%

Here, the "Not Never" row is the sum of the "Sometimes," "Often" and "Always" rows. The obvious takeaway this time is that in over half of cases overall, the participants had never helped a consumer to make a complaint. Once again we see a difference between the more and less experienced cohorts, with the more experienced cohort being more likely to have done so. However, the difference is less dramatic.

Q3: How often do you come across potential complaints against the following types of advisers?

Figure 1 shows the types of adviser against whom a potential complaint might have been lodged ranked by the overall percentage of participants encountering poor advice from that type of adviser (as shown in blue.) Results for the more experienced and less experienced cohorts are shown in red and green respectively.

Figure 1 – Type of Adviser:



Percentages were calculated by adding together the number of “Sometimes” and “Often” responses and dividing by the total number of responses (including ‘implied never’ responses, as per Step 3 of the methodology, above.) The percentages do not add up to 100% for a given data set. This is because participants may have encountered poor advice from more than one type of adviser.

The first thing to note is that solicitors are most likely to be responsible for the poor advice seen. This is at least partially down to solicitors having a much larger share of the relevant immigration advice market. Many consumers will have been asylum seekers eligible for legal aid. The overwhelming majority of legal aid providers are solicitors’ firms.

However, we cannot rule out the possibility that:

- a. regulation of solicitors is less effective; and/or
- b. there is bias in the sample.

The fact that barristers appear towards the bottom of the ranking may be artificial. In most cases, barristers will be instructed by another type of adviser, usually a solicitor. Often, the Consumer will only meet a barrister in court on the day of a hearing. Therefore, poor advice from a barrister may be incorrectly attributed to an instructing solicitor. It is unlikely an average consumer would be able to reliably attribute responsibility for poor advice where a barrister is instructed by another type of adviser.

The incidence of unregulated advisers is worryingly high. There is also a high number of cases where the type of adviser was not identifiable, pushing OISC advisers into fourth place.

There is some difference between the more and less experienced cohorts. In every case the more experienced caseworkers are more likely to have encountered poor advice from a given type of adviser. Perhaps surprisingly, this includes cases where the type of adviser is unknown. This may simply be down to them having come across more examples of poor advice and not always having time to investigate properly.

The more experienced advisers do appear better able to attribute poor advice to OISC advisers and Barristers, with the latter accounting for the biggest difference, as a proportion of the overall incidence between the two cohorts. This might be down to more experienced cohort being more familiar with these kinds of advisers. In particular, they may have a better understanding of the role of a barrister and therefore be better at correctly attributing poor advice to a barrister rather than an instructing solicitor. However, it may also be down to greater exposure.

The more experienced cohort does include an unknown number of OISC advisers.

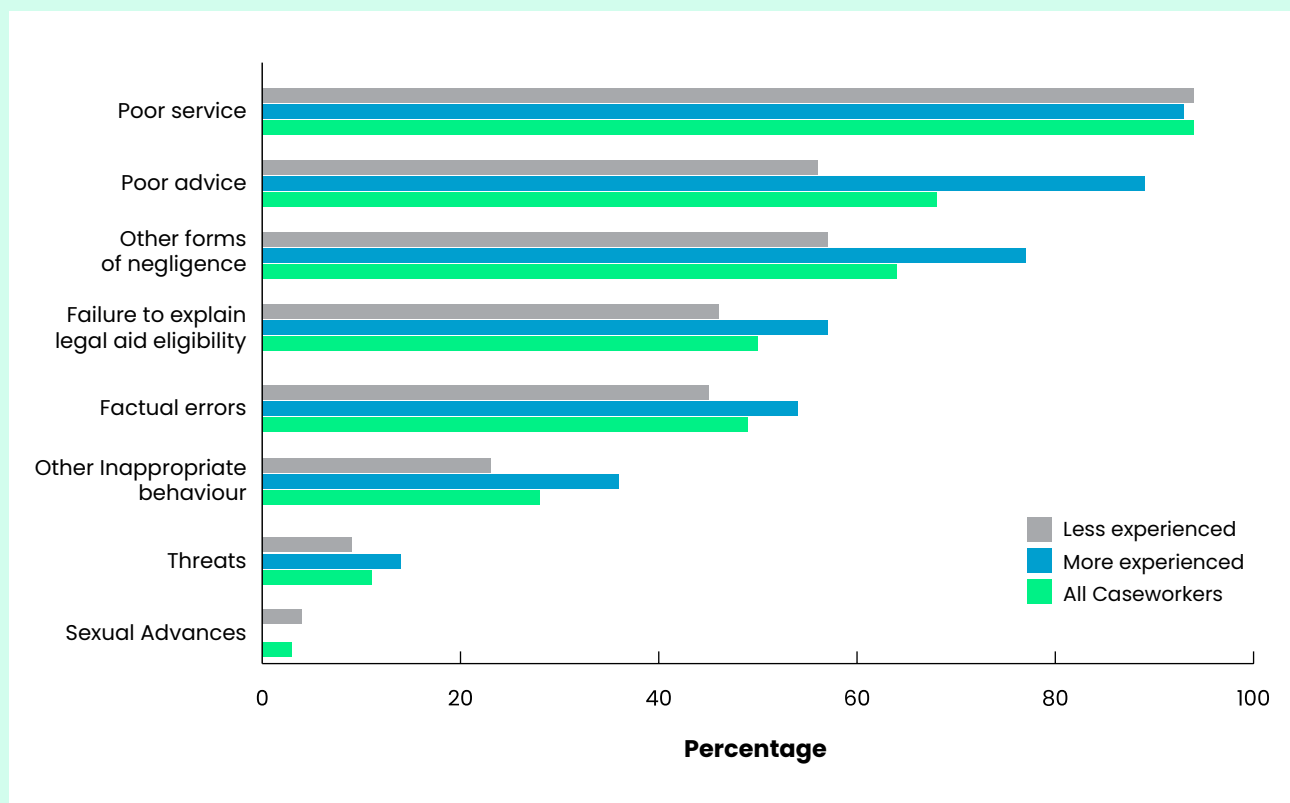
Q4: In the potential complaints you have seen, how often do you see the following issues?

Figure 2 shows the nature of the poor advice encountered, ranked by the overall percentage of participants encountering poor advice of that nature, as shown in blue. Within this Figure, “poor advice” has its normal, narrower meaning.

Poor service is the top-ranked problem, encountered by roughly 94% of respondents. Interestingly there was no meaningful difference between the more and less experienced cohorts in identifying this problem. This is likely to be because little or no specialist knowledge is required to identify poor service.

It is worth noting that where poor service is experienced from an otherwise conscientious adviser, it may indicate overwork and an unsustainable caseload. Any conscientious adviser working under pressure will prioritise the things that must be done to protect their clients’ status over the things that should be done to provide their clients with the reassurance that their case is proceeding as it should. There may be a need for regulators to look at the overall sustainability of the sector – particularly the legal aid sector.

Figure 2 – The problems or issues encountered:



While poor service alone may not have a detrimental impact on a consumers' immigration status, it could certainly have a detrimental impact on their overall wellbeing, given the critical role immigration status plays in a migrant's life chances.

It is unclear whether poor service goes hand in hand with the other issues encountered.

Poor advice (in the narrower sense) and other forms of negligence came next in the ranking. These are potentially 'high harm' issues that could result in a loss or denial of immigration status, with potentially devastating consequences.

Poor advice was identified by a much higher proportion of the more experienced cohort (89% compared with 56%.) This is unsurprising; people who know more about immigration law would be much better placed to spot poor advice. This may imply a significant underreporting of these issues. However, may also be down to greater exposure rather than greater sensitivity.

One significant result is the high (50% overall) incidence of participants encountering cases where legal aid eligibility was not properly explained. This is significant because it implies we are not only dealing with advice given under legal aid – we are also seeing advice that is being paid for directly by consumers. Charging a client who is eligible for legal aid without telling them they can get the same service paid for by legal aid is also a serious lapse of a regulated adviser's duty to act in a client's best interests; it is at best negligent and at worst exploiting a client's ignorance for personal gain.

Threats, sexual advances and other forms of inappropriate behaviour were thankfully less common, but still significant given the seriousness of these issues.

In general, more experienced caseworkers were more likely to have encountered all the issues, except poor service and sexual advances. Given the low incidence of sexual advances, the sample size was probably too small to make any meaningful comparison.

It seems likely that a poor adviser will display multiple failings. We cannot tell from the data whether poor service and the other issues raised go hand in hand, or whether they are to some extent separate. Are there people who provide good advice and representation, but communicate poorly and do not respond to calls? If so, is this due to financial constraints on their service? These are open questions.

Q5: Have you come across any other reasons for making a complaint?

Some of the reasons advanced were examples of poor service: poor communication, a long wait to make an application, disrespect for some clients, an unfriendly environment at reception, not providing an interpreter or using interpreters as the main point of contact. Two participants referred to solicitors being unwilling to release the file, although it is unclear whether a lien was being exercised. (Note: while the OISC's code of standards explicitly forbids the exercise of a lien on the file, the SRA's code of conduct does not. However, it is arguable that exercising a lien on a migrant's file is a breach of the duty to act in a client's best interests.)

The other main issue raised was in respect of fees. These were often perceived to be extortionate. There were also suggestions of exploitation. Most seriously, an adviser was alleged to have registered their own e-mail with the Home Office for an EUSS digital status, and then charge the client each time they needed proof of their status. There was also an allegation that high fees were being charged for services that other organisations would provide for free, such as obtaining a Home Office file. In one case, it was alleged no work was done. One firm allegedly charged clients for getting caseworkers involved to advocate on their behalf.

There were some examples of apparently negligent behaviour: failing to pick up on a trafficking claim and refer to the NRM, failing to pass on status documents, missing judicial review deadlines, not checking interview transcripts against audio recordings adequately and not turning up to court.

One caseworker raised the issue of clients being encouraged to make applications, appeals and judicial reviews without merit.

There was also an explicit acknowledgement that clients might be unhappy with a solicitor, but it was not always clear that a solicitor had done anything wrong.

The purpose of a complaint is to enable an ombudsman or regulator to investigate and ascertain whether anything has gone wrong. The purpose of this research is primarily to look at barriers to complaining, not to investigate the complaints themselves. It follows that not every complaint will prove well-founded. However, a significant proportion will.

A few less experienced caseworkers also related more systemic issues about the wider asylum process, including the difficulty of finding immigration advice.

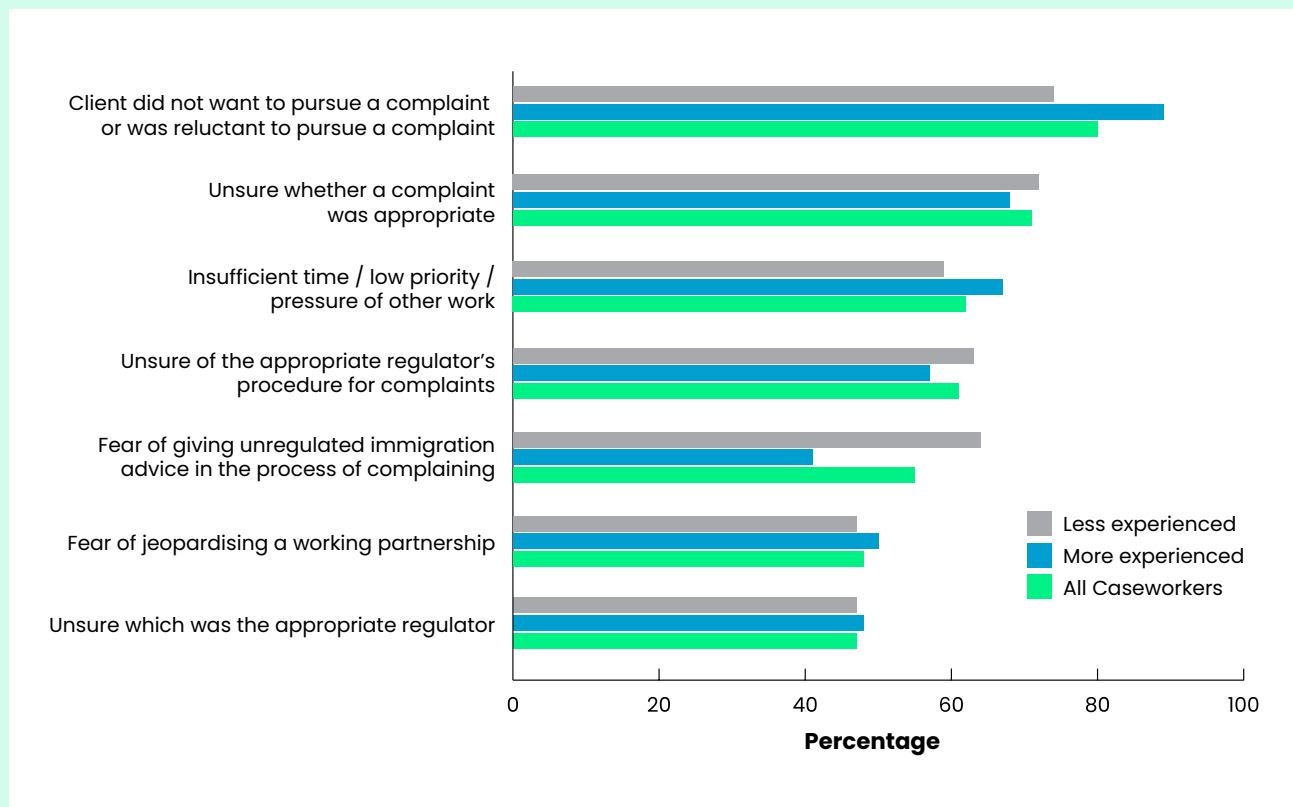
Q6: Can you say how often the following reasons prevent you from making a complaint?

Figure 3 shows the barriers to complaints ranked by the overall percentage of participants identifying with a given barrier occurring either sometimes or often, shown in blue.

The first thing to draw out from this is that all the barriers are encountered by a significant proportion of participants – the lowest incidence barrier, being unsure of the appropriate regulator, was still encountered by 47% of participants.

Consumer reluctance is the most significant barrier by a significant margin. Around 80% of participants identified this as a barrier. This rose to 89% among the more experienced cohort (and dropped to 74% among the less.) This makes sense; a less experienced participant may be more put off by other barriers, such as being afraid of giving unregulated advice, and so may not even suggest a complaint to the consumer.

Figure 3 – Barriers to Complaints:



The second-ranked barrier is uncertainty about whether a complaint is even appropriate. Surprisingly, there is little obvious difference between the more and the less experienced cohorts. This perhaps underlines the sheer complexity of the issues involved, and the amount of work and investigation required to unpick them. However, it is worth digging a little further into the data here. While the overall incidence of the two cohorts identifying with this barrier was similar, there were significant differences over whether they did so sometimes or often:

Less experienced cohort:

- Roughly 30% of the cohort were often unsure whether a complaint was appropriate
- Roughly 43% were sometimes unsure

More experienced cohort:

- Roughly 11% of the cohort were often unsure whether a complaint was appropriate
- Roughly 57% were sometimes unsure

That this barrier is so common amongst participants has a knock-on relevance for consumers themselves. If a caseworker working with migrants on a daily or weekly basis is not sure when a complaint about immigration advice is appropriate, how likely is it that a consumer will be able to work this out? Bear in mind that consumers are migrants and most will have a very limited knowledge of UK institutions and UK ways of doing things. The same principle applies to the fourth and seventh-ranked barriers – in essence, uncertainty about how to complain and who to complain to respectively.

The third-ranked barrier was having the time to deal with a complaint. This was more of a barrier for the more experienced cohort. In our earlier research, this was the second-ranked barrier, after consumer reluctance. However, that research was aimed at identifying or confirming what barriers existed rather than quantifying them. There was also a possibility of bias resulting from the public nature of a headcount. In this study, questions could be completed anonymously.

The biggest difference between the more and less experienced cohorts was around the risk of giving unregulated immigration advice when advising on a complaint. This is easily explained by the fact that many participants in the more experienced cohorts will be regulated caseworkers, and therefore less concerned about giving unregulated advice. Participants in the less experienced cohort are very unlikely to be regulated. However, it is worth noting that even OISC Level 1 caseworkers may still be concerned about exceeding the level of advice they are regulated to give.

While complaints about a regulated immigration adviser are not a regulated matter, the fear of giving unregulated immigration advice is not an irrational fear. If the poor advice is historic and relates to an application or claim that has ended, then it *may* not be a problem. However, if the matter is still ongoing then it is genuinely difficult to discuss the quality of the advice or service received without giving immigration advice. In these circumstances, an unregulated adviser is confined to giving information on how a regulated adviser would be expected to behave, and leaving it to the consumer to work out for themselves whether there had been a breach of their professional duties. This is down to the broad nature of the definition of immigration advice, which focusses almost entirely on the nature of what is said and largely ignores the context. See Section 82 of the [Immigration and Asylum Act 1999](#).

Q7: Can you think of any other reasons why a complaint was not made?

Predictably, many participants (22) gave opinions on why their clients did not want to complain. Chief among these was that the client was afraid (10 participants.) Most commonly this was based on a belief that it would have a negative impact on the case, either through delays or on the outcome itself (6 participants.) In a couple of cases there was a perception that immigration advisers were linked to the Home Office. In another case, a participant opined that their clients thought they had to go to the police to complain and were afraid of being detained. Yet another mentioned cultural barriers: *"In some third world countries, complain (sic) is seen and perceived as snitching on someone, and there are grave consequences for this..."*

Another reason for consumer reluctance was a perception that it was easier to simply move on to new solicitor. However, four out of six participants who raised this were from Scotland, where legal aid is more readily available. This may not be an option on other parts of the country; one adviser in Birmingham saw a lack of immigration advisers in the area as being a barrier in itself.

Client's lacking sufficient knowledge was another issue. In relating to asylum seekers using paid services, one participant stated: *"too many times asylum seekers believe they get a better service paying privately."* Another participant acknowledged that stress for the client was an issue. One stated simply: *"People are give up."*

Some participants felt that helping someone to complain was not their role. Usually this took the form of a perceived organisational position. In a couple of cases it was down to a fear of overstepping advice boundaries. One participant expressed sympathy for solicitors, stating *"I understand how overworked immigration sols are especially those providing advice under legal aid..."*

Lack of knowledge was seen as a problem by eight participants, with three saying that they did not know a complaint was possible. The passage of time was a barrier in three cases, with the poor advice happening a long time ago and a complaint now seeming moot. In another case, there was simply no opportunity, as the clients would only be seen once.

COMPARISON WITH PREVIOUS RESEARCH

Type of Adviser

As in the previous study, Solicitors were the type of regulated immigration adviser most commonly encountered in the context of poor advice, followed at some distance by OISC advisers and then Barristers. However, in this study, unregulated advisers were found to be much more prevalent, as were cases where the adviser's regulation or lack of regulation was simply not known, both coming between solicitors and OISC advisers.

This is likely down to substantial improvements in the methodology; for example, in the previous study more people simply ignored the question about the type of adviser than answered 'solicitor.' Also, people were answering based on one example of poor advice and so were unlikely to have picked more than one option, even if they had encountered poor advice from the others.

Problems or Issues Encountered

Due to the different categorisation of the issues encountered in the earlier study, the results are not directly comparable. Neither are they unexpected or massively out of alignment. Poor service was the single most common issue in the current survey. This would be expected from the recategorization of issues described in the methodology above.

Caseworker Barriers to Complaints

Compared with the previous research on this topic, all the barriers previously encountered were more prevalent, statistically. This was likely due to the different methodologies used. The earlier study noted that: *"In Part 2, there was the potential for confusion among participants about whether they should respond based solely on the case they were discussing in Part 1, or whether they should respond based on all their casework experience (where this was raised, participants were directed to do the latter)"*

The 'how often' question format in the present study made it clear we were looking at the totality of experience rather than a single casework example.

There were also some differences in the relative importance of the different barriers. However, as in the previous research, consumer reluctance was the most common barrier faced by participants, this time by a much more convincing margin.

CONCLUSIONS

Global

1. Overall, 70% of caseworkers had encountered poor advice or suspected poor advice, with the more experienced cohort being considerably more likely to have encountered or identified it.
2. However less than half (49%) had ever assisted a consumer to make a complaint, with only a slight improvement (54%) for the more experienced cohort.

Barriers

3. The number one barrier, encountered by roughly 80% of caseworkers supporting a consumer who has experienced poor advice is the consumer's own reluctance to do so. This confirms the result of the previous study and clarifies the relative importance of this barrier.
4. Consumer reluctance is even more significant for the more experienced cohort. This suggests that some caseworkers are deterred by other barriers before they get to the point of asking a consumer if they want to complain.
5. All the barriers previously identified were significant, with the lowest ranking (uncertainty about who is the appropriate regulator) still being encountered by 47% of caseworkers overall.
6. There was a high prevalence of barriers that would also affect a consumer attempting to pursue a complaint on their own. For example, 'uncertainty over whether a complaint was appropriate' was in second place, and was encountered by 71% of caseworkers overall.
7. "Insufficient time / low priority / pressure of other work" was the third-placed barrier by a narrow margin, and was more of an issue for more experienced caseworkers.
8. A new barrier raised by some participants was 'role or remit' – some caseworkers felt that a complaint about immigration advice was either not part of their role or not part of their organisation's remit.

Issues

9. The most prominent issue participants encountered with an immigration adviser was 'poor service.' This covers things like failing to respond to phone calls and other poor communication.
10. There was little or no difference between the more and less experienced cohorts' likelihood of encountering poor service. This is likely due to the more obvious and readily identifiable nature of poor service.
11. The second-ranked issue was 'poor advice' around merits, requirements, evidence required, etc. 'Factual errors' and 'other forms of negligence' (such as missed deadlines) also featured prominently – fifth and third respectively.
12. The more experienced cohort was significantly more likely to encounter poor advice, factual errors and other forms of negligence.
13. While this could indicate that these things are harder for a lay person to identify, it could also be down to a greater level of exposure to consumers with reasons to complain.
14. Failure to explain legal aid eligibility was encountered by 46% of caseworkers, putting it narrowly into fourth place ahead of factual errors.
15. We cannot tell from the data whether poor service and the other issues raised go hand in hand, or whether they are largely separate. Are there people who provide good advice and representation, but a poor service, perhaps due to financial constraints on that service? This is an open question.

Types of Adviser

16. Solicitors were the type of immigration adviser participants were most likely to encounter in the context of poor immigration advice.
17. Unregulated advisers were in second place, followed by cases where the adviser type was 'unknown.'
18. The more experienced cohort was more likely to encounter all types of adviser, including the 'unknowns.' This may be down to greater exposure.
19. The more experienced cohort was disproportionately more likely to identify OISC advisers and barristers as being responsible for poor immigration advice, suggesting greater understanding plays a role as well as exposure.

SUGGESTIONS FOR FURTHER RESEARCH

Research with consumers

This is perhaps the single most important need given that consumer reluctance is the principle barrier. It is already being addressed, albeit on a relatively small scale. Further research is likely to be required.

Research into barriers for other caseworker types

This research has focussed on the not-for-profit sector, most of whom are engaged in supporting refugees and vulnerable migrants. Accordingly, it says little about the service other migrants may receive, particularly in the sphere of managed migration (business, work and study routes.) There may therefore be merit in the idea of conducting a similar study with other caseworker types, perhaps solicitors themselves.

Research following actual complaints

There are many questions not addressed by this research:

- Are complaints caseworkers see valid or meritorious?
- How long does it take to investigate and establish whether a complaint is valid?
- Are the procedures for complaining accessible?
- How long does it take to resolve a complaint?
- How many man-hours of work are involved end-to-end?
- What is the emotional toll of complaining?
- Can a typical consumer do this unsupported?

The best way to answer these questions accurately would be to follow a sample of complaints from the point at which they are first raised with a caseworker to the point where they are finally resolved. Ideally this would involve a dedicated role for a minimum of a year. The role could be based in an independent organisation operating a frontline service which had the trust of consumers. Referrals would be made by internal services or external partners. The role would be filled by a researcher with casework experience (or vice versa) who would pursue complaints and monitor key stages, outcomes, time spent, delays, client wellbeing, etc. Interviews with clients might also yield data on consumer barriers.