

Quality of legal services for asylum seekers

Research report

January 2016

Research on the quality of legal advice provided to asylum seekers. Previous research had raised concerns about how regulators assess quality of immigration advice, while also identifying a lack of understanding of the market for immigration services, and an over-reliance on the Legal Aid Agency to deal with risks in this market.

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[<https://www.sra.org.uk/globalassets/documents/sra/research/asylum-report.pdf?version=4a1ab3>]

See our regulatory response to the report [#findings]

Quality of legal services for asylum seekers: New research published

We have published an extensive study of asylum legal advice, with Migration Work CIC, Refugee Action and Asylum Research Consultancy (ARC). The study involved speaking with 123 asylum seekers, an online survey of solicitors and interviews with solicitors, community groups and representative bodies. A barrister with extensive experience in immigration and asylum casework undertook file reviews.

See our regulatory response to the report [#findings]

Why we commissioned the research

Previous investigations by the Legal Services Board (LSB) and the Legal Services Consumer Panel (LSCP) identified a lack of understanding about the market for immigration advice, highlighted the complexity of regulation in this area of law and raised concerns about the detriment to asylum seekers of poor quality advice.

Protecting the public is one of our key purposes as a regulator and understanding the experiences of people using legal services will help us, and others, regulate more effectively.

What we learned

The research findings were categorised under the following two headings:



Lack of awareness and understanding

- The asylum legal process is not well understood by asylum seekers, community groups and representative bodies.
- The complexity of the asylum legal process makes it difficult for asylum seekers to recognise the difference between the different types of legal adviser and what protections they have through the legal regulators.
- Community groups and some community representative bodies sometimes signpost asylum seekers to poorer quality or unregulated advice.

Issues of regulatory concern arising from the conduct, competence and behaviour of solicitors

- Questions were raised about how clients are introduced to solicitor firms and solicitors' association with interpreters.
- Asylum seekers and solicitors identified instances of a lack of knowledge relating to the specifics of an asylum seeker's case and the law underpinning it.
- Concerns were expressed about the competence of solicitors undertaking appeals.
- Solicitors sometimes lack the skills to obtain and record sufficient, relevant information from asylum seekers.

What we will do with these findings

We will be working collaboratively with a number of organisations to raise awareness of the asylum legal process and expectations of the standard of service provided by solicitors.

We will undertake further work to look into the nature, extent and impact of the concerns outlined above. That review will be undertaken by our Thematic Team - a team of senior staff who engage closely with law firms and solicitors.

Regulatory response to the findings of the 'Quality of legal services for asylum seekers' report

Our research into the quality of legal advice for asylum seekers has found many examples of good solicitor practices and behaviours. We also uncovered a number of issues and practices that require further investigation and engagement with solicitors and other key stakeholders.

Asylum seekers requiring legal advice and support are particularly vulnerable and are often fleeing torture, imprisonment and death. Our regulation places a specific requirement on solicitors to meet the service

needs of vulnerable clients. The consequences of getting it wrong can be tragic and we will work with other organisations and law firms themselves to tackle any issues and to help improve the services they offer.

Issues of regulatory concern

The report found issues of regulatory concern about the conduct, competence and behaviour of some solicitors, including:

- Lack of skills needed to obtain and record sufficient, relevant information about an asylum seeker's case;
- Lack of knowledge about the law underpinning the specifics of an asylum seeker's case; and
- Insufficient experience and competence in carrying out appeals work.

We also identified shortcomings with the practices of some interpreters when introducing clients to solicitors.

Regulatory action we are taking

We are currently investigating a number of serious allegations and issues. These include broad competence issues such as those outlined above but also concerns about firms who have made applications for Judicial Review of asylum decisions that have been judged to be without merit.

In light of the issues found in this research and through other sources, we have started a thematic review of asylum legal advice. Through this, we will determine the nature, extent and impact of the issues of regulatory concern that have been identified.

The aims of this review are:

- To review the practices and behaviours of solicitors and their firms in their conduct of asylum cases and look at what systems and controls they have in place to ensure a competent service is provided;
- To raise awareness of the issues we have identified regarding competence and ethical practices to help firms recognise and address any such issues in their own practice;
- To challenge poor behaviours and practices and bring about process change and improvement;
- To identify whether any firms have breached their regulatory obligations and take regulatory action, where appropriate; and
- To identify whether there are systemic issues that may require policy or rule changes.

Issues about the lack of consumer understanding of the asylum process

The report also found examples of a lack of awareness and understanding of the asylum legal process, specifically:

- The asylum legal process is not well understood by asylum seekers, community groups and representative bodies;
- The complexity of the asylum legal process makes it difficult for asylum seekers to recognise the difference between types of legal adviser and understand the protections afforded by legal regulators; and
- Community groups and representative bodies sometimes signpost asylum seekers to poorer quality or unregulated advice.

Improving consumer understanding of the asylum process

We will work with a number of organisations to highlight the issues raised in this report and will share information on the asylum legal process. This will include information about different types of provider and the regulatory and other protections in place.

We will provide information to community groups and other bodies to ensure they are able to signpost asylum seekers to competent, regulated advisors and know how to recognise and report any allegations of poor practice and behaviour.

Fairness for all

One of our primary objectives is to protect the public by ensuring all solicitors provide their clients with a proper standard of services. More specifically, our competence statement

[<https://www.sra.org.uk/solicitors/competence-statement>] makes reference to establishing and maintaining effective and professional relationships with clients and highlights the way information is provided and services are tailored to the particular needs of vulnerable clients.

To ensure that we engage with a representative cross-section of firms providing asylum advice, our thematic review we will use a sampling framework that considers size; proportion of turnover and caseload attributed to asylum work and regulatory history.

We are acting on the concerns we have identified and are carrying out investigations, strengthening our work with advocacy and consumer organisations and launching our thematic review.

As we progress this work, we may find more we need to do and so we will continue to keep our response under review.