

# Lost without a lawyer

by Nicole Hallett, Maria Beatrice Noguiera, Jessica Bryan and Gemma Bowles

*Changes to UK asylum laws have left many asylum seekers without the legal representation they need.*

In a small drab office with papers piled to the ceiling, an immigration solicitor explains how difficult it is to work under the new system. "It's impossible," he says. "If I could do it over again, I wouldn't go into immigration law." His thoughts were echoed by most of the solicitors interviewed in 2005 about changes to asylum legal aid work in the UK.

Arguing that costs were escalating and alleging that fraudulent aid practitioners were abusing the legal aid system, the government proposed changes in June 2003 limiting legal aid to five hours per case. The legal aid community mobilised against the changes but their views went unheeded and in April 2004 the new system was implemented. Additionally, solicitors are now not allowed at the initial interview with asylum seekers at the Home Office and a strict limit has been set on payments for medical reports and translators.

A team of researchers from the University of Oxford interviewed solicitors and legal aid practitioners and found disturbing results:

- Most solicitors said it was impossible to prepare a case in five hours. In one reputable law firm the average time per case was 19.6 hours. "Five hours does not take into account traumatic experiences," one solicitor explained. "You have to sit there with a client and talk them through it. You can't tell a woman to stop after an hour if she's only just started telling you about a rape."
- It is so complicated to apply for an extension - and most requests are turned down - that many solicitors stop giving advice once the five hours are up.

- Several admitted they had started providing lower quality advice. "The only role of the solicitor is to write everything the client says ... without any analysis of the situation," one well-established solicitor complained.
- Many practitioners admitted to 'cherry-picking', agreeing to take on only the most straightforward cases, leaving people with complex cases without any legal representation at all.

The biggest long-term effect is likely to be the number and quality of solicitors doing legal aid work. Several small firms thought that bigger firms would get bigger, while small firms would be forced out of business. Many solicitors have already left the field and many others noted a decrease in new solicitors choosing immigration and asylum as their speciality. Almost half of practitioners surveyed by a Law Society report said they planned to leave the field as a result of the changes.

Those interviewed had divergent opinions on who was getting out. Some believed that only conscientious people stayed, while profit-driven firms, big and small, had left. Most agreed that some of the very worst abusers of the system had gone - because of the cuts and tighter audits - and some believed that poor practitioners could benefit from the new regulations. "They actually shield people by allowing them to get away with only spending five hours on a case, collecting their money, and then the clients are on their own. And they can say 'It's not my fault. It's the guidelines,'" said one practitioner.

Those unable to find legal aid either represent themselves or find unqualified advisors, who often charge exorbitant fees for bad advice. One practitioner noted: "Pick up any local paper. There is a classified section with adverts saying immigration advisory, etc. There are places that say that they are a surgeon as well as an immigration advisor as well as a hairdresser." The Law Centre Federation has confirmed "evidence of clients receiving overpriced, poor service from unregistered or unregulated advisors advertising in the local press."

Several practitioners at charity organisations reported an increase in the number of desperate people calling their offices: "We used to have a drop-in service to give

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advice to emergency cases, but we had to change it to a telephone service. We are simply unable to assist everyone." Charitable organisations are turning away large numbers of clients due to lack of time and resources.

While the changes appear to have had the intended effect - a 36% decrease in legal aid expenditure in 2005 and a drop in the number of fraudulent advisors - the changes have had a negative impact on the guarantees of justice and fairness for asylum seekers.

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