



**Inspection of Asylum Casework of the  
Independent Chief Inspector of Borders and Immigration**

**Asylum Aid response – 8<sup>th</sup> June 2017**

**Introduction**

Asylum Aid is grateful for the opportunity to contribute to the forthcoming inspection by the Independent Chief Inspector of Borders and Immigration in relation to the asylum application process. In line with our asylum policy work, our suggestions relate only to asylum decision-making and processing, focusing primarily on gender, gender identity, and sexual orientation. In relation to the inspection topics, we would like to suggest consideration of the following issues.

**1. Gender analysis**

The Home Office has a duty under the Equalities Act not to discriminate against people, and to meet the needs of those with protected characteristics, including gender and sexuality. One third of people claiming asylum in their own right are women. A smaller proportion of cases are based on sexual orientation/gender identity. Therefore, gender issues affect a significant minority of asylum claimants.

Gender (in the broadest sense) impacts on most aspects of asylum casework. It is therefore essential that this is taken into account as the inspection progresses. We are re-sending our gender analysis of the previous inspection as an appendix in the hope that this provides a useful background to the current inspection.

Bringing out themes that highlight gender issues enhances the analysis of the ICI findings on asylum casework and places it within an equalities framework. In line with this, we recommend that gender analysis is undertaken and incorporated into all aspects of this inspection. For example, in identifying and analysing cases, the inspection should consider whether gender might have had an impact on the case. We would be happy to help with such identification and analysis.

## 2. Screening and routing of asylum applicants

### a. Safeguarding

The Home Office has developed new policies on Adults at Risk and on Safeguarding. We would be interested to know how these are being used in relation to screening and routing, particularly into detention. In particular, do these measures adequately protect survivors of gender-based violence and LGBTI applicants from being routed into detention? Research demonstrates the traumatic effect of detention particularly on these groups.<sup>1</sup>

### b. Signposting Violence Against Women and Girls (VAWG) services

UNHCR, Refugee Council and Scottish Refugee Council have been working with the Screening Unit to ensure women who disclose gender-based violence are signposted to appropriate services. This would be a good opportunity to find out how well this system is working and what monitoring is in place.

### c. Childcare

The UKVI has set up childcare provision during asylum interviews in all regions except London (discussed below). It would be helpful if the inspection could consider the need for childcare during screening interviews as well as asylum interviews. We believe this is important as the applicants and screening officers can be distracted by children; and parents, particularly mothers, are unlikely to disclose gender based violence in front of their children. Any information gleaned through the inspection as to the advantages or disadvantages of childcare during screening would be useful.

### d. Statelessness and irremovability

It would be useful to examine whether lack of nationality and irremovability are adequately considered and recorded at the screening and routing stage, or at later stages, in particular with respect to detention. Detention figures for 2016 show, for example, that most people recorded as stateless who were detained were later granted temporary admission. This suggests that their detention may not have been necessary and that alternatives to detention could have been implemented.<sup>2</sup> This is a key issue relating to the lawfulness of detention, as the Home Office is

<sup>1</sup> See Girma et al, I am human, Women for Refugee Women, 2015  
[http://www.refugeewomen.co.uk/2016/wp-content/uploads/2016/07/WRW\\_IamHuman\\_report-for-web.pdf](http://www.refugeewomen.co.uk/2016/wp-content/uploads/2016/07/WRW_IamHuman_report-for-web.pdf);  
Chaka L. Bachmann, No Safe Refuge: Experiences of LGBT asylum seekers in detention, UKLGIG and Stonewall, 2017

<sup>2</sup> Home Office, Immigration Statistics, 2016, Table dt\_08\_q: People leaving detention by country of nationality, reason, sex and age, <https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2016/list-of-tables#returns>,  
Q1 2016 – 35 stateless detainees; 1 removed; 33 granted temporary admission; 0 bail; 1 granted leave to remain  
Q2 2016 – 19 stateless detainees; 3 removed; 16 granted temporary admission; 0 bail; 0 leave to remain



authorised to detain for the purposes of removal only where removal is actually possible and is also permitted to detain only if necessary, where no alternatives are reasonable. Note, however, that Home Office statistics do not represent all stateless persons who are detained, as some persons are incorrectly attributed a nationality.<sup>3</sup>

We suggest that interviewing officers may benefit from training and guidance to make them more aware of the possibility of statelessness and the importance of asking questions regarding nationality in ways that statelessness will be identified, and asking further questions in cases in which nationality is unclear. For example, it would be useful to consider whether interviewers and interpreters ask applicants ‘where are you from’ or ‘what is your nationality’ as compared to ‘in what country are you recognised as a citizen’ (the latter being preferable)? Further, it would be useful to examine whether the nationality of any dependents on the main applicant is adequately considered, particularly in cases where nationality may be unclear or non-existent, for example for persons from countries whose nationality laws discriminate against women. For example, a baby born to a mother who is a national of Syria may be stateless if the father was not present to confer his nationality to the baby (unless the baby was born in a country which would permit acquisition of the nationality of that country).<sup>4</sup>

### **3. Processing of asylum decisions, including the management and impact of case delays**

#### **a. Delays**

In our experience, asylum applicants can wait for months before being interviewed. This includes children. It is increasingly rare to receive initial decisions within six months – recent statistics show that the number of cases delayed longer than 6 months increased drastically from the first quarter of 2016 (5,059 cases) to the first quarter of 2017 (8,679 cases).<sup>5</sup> Delays are very distressing for asylum applicants and often have a negative impact on their mental health and ability to overcome past trauma. Delays are also costly – asylum seekers are generally not permitted to work whilst their applications are pending, and most are supported and accommodated by the Home Office, for longer periods of time when there are delays.

We regularly receive letters six months after interview stating that a claim is complex in nature and as such falls outside the normal service standards. Since 2016, our experience has been that fewer cases are decided within 6 months, and cases not decided within the 6-month

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Q3 2016 – 20 stateless detainees; 0 removed; 19 granted temporary admission; 1 bail; 0 leave to remain

Q4 2016 – 20 stateless detainees; 4 removed; 15 granted temporary admission; 1 bail; 0 leave to remain

<sup>3</sup> See European Network on Statelessness, Protecting Stateless Persons from Arbitrary Detention in the United Kingdom, <http://www.statelessness.eu/resources/protecting-stateless-persons-arbitrary-detention-united-kingdom>.

<sup>4</sup> Syrian law does not allow women to confer their nationality to children born outside Syria.

<sup>5</sup> Home Office, How Many People Do We Grant Asylum or Protection To? (25 May 2017)

<https://www.gov.uk/government/publications/immigration-statistics-january-to-march-2017/how-many-people-do-we-grant-asylum-or-protection-to>, Table as\_01\_q: Asylum applications and initial decisions for main applicants, by country of nationality.



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standard regularly wait over a year or more for a decision. Our lawyers describe this part of the process as a “black hole.” Enquiries about such cases usually receive a generic, unhelpful response and in at least one case, we have been advised not to make further enquiries.

There are no deadlines once a case falls outside the 6-month target. This clearly creates a disincentive to make decisions on such cases. The only way we can attempt to expedite such cases is through judicial review. However, there are barriers to using judicial review to address delays; for example, jurisprudence dictates that judicial review can be used only after delay of a specified time and in cases in which there are other extenuating factors. Judicial review also involves further delay in the judicial system and is a costly and complex process.<sup>6</sup>

We feel it is important for the inspection to examine the situation of asylum applicants who do not receive initial decisions within 6 months. It would be helpful to analyse, for example: the criteria for determining a case as ‘complex’ and therefore not capable of being decided within a 6-month timeframe; how many cases are determined as complex; how many cases fall outside the 6-month deadline each year; why this figure is increasing; what is being done to reduce it; the average time such cases take and the range of time; and what barriers exist to challenging delays.

Further, it would be useful to consider whether women who have experienced gender-based violence or persons whose claims are based on sexual orientation or gender identity are disproportionately represented among cases delayed by over 6-months, as many such cases are complex.

We believe that there should be a specific deadline for cases that fall outside the normal service standard of 6 months. Additionally, the Home Office should provide applicants with specific reasons for the delay and should respond within a reasonable time to enquiries, with details specific to the particular case.

## **b. Recording and publication of data**

A previous ICI finding relating to sexual orientation cases was that ‘the Home Office has greatly underestimated the incidence of sexual orientation claims’ and ‘Management Information was poor, with only 36% of sexual orientation cases flagged as such by staff’ (within cases sampled).<sup>7</sup> The Home Office has committed to recording and publishing data relating to asylum applications based on sexual orientation; however, publication of this data has been significantly delayed and the Home Office has refused to provide a time frame for when it will be published. We would be grateful if the inspection could include consideration of whether this data is being accurately recorded and whether there is any legitimate reason for further delay in publication of

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<sup>6</sup> See R. Thomas and J. Tomlinson, A Design Problem for Judicial Review: What We Know and What We Need to Know about Immigration Judicial Reviews, U.K. Const. L. Blog (16th Mar 2017) <https://ukconstitutionallaw.org/>.

<sup>7</sup> ICIBI, An Investigation into the Home Office’s Handling of Asylum Claims Made on the Grounds of Sexual Orientation March-June 2014, Part 6.



this information.<sup>8</sup> Further, we understand that the Home Office does not monitor gender identity cases as it does sexual orientation cases, and it would be useful to look into whether there is any legitimate reason for this.

### c. Female interviewers and interpreters

We would be grateful if the inspection could evaluate to what extent female interviewers and interpreters are provided to female asylum applicants, and what impact, if any, this may have on female applicants' disclosure of gender-based violence. The previous ICI inspection showed that there was very low uptake of requests for female interviewers and interpreters. This mechanism was set up following research by UNHCR and lobbying by Asylum Aid in 2006, to ensure women who preferred to speak with a female interviewer and interpreter received this. The ICI report found only 18 claimants out of 142 in the sample made such a request. The low uptake underlines our concern that claimants are not recognising the significance of this question. This was identified in our research in 2011.<sup>9</sup> We would be very interested to know to what extent women are requesting female interviewers and interpreters not at screening but subsequently before their interview and whether it is more difficult for UKVI to grant these requests. The view of supporters of the Charter of Rights of Women Seeking Asylum is that automatic allocation of female interviewers and interpreters would be more effective for women

<sup>8</sup> See: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-questions-answers/?house=commons%2clouds&keywords=asylum%2csexual%2corientation%2cgay&max=20&page=5&questiontype=AllQuestions>

**Q**

Asked by **Lord Scriven** on 30 March 2017, [HL6482](#)

To ask Her Majesty's Government in relation to those claiming asylum on the grounds of being LGBT, how many cases have not been determined after (1) one year, and (2) two years, from the date of the individual claiming asylum.

**A**

Answered by: **Baroness Williams of Trafford**

Answered on: 06 April 2017

On 27 February 2017, the Home Office responded to an FOI request asking for information relating to detainees who identify as LGBT in the immigration detention estate. The FOI asked for information relating to detainees who identify as LGBT in the immigration detention estate. These questions concerns asylum seekers, who have been recorded as being LGBT, and the numbers held in detention and the time taken to determine their asylum claims.

The data you have requested in relation to LGBT asylum seekers over the last 2 years is not readily available. The required information would only be recorded in the case notes sections within the Home Office database or held solely on the paper files. The time required to examine individual cases and extrapolate the required data would exceed the cost limit.

We are currently reviewing how and when to publish information on LGBT asylum claims though no decision has yet been taken regarding either a final timetable or the methodology of any such release.

Grouped Questions: [HL6481](#)

And see: <https://hansard.parliament.uk/lords/2016-12-14/debates/4D06F8D4-3A8C-4779-8115-4D06A0C776C3/AsylumSexualOrientation>

<sup>9</sup> Asylum Aid, *Unsustainable, the quality of initial decision-making in women's asylum claims*, 2011



applicants and more efficient for UKVI. This has an impact on credibility assessment and therefore decision-making. Our proposal to the UKVI is attached as an appendix. It is being considered by UKVI, but they have voiced concerns over operational constraints and women's choice.

#### **d. Interpreters**

We would be grateful if the inspection could consider whether interpreters have adequate training, including in relation to sensitivity to gender, gender identity, and sexual orientation issues. This should include what action is taken to ensure that interpreters do not have stereotypical negative views relating to gender identity and sexual orientation and gender-based violence; and whether interpreters use appropriate terminology relating to gender-based violence, gender identity and sexual orientation issues.

#### **e. Childcare**

Following campaigns through Asylum Aid's Charter of Rights of Women Seeking Asylum, the UKVI has set up childcare provision during asylum interviews in all regions except London. It would be useful to know how this is being communicated to asylum applicants, most likely to be single mothers. In particular we would like to know whether this is done in a way which reassures parents that this is a safe place for their children and that they can feel comfortable leaving their children.

### **4. The quality of asylum interviews and decisions**

The key factors that decisionmakers need to understand relating to gender in asylum casework include:

- Gender based violence: this includes but is not limited to sexual violence, domestic violence, forced marriage, female genital mutilation (FGM), 'honour'-based violence, trafficking, and violence due to a person's sexual orientation or gender identity.
- Harm in the private rather than public sphere: harm by family and community rather than by the state.
- State protection: protection through laws against such violence, including whether laws are enforced.
- Gender not explicitly protected in Refugee Convention, but covered by 'membership of a particular social group'.
- Lack of documentary evidence of gender-based violence resulting in reliance on oral testimony, which is affected by trauma and affects credibility assessment.
- Internal relocation: whether a person can relocate to another area in their country to be safe. Internal relocation is often raised with respect to gender-based violence as perpetrators are more likely to be in an applicant's home area, whereas state harm would be across the state. Internal relocation options may be considered in a problematic way for women and LGBTI applicants, without due consideration of all factors making it unsafe to relocate, eg women



cannot set up home in a new place without protection of husband/father/brother; they and LGBTI applicant would be ostracised, harmed, unable to work etc in other areas of the country.

- Late disclosure / late asylum claims and the link to feelings of shame, trauma, previous self-denial of sexual orientation/gender identity issues, changes in sexual or gender identity issues whilst in the UK, etc.
- Difficulties of proof and flawed assessment of gender issues.

### a. Credibility assessment

Research has shown that the key issue for decision-making is credibility assessment.<sup>10</sup> Decisions stand and fall on this. Analysing whether decisions follow the process outlined in the Home Office Asylum Policy Instruction on Credibility Assessment is very important. The inspection should consider how credibility is assessed, in particular whether decisions are made in the round and in a structured way without focusing on small inconsistencies or speculative reasoning. In all overturns on appeal analysed in our research on women's initial asylum claims<sup>11</sup> and in our forthcoming research on women and appeals,<sup>12</sup> the overturns are due to a different credibility assessment.

In considering credibility assessment, it would be helpful if the inspection could examine whether interviews are conducted appropriately. A previous ICI report found, for example, that in a significant number of interviews in sexual orientation cases, caseworkers exhibited reliance on stereotypes, inappropriate questions were asked, and/or the interviews were overly long and lost focus on key issues relevant to proper assessment of credibility, lengthening an experience that is traumatic for many applicants.<sup>13</sup>

### b. Home Office Guidance (Asylum Policy Instructions)

We would welcome the inspection including an investigation of the extent to which the relevant Asylum Policy Instructions are being implemented (Assessing Credibility and Refugee Status, Gender Issues in the Asylum Claim, Sexual Orientation Issues in the Asylum Claim, and Gender Identity Issues in the Asylum Claim<sup>14</sup>). All the guidance has benefitted from consultation with stakeholders, and we credit the Home Office with having produced, in many respects, very

<sup>10</sup> UNHCR, *Beyond Proof: Credibility Assessment in EU Asylum Systems*, 2013; Amnesty International UK/Still Human Still Here, *A question of credibility*, 2013; Asylum Aid, *Unsustainable, the quality of initial decision-making in women's asylum claims*, 2011.

<sup>11</sup> Asylum Aid, *Unsustainable, the quality of initial decision-making in women's asylum claims*, 2011

<sup>12</sup> Asylum Aid/NatCen, *Through her eyes: enabling women to give best evidence at UK asylum appeals* (forthcoming)

<sup>13</sup> ICIBI, *An Investigation into the Home Office's Handling of Asylum Claims Made on the Grounds of Sexual Orientation March-June 2014*, 4.31, 4.33, 4.43.

<sup>14</sup> The current Gender Identity API dates from 2011 and is in the process of being revised; however, there have been significant delays in publishing the revision.



solid, appropriate guidance. For it to be effective, however, it needs to be reflected in training and fully implemented.

### c. Structured communication

In a joint project in 2011-12, Asylum Aid's legal representatives and UK Border Agency officials agreed that better "structured communication" about the nature of the claims to be determined and the evidence to support them, early in the asylum process, would lead to better decisions.<sup>15</sup> It would be useful to find out from decision-makers whether there are times they would benefit from speaking to the applicant's lawyer, for instance, seeking extra clarification or evidence to enable them to make a more accurate decision.

### d. 'Second pair of eyes'

The Home Office has implemented a monitoring system for decisions on asylum applications based on female genital mutilation (FGM) and in cases based on sexual orientation or gender identity, which the Home Office refers to as the 'second pair of eyes' (SPOE) approach. This involves another decision-maker re-assessing initial decisions in such cases.

The SPOE for sexual orientation cases is the result of a recommendation of the ICI's predecessor, John Vine, to improve monitoring of assessment of claims based on sexual orientation. This is in order to ensure against inappropriate questioning, stereotyping, incorrect application of the 'discretion' test in HJ (Iran) and HT (Cameroon) and other flaws in refugee status determination.<sup>16</sup> We would welcome an audit of how and whether the SPOE approach in LGB cases improves decision-making.

UNHCR's recent intervention in the case of *LC (Albania)* [2017] EWCA Civ 351 provides an analysis of the proper approach to assessment of concealment of sexual orientation / gender identity under the HJ test and suggests that decision-makers have misinterpreted *HJ*; therefore, we would also welcome examination of whether Home Office caseworkers correctly interpret and apply this test<sup>17</sup> as well as other issues related to sexual orientation and gender identity, and whether initial errors are corrected through the SPOE.

The SPOE for FGM was introduced in partial response to the Independent Chief Inspector's 2015 inspection on Asylum Casework which recommended SPOE for PSG cases to improve the quality of decision-making in complex and sensitive cases.

As the Refugee Convention grounds do not explicitly include gender, gender-based claims often fall within the PSG ground. The Home Office Asylum Instruction *Gender issues in the asylum*

<sup>15</sup> Asylum Aid, *Right First Time*, 2013

<sup>16</sup> ICIBI, *An Investigation into the Home Office's Handling of Asylum Claims Made on the Grounds of Sexual Orientation* March-June 2014, Part 6.

<sup>17</sup> UNHCR intervention in *LC (Albania)* [http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=58de68dd4&skip=0&query=lc%20\(Albania\)](http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=58de68dd4&skip=0&query=lc%20(Albania)).



*claim* states “Many women who are persecuted will be covered by other Convention grounds i.e. race, religion, nationality and political opinion, whether actual or imputed. In some cases gender may be a factor in recognising membership of a particular social group or an identifying characteristic of such a group.” Those bringing gender-based claims are mostly women and LGBTI applicants. Inconsistencies in the application of the PSG ground will therefore have a disproportionate effect on women LGBTI applicants.

We would welcome closer investigation of PSG cases. In particular it would be interesting to know what plans there are for extending the SPOE to PSG cases.

We would be grateful if the inspection could examine the SPOE approach in both and ascertain:

- Who undertakes the SPOE review – is this done by senior or specialist staff with specific, advanced training on the particular issue?
- The proportion of cases undergoing SPOE
- The proportion of these cases where an incorrect decision has been made
- Whether the SPOE results in decisions being changed to comply with the law
- Whether the SPOE approach shows any patterns in problematic decision-making
- Whether the SPOE results in caseworkers who have made incorrect decisions being provided adequate feedback and support to ensure that mistakes are not repeated in future
- Whether there is monitoring of SPOE on the above

#### **e. Country of origin information (COI) and Country Guidance jurisprudence**

We would be grateful if the inspection could assess the use of COI in asylum-decision-making, in particular in relation to gender, gender identity, and sexual orientation. Is COI applied logically, impartially, and consistently? Are decisions about risk of persecution in a particular country based on accurate information provided in COI? Do COI (and Asylum Policy Instructions – ‘APIs’) incorporate relevant jurisprudence, and are COI and APIs updated in a timely manner when new caselaw is published? Our evidence suggests, for example, that there are times when a conclusion is reached and then COI is used selectively to support that conclusion,<sup>18</sup> and there are sometimes serious delays in updating COI and APIs. Clearly, it will be impossible for asylum decisionmakers to make correct decisions on risk of persecution if the COI or country guidance jurisprudence being used is fundamentally flawed.

The Home Office’s *Country Policy and Information Note on Afghanistan: Sexual Orientation and Gender Identity* of January 2017<sup>19</sup> is one example of flawed country of origin information. It is internally inconsistent and does not take proper account of available information; in particular, Annex A, which is a note from the Foreign and Commonwealth Office, offers starkly different information to the main conclusions, and it appears that parts of Annex A have been incorporated

<sup>18</sup> Asylum Aid, *Unsustainable, the quality of initial decision-making in women’s asylum claims*, 2011, p62.

<sup>19</sup> Available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/584025/Afghanistan\\_-\\_SOGI\\_-\\_CPIN\\_-\\_January\\_2017\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/584025/Afghanistan_-_SOGI_-_CPIN_-_January_2017_.pdf)



into the main Note but without reaching logical conclusions as to the inconsistencies arising and the actual risk of persecution related to sexual orientation or gender identity in Afghanistan.

In another example relating to country guidance jurisprudence, in *LC (Albania) v Secretary of State for the Home Department* [2017] EWCA Civ. 351,<sup>20</sup> it was established that the Country Guidance case of *MK (Lesbians) Albania CG* [2009] UKAIT 00036 was set aside in October 2011. However, the Home Office had continued relying on *MK* (for more than five years after it was set aside) in its guidance and decisions refusing asylum in cases concerning sexual orientation, domestic violence, and trafficking.<sup>21</sup>

We are concerned that these examples may be indicative of much broader problems with Home Office COI and improper use of country guidance cases and request that the inspection investigate use of COI and country guidance jurisprudence in asylum decisions.

#### f. Fresh claims

We would be grateful if the inspection could consider whether second applications for asylum after a previous application and any appeals were exhausted ('fresh claims') are treated fairly and in accordance with law, in particular those relating to gender, gender identity, and sexual orientation. Is adequate and sensitive consideration given to, for example, applicants' feelings of shame relating to rape or other gender-based violence, or their gender identity or sexual orientation, relating to discrimination and stigma in their home countries, and the impact this may have on delays in claiming asylum on these grounds?

#### g. Interviewer/decision-maker

Under the New Asylum Model from 2006, the same caseworker undertook a substantive asylum interview and made the asylum decision. In more recent years, one caseworker interviews the applicant and a different decision-maker makes the decision. We would be grateful if the inspection could determine how often this happens and in what circumstances. In our experience this is happening in most, if not all, cases.

Our concern is that some subtleties of the case may not be reflected in the interview record and therefore lost to the decision-maker. Further, in one case in which we attended the asylum interview, the interviewing officer appeared to accept the applicant's stated sexual orientation, but this was disputed in the refusal letter. It would be useful to know whether the decision-maker ever discusses the case with the interviewer and, if so, under what circumstances and what the benefit is. The inspection could examine whether staff believe this method of decision-making has an impact, whether positive or negative, on the outcome of asylum applications, and whether the impact is different for different types of asylum application, eg those based on gender, gender identity, or sexual orientation.

<sup>20</sup> <http://www.bailii.org/ew/cases/EWCA/Civ/2017/351.html>

<sup>21</sup> For further information about this, see <http://www.no5.com/news-and-publications/news/1575-ic-albania-home-office-concedes-unlawful-use-of-country-guidance-on-albania-since-october-2011/>.



Whilst talking to interviewing and decision-making staff, it would be helpful to establish whether the target of a certain number of events per annum is putting pressure on them. It would also be helpful to establish what, if any, targets they are working to, eg a certain number of grants or refusals across the department per year.<sup>22</sup> Further it would be helpful to confirm whether grants and refusals of asylum are reviewed internally in cases other than those subject to SPOE. In the past, only grants of asylum were reviewed internally, which was problematic as it created a disincentive to grant asylum. The Home Office has stated that this is no longer the practice, and it would be helpful if this could be confirmed.

#### **4. The impact of any forthcoming proposals or current pilots which impact upon the decision-making process**

##### **a. Witness statements**

In Asylum Aid's joint project, legal representatives and UKBA officials agreed that the submission of 'witness statements' in advance of asylum interviews which detailed the claim and the evidence to support it, were likely to lead to significant savings in time and money.<sup>23</sup> They also noted that Legal Aid should be 'frontloaded' so as to incentivise the submission of detailed witness statements. It is regular good practice at Asylum Aid to provide a witness statement in advance of an asylum interview in most cases.

In 2016, the UKVI initiated a pilot of Pre-interview Forms which required applicants to complete a form before their interview. This was piloted in Scotland and then rolled out to a second region. These forms are effectively witness statements and the pilot showed that most legal representatives simply attached a witness statement to the form. Asylum Aid welcomed the pilot because we believe that providing a witness statement is good practice and reduces/prevents the need for questioning an asylum applicant about traumatic experiences at their asylum interview. We suggest that a witness statement without a Pre-interview Form should be sufficient. However, there is an issue of Legal Aid funding for this. It would be useful to know whether the pilot has been evaluated and is being rolled out nationally.

##### **b. Video conferencing**

Video conferencing for interviews has been piloted by UKVI and is being rolled out, although there is no clarity as to the criteria when it should be used. We are concerned that video conferencing creates barriers to communication. It makes it much harder to build rapport between interviewer and asylum applicant, and lack of feedback prevents the asylum applicant disclosing as much as possible. In addition, for face-to-face interviews, the asylum applicant brings their documents with them, including their witness statement and evidence. With video conferencing, applicants have to send this information later as information sent in advance may

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<sup>22</sup> Although the UKVI has always denied such targets exist, practitioners have regularly received anecdotal evidence of them.

<sup>23</sup> Asylum Aid, Right First Time, 2013



not reach their interviewer. This disadvantages the applicant as the interviewer does not have all relevant information with them at the interview, and they have to include unnecessary questions.

We are aware that some applicants are unlikely to be accustomed to speaking via a screen and may have had negative experiences of video surveillance.

As well as more general usage, video conferencing is being suggested as a solution to the problem of not having sufficient Home Office female interpreters for the rarer languages. It would therefore be worth considering how and why video conferencing is being used, the impact it has on the interview and decision-making, whether there are concerns regarding confidentiality of interviews, and whether such a process is more or less traumatic for an applicant than a face to face interview. This consideration should take into account gender aspects such as the reduced likelihood of an applicant disclosing gender-based violence or one's sexuality or sexual orientation through a video interview.

### **Contact Information**

This briefing was written by Cynthia Orchard and Debora Singer MBE

For further information on the issues covered by this document, please contact:

Email: [Cynthia.orchard@asylumaid.org.uk](mailto:Cynthia.orchard@asylumaid.org.uk); [Debora.singer@asylumaid.org.uk](mailto:Debora.singer@asylumaid.org.uk)

Tel: 0203 262 0349/0451

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