

# **TIPPING THE SCALES:**

## **ACCESS TO JUSTICE IN THE ASYLUM SYSTEM**

**NACCOM**   
THE NO ACCOMMODATION NETWORK

**REFUGEE  
ACTION**

# OVERVIEW.

Access to justice is a key part of a functioning asylum system. It is essential that all those who need it are able to receive independent, government-funded legal representation. Without this, navigating the asylum process becomes a formidable – and often impossible – task.

But despite the fact that the success or failure of an individual's asylum claim may rely on this, too often people seeking asylum find it difficult or impossible to obtain legal assistance. This briefing sets out some of the inadequacies of current legal aid provision for those within the asylum system.

## KEY FINDINGS.

### → ORGANISATIONS WORKING WITH VULNERABLE PEOPLE ARE FACING HUGE BARRIERS TO FINDING THEM GOVERNMENT-FUNDED LEGAL ASSISTANCE.

A survey of 92 organisations was undertaken by NACCOM (the No Accommodation Network) and Refugee Action in the first half of 2018. We asked organisations about their experiences of referring people on to legal aid-funded representatives. **76% of respondents said that they were finding it 'very difficult' or 'quite difficult' to refer people on to legal representatives. 87% of respondents told us they are finding referrals more difficult than six years ago.** Too often, organisations cannot find legal representation for the people they support. This is the case even where provision exists on paper, due to a lack of capacity within firms and the difficulty of taking on time-consuming, complex cases which cost far more than the official remuneration rates.

### → GAPS IN LEGAL AID PROVISION EXIST ACROSS THE COUNTRY, UNDERMINING ACCESS TO JUSTICE FOR THOSE CLAIMING ASYLUM.

Using Legal Aid Agency (LAA) data, we have mapped legal aid provision for people seeking asylum across England and Wales. The mapping shows that **over half of legal aid providers in the areas of asylum and immigration were lost between 2005 and 2018. The drop in not for profit providers was even more staggering, at 64%.** The figures also suggest that provision is inadequate in several places, and failing to keep pace with need. For instance, by March 2018 there were **26 local authority areas with more than 100 people seeking asylum where there was no local legal aid provision.**

# BACKGROUND.

Quality legal representation and an understanding of the process are essential for those claiming asylum in the UK. Refugee status determination is a complex legal process, and most people arrive in the UK with little to no experience of going through the justice system in their own countries, not to mention a country they may have recently arrived in, in a language they might not understand.

As one report looking at quality of legal services for people seeking asylum pointed out, “[m]ost

consumers rarely access legal services, many doing so only a handful of times in their life, making the ‘knowledge gap’ between provider and consumer particularly wide, and the ability of the consumer to recognise what constitutes quality legal advice all the more difficult.”<sup>1</sup> This is amplified in the case of those seeking asylum, due to vulnerabilities – such as lack of knowledge of the language and legal systems, histories of trauma, and absence of support – that can lead to difficulties in engaging with legal processes and, in the worst cases, to exploitation.<sup>2</sup>



In May 2018, Refugee Action released research based on interviews with 40 people who have direct experience of going through the asylum process. One of the key findings of our research was that a lack of information and legal advice are keeping people in the dark. Whilst in theory people at all stages of the asylum process should be able to access legal aid representation, in practice fundamental barriers exist.<sup>3</sup>

## WHO SHOULD HAVE ACCESS TO LEGAL AID?

Everybody going through the asylum process should have the option of accessing high-quality legal advice. Most people have limited understanding of the role of the Home Office, and many of those we work with have little understanding of the complex legal process they find themselves in when they claim asylum. Often the only information they obtain from the Home Office comes through their legal representative.<sup>4</sup> In theory, people at all stages of the asylum process are eligible for legal aid, including:

### → People waiting for an initial asylum decision

When somebody applies for asylum, either upon arrival or from within the UK, they attend an initial 'screening' interview. It is possible for people to access legal advice prior to screening, but legal aid funding is only available afterwards. In theory, legal representation should be sought as soon as possible after screening in order to help the individual prepare for their substantive interview, but in practice many people are unable to do this.<sup>5</sup>

### → People appealing a negative decision

When an individual is refused asylum, they can appeal this decision. Legal aid is available for asylum appeals, but is subject to a 'merits test': the legal representative must believe that there is at least a 50% chance of success. Legal aid is withdrawn if the merits test is not considered to have been met.

In 2017, 35% of all asylum appeal decisions resulted in overturn of the initial refusal.

### → People making further submissions

Somebody who has been refused asylum and then exhausted all their appeal rights may submit new evidence to make a 'further submission', if this evidence was not previously available. The evidence must normally be submitted in person, and the Home Office will then make a decision as to whether it meets the criteria for a fresh asylum claim or not. If it does, this effectively constitutes a new asylum claim. Somebody making further submissions is eligible for legal aid representation; however, like appeals, such cases are subject to a merits test. Due to LAA restrictions based on the merits test, solicitors may be inclined to automatically refuse 'borderline' cases without fully examining them.<sup>6</sup> Moreover, the initial advice and preparation for submitting the further evidence is outside the scope of legal aid, meaning that – without assistance from a professional – people may not have the option of collecting and submitting such evidence.

**ONE OF THE KEY FINDINGS OF OUR RESEARCH WAS THAT A LACK OF INFORMATION AND LEGAL ADVICE ARE KEEPING PEOPLE IN THE DARK.**

## CHANGES IN LEGAL AID PROVISION.

One factor that undoubtedly plays a part in people's ability to access legal advice is the way in which legal aid provision has been altered in recent years, in particular the restrictions increasingly placed on legal aid, most recently within the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act of 2012. There has been a considerable amount of research done into the impact that LASPO has had on access to justice.<sup>7</sup> LASPO resulted in significant cuts to legal aid, including all areas of immigration law except for asylum which remains in scope. In 2017, the Law Society undertook a review of the impact of LASPO and stated that "[i]n reality, the Government's reforms have resulted in vulnerable groups finding themselves excluded from free legal advice."<sup>8</sup> Even for those whose cases remain in scope following LASPO, the report concluded that "many of those who are still eligible for legal aid are no longer able to access advice in their local area."<sup>9</sup>

Whilst some of the concerns around legal aid provision in asylum cases are directly linked to LASPO, others predate it. The Graduated Fee Scheme (GFS) for legal aid work, for instance, was introduced in 2006 and funds legal representation for individual 'units' of work, as opposed to paying representatives at an hourly rate as had previously been the case. This provides direct incentives for spending less time on people's asylum claims, and is arguably a major factor undermining good quality legal advice for people in the asylum system. Indeed, when the GFS was brought into effect, one legal representative said: "We will have no choice but to reduce the volume [of immigration and asylum publicly funded work] further, because

we are not prepared to compromise on quality." Another said: "I am not interested in a career involving substandard work for vulnerable people."<sup>10</sup>

In addition to the problematic nature of GFS in itself, at the time the scheme was set, levels of payment were not based on reliable historical costs,<sup>11</sup> meaning that the number of hours allocated for each case was not based on a realistic calculation of how long representatives spend on each case. Current rates remain very low, meaning that in reality solicitors are only paid for a few hours of their time to work on a case.<sup>12</sup> In fact, the current levels of payment for legal representatives working on an asylum case are lower in 2018 than they were in 2007.<sup>13</sup>

The rationale for the scheme is, crudely, that "inefficient providers took more time per case, while efficient ones less time."<sup>14</sup> However, this is a poor representation of the situation on the ground; in reality, the funding scheme means that solicitors often do not have the time they need to spend on a claimant's initial decision. People who are claiming asylum are likely to be highly vulnerable and it may take time before they feel comfortable disclosing what are often distressing, highly personal, and sometimes humiliating experiences to a stranger. As a result, one-to-one relationships and communication have been highlighted by people in the asylum process as key for their interactions with their legal representatives. In all cases, collecting evidence and providing it to the Home Office takes a considerable amount of time. The consequences of not being able to do this may be that people are not able to present the best possible case they can, leading to costs to the public purse further down the line if the applicant is refused and decides to appeal the decision.

**IN REALITY, THE GOVERNMENT'S REFORMS HAVE RESULTED IN VULNERABLE GROUPS FINDING THEMSELVES EXCLUDED FROM FREE LEGAL ADVICE.**

**ACCESS TO JUSTICE FOR  
VULNERABLE GROUPS:  
WOMEN AND LGBTQI+ PEOPLE.**

Issues around disclosure can have a disproportionate impact on certain vulnerable groups. These include women who may have experienced forms of violence, such as domestic violence, rape, forced marriage and female genital mutilation, which are very hard to disclose and may also be more difficult to prove than other types of persecution.<sup>15</sup> Similarly, significant barriers to disclosure may exist for claimants seeking asylum on the basis of their sexuality, including limited sexual self-realisation or the inability to articulate certain elements of their identity or experiences (see Naveed’s case on p.8).

Conflicts between an individual’s sexual orientation or identity and sometimes deeply-entrenched religious views may also play a role in preventing disclosure.<sup>16</sup> The shame and trauma of certain experiences impact on the ability and willingness of these often vulnerable groups to disclose such experiences, and without sufficient time to establish trust with their clients, particularly in more complex cases, legal representatives may find it impossible to understand such cases in their entirety and to obtain the necessary evidence.

Of course, the introduction of LASPO exacerbated the impact of the GFS, which is only a sustainable system if lengthier, more complex cases are ‘cross-subsidised’ by simpler and shorter ones – something that was possible when non-asylum immigration cases were eligible for legal aid funding. Indeed, the Legal Services Commission (the body which ran the legal aid scheme in England and Wales prior to 2013, when the Legal Aid Agency was established) explicitly outlined that “[f]ixed and graduated fees revolve around the concept of ‘swings and roundabouts’ – that is, a case that is more expensive than the standard fee to a firm will be balanced, in the long run, by one that is cheaper.”<sup>17</sup>

As has already been pointed out by several organisations,<sup>18</sup> therefore, the removal of other types of immigration from the scope of legal aid has had an impact on the provision of legal aid for asylum cases – despite the fact that asylum has remained under the scope of legal aid. This is particularly a problem for cases that are more complicated, as there is little incentive for representatives to take them on when they know that they will not receive payment commensurate with the time spent working.



**IMPACT.**

The barriers outlined above mean that, in practice, many of the people that we work with through our services find it difficult to access legal advice. There are particular difficulties associated with obtaining legal assistance for those hoping to make a fresh asylum claim, as demonstrated below.

Even when people do manage to access legal aid-funded advice, they often express disappointment with the limited contact that their solicitor has with them, something that has been effectively built into the asylum system as a result of the GFS.

These barriers exist despite the examples of good practice in early intervention which show time and again the advantages of receiving good information – including legal advice – as early as possible. Indeed, there have been many calls over the years to ‘front load’ legal advice.<sup>19</sup> People seeking asylum need help earlier in their asylum journeys to ensure that they are prepared for what they will go through, and able to present their case in the best way possible. At present, too many people remain unaware of what to expect and ill-prepared throughout the process. This can be disastrous for the vulnerable people going through it, may lead to poor decisions, and means that considerable costs are incurred as people go through lengthy appeals procedures only to be granted asylum further down the line.





Photo by Mohammad Faruque on Unsplash.

## NAVEED.<sup>20</sup>

From the beginning of the process, Naveed had been unsure about how to apply for asylum: “At the start, I didn’t know the steps. I didn’t know how the process worked. How to do the asylum process.” He eventually sought advice from the British Red Cross, who helped him to arrange an appointment at the screening unit. But after his screening interview, he remained unclear about the next steps: **“They didn’t explain to me what will happen to me next... they just told me that your screening interview has been done, now you can go back to your home. I asked them**

what will happen, and what would happen next. They said ‘you have to just wait, and you will get a letter.’”

Naveed knew that he needed a solicitor, but had no idea how to go about finding one and had received no assistance. He eventually received a letter inviting him to interview, just four days before the interview itself. **“I didn’t know how to look for a solicitor.** I went to Migrant Help... they gave me five addresses for different solicitors. They told me I had to find one. But the first two said ‘we don’t have the space for new ones.’ The third one they said ‘you must have your section 95 letter’ – at the time I didn’t have that – and the fourth one said ‘we don’t have an office nearby.’ Finally, the fifth one took me.”

Naveed’s case was initially rejected because, though the Home Office recognised that he would face persecution as a gay man in his country of origin, they did not accept that he was gay. But on appeal he was granted refugee status. Naveed told us that he hadn’t been comfortable to talk about his sexual orientation in his substantive interview. In advance of the appeal hearing, however, his solicitor had more time to gather evidence and give Naveed the confidence he needed to speak about his experiences in detail: “she gave me courage.” It seems likely that finding a solicitor just a few days before his interview meant that Naveed was unable to fully prepare for it. If he had received more information from the beginning of the process about his rights, and had known what he needed to do, he may have been saved months of worry.

# ACCESS TO ADVICE.

In the first half of 2018, Refugee Action and NACCOM carried out a survey of 92 frontline organisations that we work with. We asked the organisations about their experiences of referring the people that they work with to legal aid-funded immigration solicitors.<sup>21</sup>

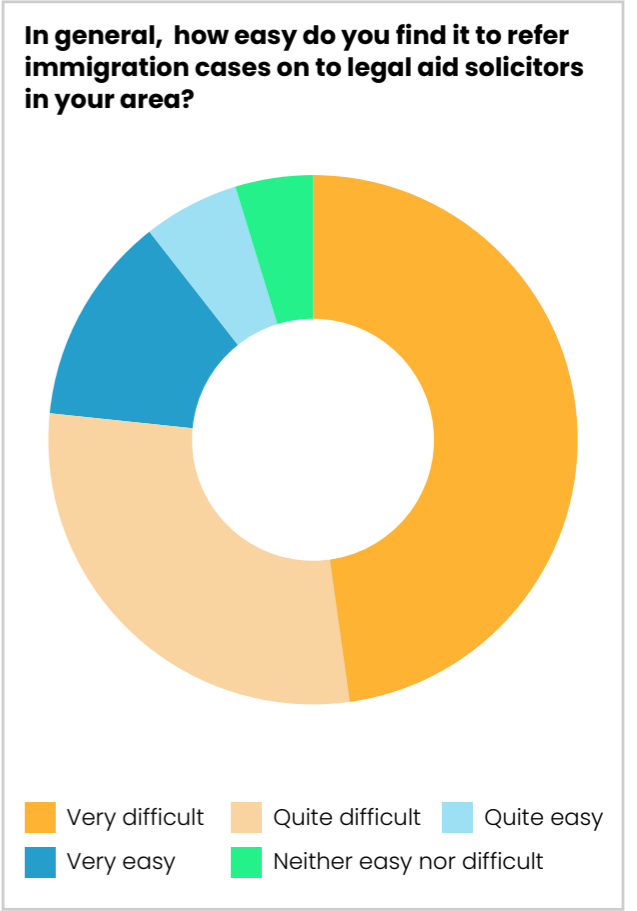
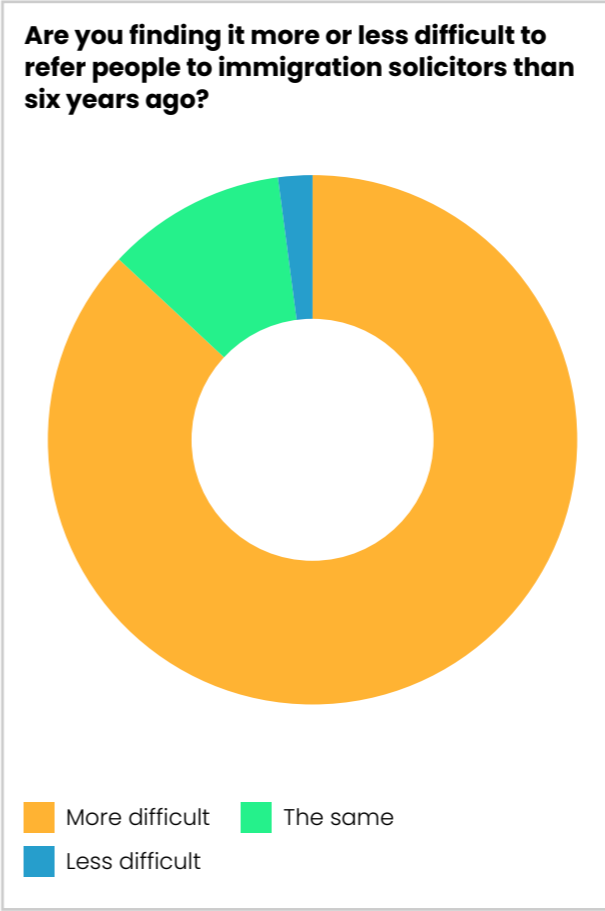
Often, the people who are referred or signposted by frontline organisations are some of the most vulnerable that we see. They have been unable to access legal advice themselves – often because they have not understood their entitlements, or have been unable to travel to find a legal representative – and may arrive at an organisation in crisis, with no options left.

When asked **‘Are you finding it more or less difficult to refer people to immigration**

**solicitors than six years ago?’, 87% of organisations that responded said it was more difficult, with only 11% saying it is the same and just one saying that it is easier.**

**Over three quarters of respondents (76%) said they find it either quite difficult or very difficult to refer immigration cases on to legal aid solicitors in their area.** Less than 20% of the respondents found it quite or very easy.

Some organisations told us that the key barrier to referrals and signposting was not an absence of legal firms but limited capacity, meaning that firms were often reluctant to take on more complicated cases (in particular people making further submissions).



More legal aid provision by committed solicitors would make a huge difference to our work and members. The limits to legal aid mean solicitors can do very little research on difficult cases, so we're having to do that ourselves with volunteers. Refused asylum seeker fresh claims are nearly always difficult cases.

Frontline organisation in the South West

Indeed, this has long been a feature of the asylum system; from a financial perspective, it is difficult to justify taking on cases that are likely to take a long time to complete. Others told us that their relationships with solicitors are key: one provider said that they were able to refer because of the contacts they had at law firms, but that "clients trying on their own would find it very difficult."

There is also some evidence to suggest that referrals are more challenging for those at appeal stage or making further submissions, something that reflects the experience of our caseworkers. Of 42 organisations that refer people prior to their initial asylum decision, 36% can do this 'always or most of the time'. However, this figure stands at 15% and 16% for people lodging an appeal on their asylum decision or people submitting a fresh asylum application, respectively. This effectively means that, the further along a case is, the harder it is to access justice.

We are finding it increasingly difficult to find legal aid solicitors for fresh claims work and can observe that local solicitors appear to be very overworked and struggling to make time to prepare cases as fully as they would like to.

Frontline organisation in Yorkshire and Humber

## THE FURTHER ALONG A CASE IS, THE HARDER IT IS TO ACCESS JUSTICE.

It is so time consuming to ring/email round a list of legal aid providers... to see if someone will take a case. We sometimes [contact] over 15 before anyone will respond.

Frontline organisation in London

Several organisations told us that they are only able to refer cases once they have collected further evidence themselves, because solicitors find this too time consuming given the limited number of hours they are paid to work on each case under legal aid. One organisation told us that they have had to request an adjournment of an appeal in a number of cases, in order to allow the client to find adequate legal representation. Adjournments can sometimes delay cases by months, and extend the decision on an asylum claim that may already have taken years, exacerbating the huge cost of prolonging cases – both financially and emotionally.

According to Manchester-based caseworkers, moreover, over the past years it has become practically impossible to refer people to legal aid providers between February and March due to limited matter start availability towards the end of the financial year. In a number of areas, the gaps in legal aid provision clearly result in the third sector picking up the pieces where the Legal Aid Agency has failed:

[Our organisation] exists due to the problems with legal aid. We deal with the cases where legal aid is refused or asylum seekers are rejected by solicitors... We have a full time and a part time legal advisor dealing with a range of cases and increasing numbers of those who cannot access legal aid... The legal aid provision in Wales is poor which is evidenced by the increasing numbers accessing our service.

Frontline organisation in Wales

# LEGAL AID DESERTS: MAPPING ACCESS TO JUSTICE.

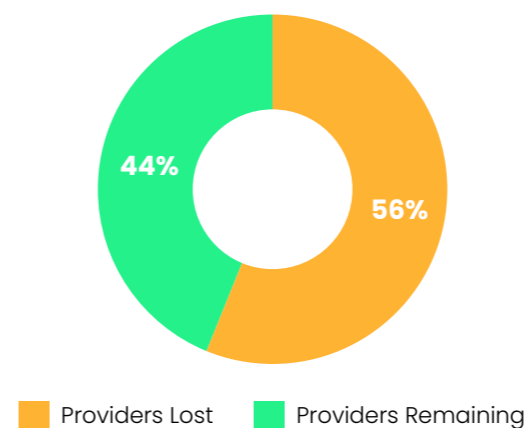
The LAA releases annual statistics on provider data by area. In order to better understand gaps in legal aid provision across England and Wales,<sup>22</sup> we mapped this data, juxtaposing it with estimated need.<sup>23</sup>

The data suggests that the past decade has seen a decline in the number of legal aid providers in the area of immigration and asylum, and gaps are evident in several areas – effectively meaning that there are parts of the country that are legal aid 'deserts' for this area of law. Despite the challenges of mapping provision against need, partly due to the partial nature of the data held, the figures suggest that current provision is not sufficient.

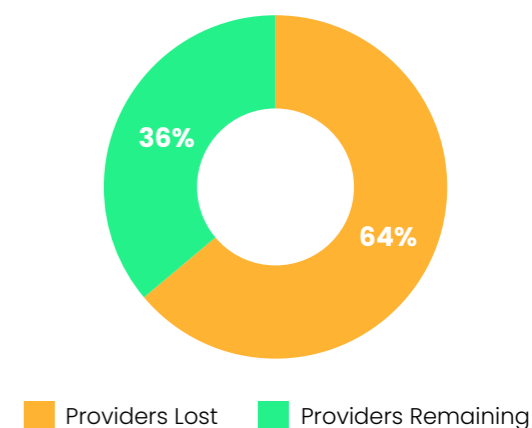
## DECLINING PROVISION.

The figures show that, since 2005, there has been a 56% drop in the number of providers offering legal aid representation for Immigration and Asylum law. The number of not for profit providers saw an even greater reduction, with only 36% remaining in 2018 as compared with 2005 levels.<sup>24</sup>

The Percentage of Providers Lost from 2005–2018



The Percentage of Not for Profit Providers Lost from 2005–2018



## PROVISION VS NEED.

In addition to a reduction in the overall number of providers, there is also some evidence to suggest that provision does not match need in certain parts of the country.

Since 2000, people in the asylum system who are in receipt of government support have been 'dispersed' out of London and the South East of England, in order to "reduce a perceived 'burden' on the south east of England and London."<sup>25</sup> This dispersal is a key driver in demand for legal aid representation.

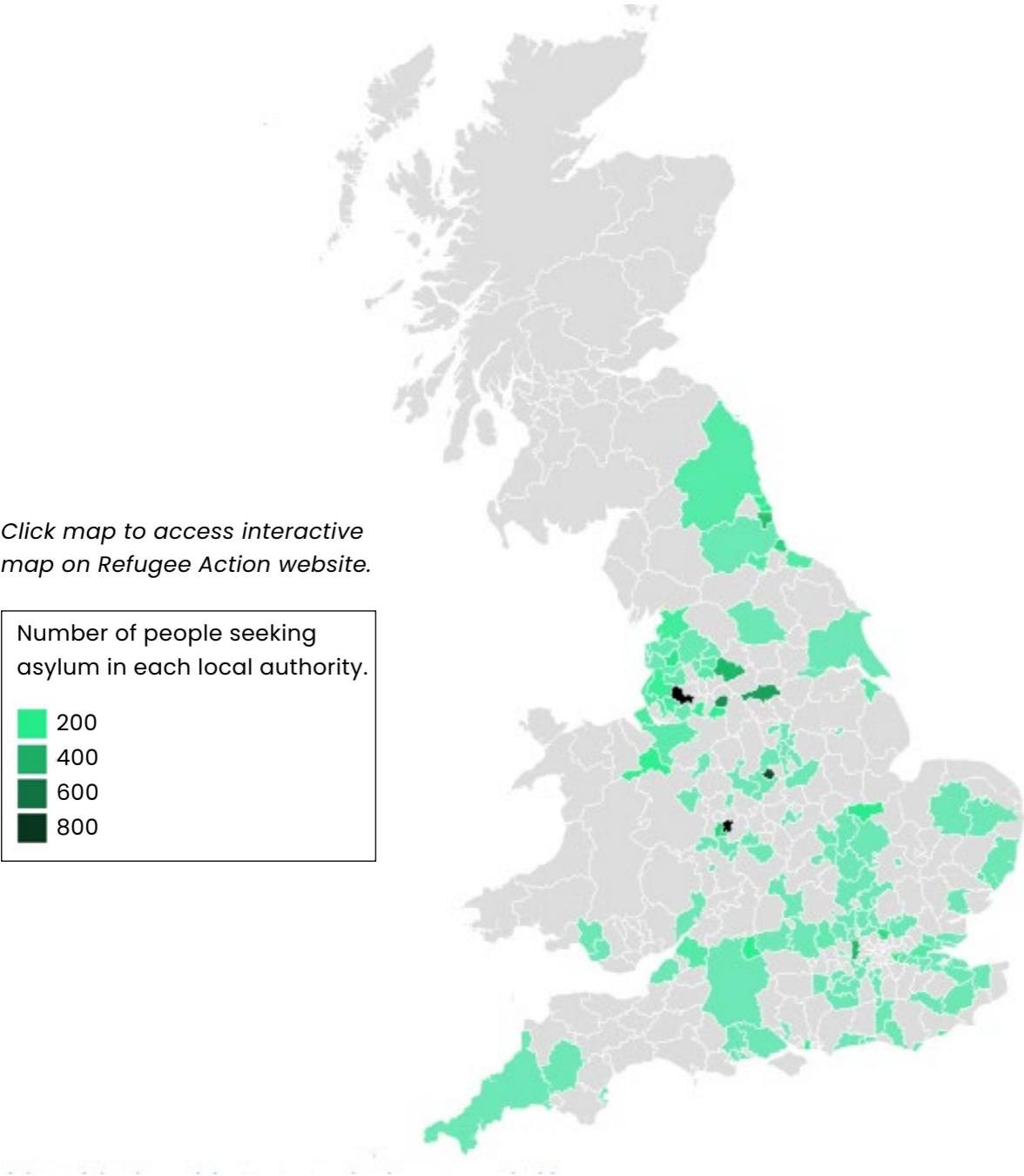
However, a comparison of completed legal aid 'matter starts' (the number of cases that providers are able to take on under their legal aid contract) with the numbers of people dispersed in each area suggests that provision does not reflect dispersal patterns.<sup>26</sup> Indeed, at the end of March 2018 there were 46 local authority areas across England and Wales where the number of supported people seeking asylum exceeds the number of completed matter starts by more than 100. Many more

local authorities were operating with a matter start ‘deficit’ in 2017/18, meaning that they accommodated more people seeking asylum than completed matter starts during this period.

**There were 26 local authority areas with more than 100 people seeking asylum which had no local legal aid provision.**

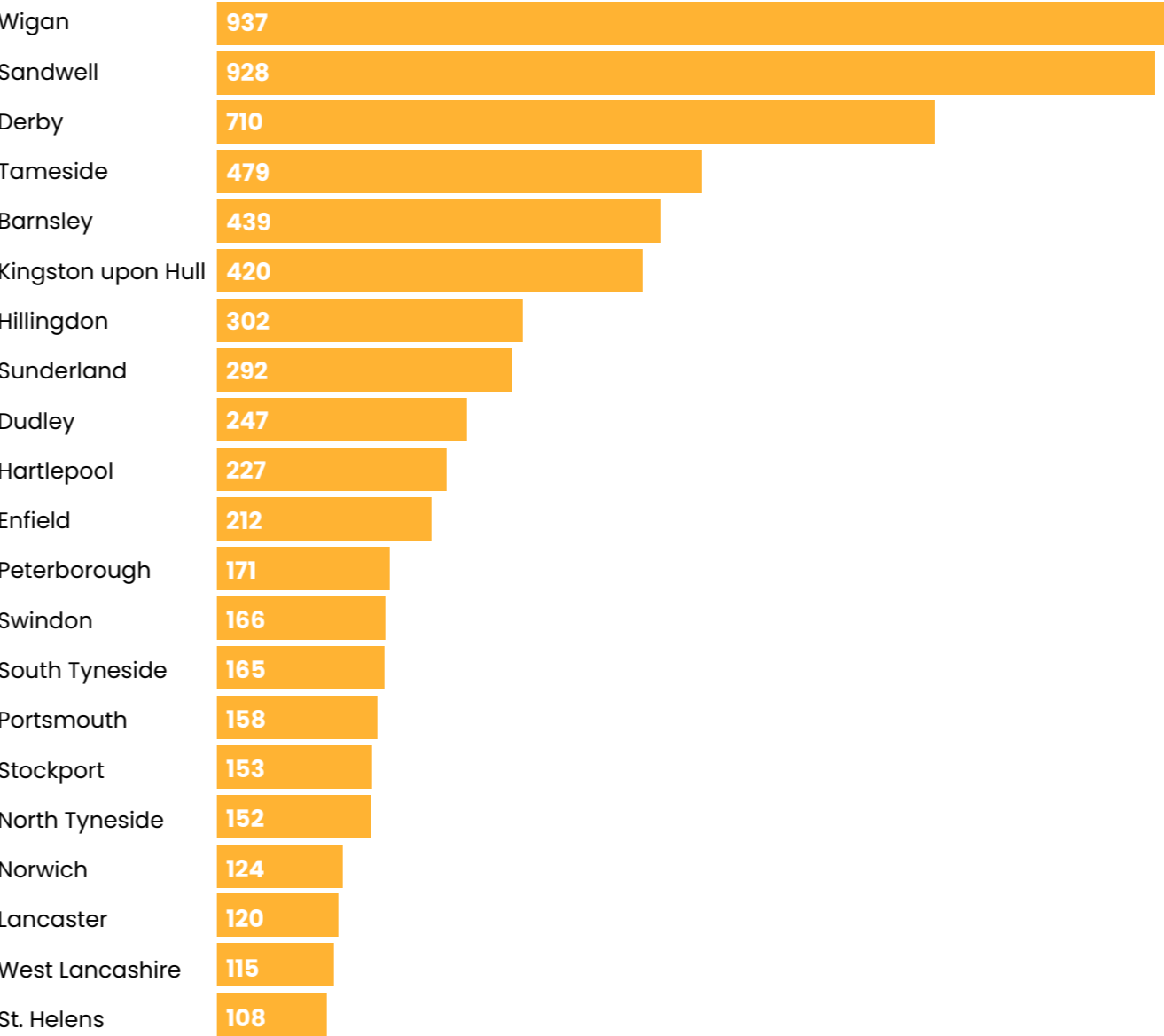
The map below shows the number of people seeking asylum living in dispersal areas in England and Wales where there is currently no legal aid provision at all. These people are effectively living in ‘advice deserts’, and may be required to travel long distances to obtain legal aid advice. This can be difficult when people are living on asylum support, which is little more than £5 per day.<sup>27</sup>

**DISPERSAL AREAS WITH NO LOCAL LEGAL AID PROVISION.**



**LOCAL AUTHORITIES WITH NO LEGAL AID PROVISION.**

Numbers indicate population seeking asylum in receipt of Section 95 support in each area.



Although the above mappings can only show a partial picture of legal aid provision due to challenges with data available,<sup>28</sup> what the data does appear to indicate is that current legal aid provision is failing to keep pace with dispersal patterns, leaving gaps for those who find themselves in areas with fewer providers or less capacity. Further research is necessary in order to better understand the reasons for this mismatch, but the implication is that legal aid

provision is not fit for purpose as it is not set up to reflect the patterns of asylum dispersal across the country. It is unclear if or how the LAA and the Home Office work together to respond to anticipated spikes in arrivals in certain areas, or to address changing dispersal arrangements that may have an impact on local need. Such coordination will be key if provision is to adequately reflect need.

# CONCLUSION AND RECOMMENDATIONS.

People going through the asylum process should be given the best possible chance for a fair and timely decision. In order for this to be possible, everybody must be able to access high-quality legal advice from initial application to the very end of their asylum journey.

Currently, legal aid provision does not allow for this. The result is that people are unable to access the good quality, free legal advice they so desperately need; without it, people risk not being able to present their case in the most effective way possible. For many this means poor first time decisions and an agonising wait for months or sometimes years, often in destitution, before they can finally access quality legal advice, have their cases examined, and be granted the legal protection they should have obtained on arrival. For an individual, such advice can mean the difference between being sent back to a country where they face certain death or being given the opportunity to successfully rebuild their life in safety. In order to ensure that the gaps that exist for people seeking asylum with regards their access to legal assistance are filled, NACCOM and Refugee Action recommend that the Government:

- ➔ **Urgently commits to ensuring that every person in the asylum system who is eligible for legal aid representation is able to access it;**

- ➔ **Ensures that legal aid provision takes into account the dispersal of people seeking asylum, and guarantees that there is provision in areas into which people are dispersed;**
- ➔ **Undertakes a comprehensive and public review of all current legal aid provision. This must include consideration of the current state of provision for people in the asylum system.**



ACKNOWLEDGEMENTS.

NACCOM and Refugee Action would like to thank the 92 frontline organisations across the UK who responded to our survey on gaps in legal aid provision. We are also grateful to staff from the Immigration Law Practitioners' Association and the Law Society for their feedback on our research, and to Andy Hewett for designing the interactive graphs based on LAA data. Particular thanks go to 'Naveed' for sharing his story with us.

# END NOTES.

1 MigrationWork CIC in partnership with Refugee Action and Asylum Research Consultancy (2016) *Quality of legal services for asylum seekers*, research commissioned by the Solicitors Regulation Authority and Legal Ombudsman, available at: <https://www.sra.org.uk/documents/SRA/research/asylum-report.pdf>

2 Ibid. For more details on risk of exploitation of vulnerable migrants by "rogue" solicitors, see May Bulman (2018) 'Rogue immigration solicitors exploiting vulnerable migrants by charging thousands for 'substandard services'', *Independent*, 7 May, available at: <https://www.independent.co.uk/news/uk/home-news/immigration-solicitors-exploit-migrants-rogue-substand-ard-lawyers-a8325706.html>

3 These include: poor knowledge of rights and entitlements; difficulties in travelling to find a solicitor due to limited support rates; language difficulties; long periods spent in Initial Accommodation. See Refugee Action (2018) *Waiting in the Dark: How the Asylum System Dehumanises, Disempowers and Damages*, available at: <https://www.refugee-action.org.uk/wp-content/uploads/2018/05/Waiting-in-the-Dark-A4-16-May-2018.pdf>

4 See Refugee Action (2018) *Waiting in the Dark*, op cit.

5 If an individual obtains section 98 support and is given space in Initial Accommodation, they may be advised to wait until they have been more permanently housed before they find a solicitor to represent them. This is because, when they are eventually moved into 'dispersal' accommodation (section 95 support), this may be some distance from their Initial Accommodation and they would have to travel long distances to see their solicitor. However, this can create delays in accessing legal advice for people who are kept in Initial Accommodation for long periods of time.

6 'Borderline' cases would refer here to people whose cases may only just reach the merits test for legal aid. Refugee Action's caseworkers have observed a tendency on behalf of legal representatives to refuse to represent such cases under legal aid, a decision that can be challenged with the Legal Aid Agency by submitting a CW4 form.

7 For instance, see House of Commons Justice Committee (2015) *Impact of changes to civil legal aid under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders act 2012*, Eighth Report of Session 2014-15, HC 311 (London); also Helen Connolly (2015) *Cut Off From Justice: The impact of excluding separated migrant children from legal aid*, The Children's Society, available at: <https://www.childrenssociety.org.uk/legal-aid>; also ongoing work by the Law Society, including The Law Society (2017) *Access Denied? LASPO four years on: a Law Society review* (London), available at: <http://www.lawsociety.org.uk/support-services/researchtrends/laspo-4-years-on/>

8 The Law Society (2017) *Access Denied? LASPO four years on*, op cit.

9 Ibid.

10 Adeline Trude and Julie Gibbs (2010) *Review of quality issues in legal advice: measuring and costing quality in asylum work*, Undertaken by the Information Centre about Asylum and Refugees on behalf of Refugee and Migrant Justice, in partnership with Asylum Aid and Immigration Advisory Service (London), available at: [https://www.asylumaid.org.uk/wp-content/uploads/2013/02/Cost\\_of\\_Quality\\_Legal\\_Advice\\_Review\\_March2010.pdf](https://www.asylumaid.org.uk/wp-content/uploads/2013/02/Cost_of_Quality_Legal_Advice_Review_March2010.pdf)

11 Ibid.

12 Currently, the fixed rate for an asylum claim is £413, and for an appeal at stage 2a and stage 2b, £227 and £567 respectively. See The Civil Legal Aid (Remuneration) Regulations 2013, available at: [http://www.legislation.gov.uk/uksi/2013/422/pdfs/uksi\\_20130422\\_en.pdf](http://www.legislation.gov.uk/uksi/2013/422/pdfs/uksi_20130422_en.pdf). According to these regulations, a London-based legal representative can expect an hourly rate of £51.62 per hour for preparation, attendance and advocacy work. Elsewhere, the government's own guidance around solicitors' guideline hourly rates states that even a trainee solicitor working in the least expensive parts of the UK would have an hourly rate of £111 (see HM Courts & Tribunals Service (2010) 'Solicitors' guideline hourly rates', available at: <https://www.gov.uk/guidance/solicitors-guideline-hourly-rates>).

13 See The Community Legal Service (Funding) Order 2007, available at: <http://www.legislation.gov.uk/uksi/2007/2441/contents/made>

14 Trude and Gibbs (2010) *Review of quality issues in legal advice*, op cit.

15 Asylum Aid has researched extensively the impact of the asylum process on women, and have highlighted the importance of legal representatives being able to establish trust and facilitate disclosure, at every stage of the process. This includes allowing for confidential time between the representative and their client,

something that can sometimes be difficult as legal aid does not fund childcare. For more on the barriers faced by women in the asylum system, see for example Gina Clayton, Tanya Crowther, Jane Kerr, Sarah Sharrock and Debora Singer (2017) *Through Her Eyes: Enabling women's best evidence in UK asylum appeals*, Migrants Resource Centre, Asylum Aid and NatCen Social Research, available at: [https://www.asylumaid.org.uk/wp-content/uploads/2017/10/Through-Her-Eyes\\_-\\_Final-Report\\_-\\_Nov17.pdf](https://www.asylumaid.org.uk/wp-content/uploads/2017/10/Through-Her-Eyes_-_Final-Report_-_Nov17.pdf)

16 For more on the barriers faced by LGBTIQ+ people in the asylum system, see for example UK Lesbian & Gay Immigration Group (2018) *Still Falling Short: The standard of Home Office decision-making in asylum claims based on sexual orientation and gender identity*, available at: <https://uklgig.org.uk/wp-content/uploads/2018/07/Still-Falling-Short.pdf>

17 The Legal Services Commission and the Department for Constitutional Affairs (2006) *Legal Aid Reform: the way ahead*, Cm 6993 (Norwich), available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/272392/6993.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/272392/6993.pdf)

18 See Asylum Aid (2013) 'Asylum Aid policy briefing: Legal Aid', available at: <https://www.asylumaid.org.uk/wp-content/uploads/2013/08/LegalAidBriefing.pdf>

19 See Asylum Aid (2013) *Right First Time: How UK Border Agency officials and legal representatives can work together to improve the asylum system*. For information on the Solihull Pilot and the advantages of early legal advice see Jane Aspden (2008) *Evaluation of the Solihull Pilot for the United Kingdom Border Agency and the Legal Services Commission*, available at: <http://www.refworld.org/pdfid/4c62615e2.pdf>. See also Home Office (2013) *Evaluation of the Early Legal Advice Project Final Report*, Research Report 70, available at: <https://www.gov.uk/government/publications/evaluation-of-the-early-legal-advice-project>.

20 Names have been changed.

21 Responses were received from organisations in all UK regions: 4 in the East Midlands; 4 in the East of England; 13 in London; 3 in the North East of England; 9 in the North West of England; 1 in Northern Ireland; 4 in Scotland; 4 in the South East of England; 3 in the South West of England; 4 in Wales; 4 in the West Midlands; 14 in Yorkshire and the Humber.

22 Legal aid is a devolved matter so these statistics do not apply to Northern Ireland or Scotland.

23 Estimated need was based on official government statistics for people in receipt of section 95 support. This is not a perfect representation of the number of people seeking asylum in the UK; it does not include people not in receipt of section 95 support, or people in receipt of other kinds of support (section 4 or section 98). However, it is currently the most accurate proxy to understand the number and location of people seeking asylum in the UK.

24 The number of providers has been in steady decline with the exception of a spike in 2014 due to new legal aid contracts, followed again by a drop.

25 For more information on dispersal, see the *Producing Urban Asylum project*, at: <http://www.producingurbanasylum.com/>

26 As explained below, the LAA only holds data at local authority level for completed matter starts, meaning that open or unused matters are not included here.

27 For more on support rates, see Hannah Cooper (2018) 'Comment: asylum support rise of 11p a day is a slap in the face', *Free Movement* blog post, available at: <https://www.freemovement.org.uk/guest-post-asylum-support-80p-week-rise-compassionate-system/>

28 The question of availability of legal advice is not merely based on the number of legal firms but also relies upon these firms having the capacity to complete the matter starts that they are allocated by the LAA. Data on this is not available in the LAA statistics. In addition, comparing need with provision by juxtaposing dispersal areas with matter starts is problematic because of the limited LAA data available at local authority level (meaning that only the number of completed matter starts are included here, rather than all those which are open or remain unused). Moreover, those people staying in Home Office Initial Accommodation, or who are in receipt of Section 4 support, will not be captured by the figures for people in receipt of section 95 support – meaning that it is nearly impossible to understand the extent of existing need amongst those who are making further submissions. Despite this, we believe that the figures shown here are the best attempt to compare need for legal assistance in the asylum system with availability of legal aid-funded legal provision.



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To find out more about the Stand Up For Asylum campaign,  
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seekers, refugees and migrants with no recourse to public funds.*

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