



IFF Research

Immigration Client Experience Research

Prepared for Bar Standards Board
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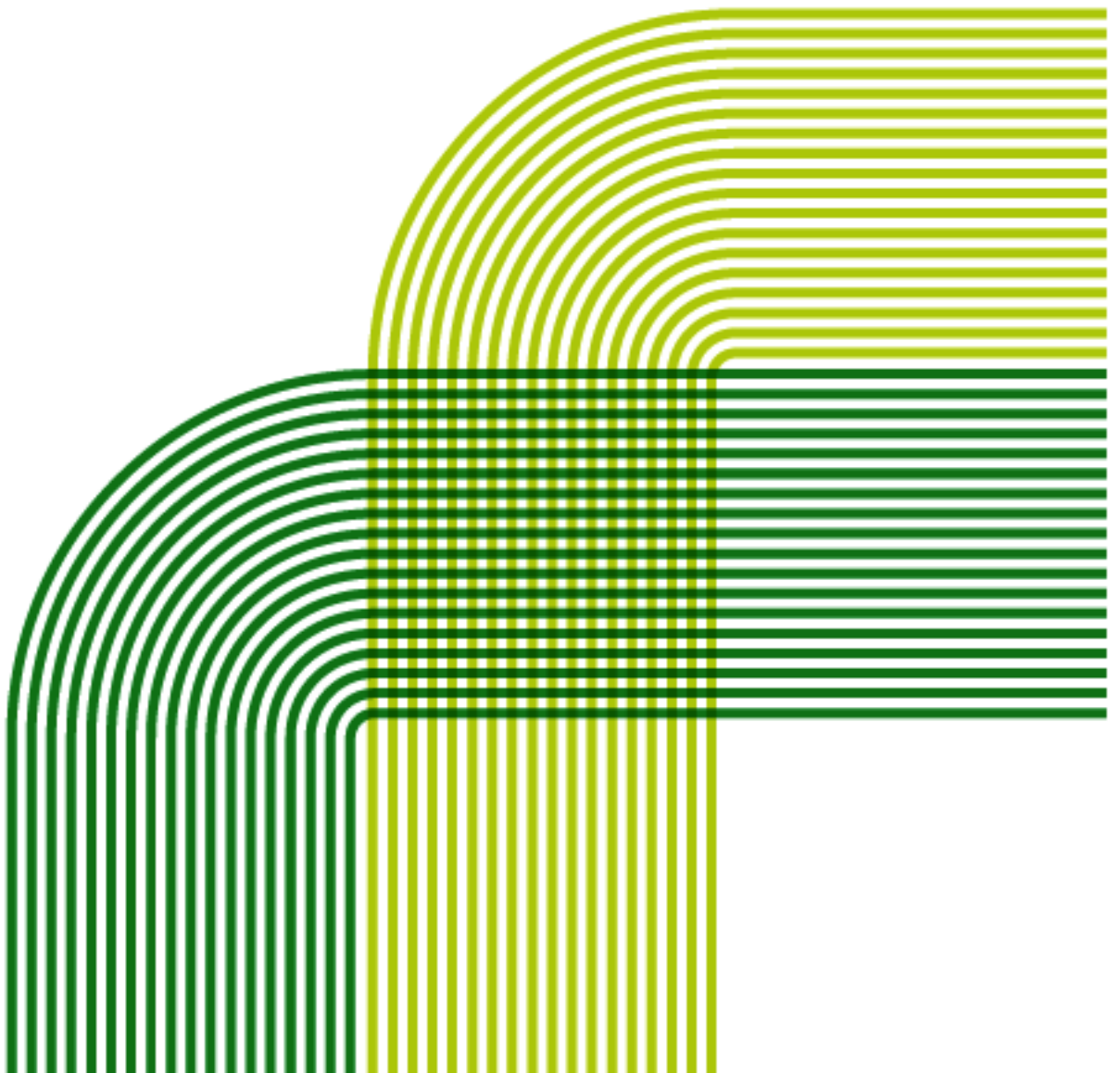




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1 Executive Summary

- 1.1 The Bar Standards Board commissioned IFF Research to conduct a qualitative study in Spring 2013 which explored the experiences of individuals seeking immigration advice and services from barristers. The study consisted of face-to-face depth interviews with individuals who had sought the services of barristers (16 interviews) and the intermediary organisations that support those requiring immigration advice (10 interviews). This report summarises the findings from this research.

Process of seeking legal advice

- 1.2 From interviews with individuals, it was clear that the main source of information about legal representation was word of mouth from friends, family and others in the community. This also reflects the experiences of intermediary organisations.
- 1.3 Individuals felt that this information was the most relevant because it enabled them to benefit from the knowledge of others that they felt had similar circumstances and – critically – had had successful outcomes.
- 1.4 However, organisations believed that a lot of misinformation was circulating within communities and that this put those needing immigration support at risk of exploitation and being exposed to poor quality advice and services. Hence, intermediary organisations felt that feeding accurate, up-to-date information through to community leaders and grassroots organisations was essential. Some were attempting to do this themselves, focussing on providing information to increase knowledge of the legal process and help individuals identify at what stage they might need representation.

Understanding the roles of solicitors and barristers

- 1.5 Both the interviews with consumers and intermediary organisations suggested that individuals seeking immigration advice and services tend to have little knowledge about the different roles solicitors and barristers play in the legal process.
- 1.6 In some cases, this meant that when individuals accessed a barrister directly, the decision to do so (rather than approach a solicitor) was relatively arbitrary. More importantly it also meant that when individuals initially approached a solicitor (or an intermediary organisation) they were unclear about the reasons for a barrister becoming involved in their case further down the line. In some cases individuals also felt that they should have been made aware that there was a possibility of barrister involvement at the outset of their case.
- 1.7 A lack of understanding about the rationale for a barrister's involvement left some individuals feeling unnecessarily confused and anxious. It also sometimes led them to conclude that the involvement of a barrister reflected a failing on behalf of their solicitor which could then negatively impact on their relationship with both their solicitor and their barrister.
- 1.8 It appears to be rare for individuals to be presented with the possibility of choosing a barrister either by solicitors or intermediary organisations. Intermediaries mentioned a number of practical reasons why they tended not to offer a choice of barristers; however the research showed that this can leave consumers feeling that they have no control over their case. A greater degree of consultation/explanation around the rationale for involving barristers and potentially offering a degree of choice over who is instructed would provide better customer service.



Quality of Barristers Services

- 1.9 Largely, individuals were satisfied with the service they received from their barrister. Positively, most individuals said the quality of advice they received was good and that their barrister's conduct was professional and confident. In addition, most were satisfied that they were not charged any unexpected costs and with the overall timeframes that their barrister worked to. Negative comments made largely related to a lack of contact leaving individuals' feeling somewhat "in the dark" when it came to progress on their case and a feeling that individuals had little input into how their case was approached (particularly because of a lack of opportunity to discuss their case face to face with their barrister).
- 1.10 Perceptions of quality of service therefore did not revolve simply around the advice received or whether the outcome of the case was successful or not. There was a level of expectation from clients that they would be made to feel involved in and supported throughout their case to prevent the build up of anxiety and this was not always the case. From the perspective of clients, better customer service would be achieved through:
- **Making sure there is an initial meeting between the client and the barrister (prior to any court representation).** Individuals wanted the opportunity to discuss their case and to reassure themselves that their barrister understood their case and to discuss the stages of the process and what information might be required from them.
 - **More regular and more proactive updates** on progress.
 - **A degree of after-care:** Some individuals felt that they did not receive timely communication at the case's conclusion to let them know the outcome of their case and the implications/options open to them as a result.
- 1.11 It is possible that these issues relating to lack of access and communication might reflect views on dealing with barristers across the board and not simply in relation to immigration advice and services. However, the research indicated that it is perhaps the high stakes and often time-pressured circumstances of these cases that make these issues particularly important for immigration clients.
- 1.12 There was also a suggestion from the research that clients felt they were in too vulnerable a position to voice any discontent with the service received from their barristers. They felt that the risk of any complaint or request for additional levels of service impacting negatively on the effort that their barrister put into handling their case was too great.
- 1.13 Intermediary organisations felt that they had a good working relationship with the barristers they instructed. Most worked with a small group of barristers who they had selected because of their reputation and dedication to immigration law. They were generally confident that the advice and service levels of the barristers they instructed were of a high standard. Their perceptions of issues with customer service reflected those voiced by consumers with areas of dissatisfaction largely relating to communication issues.
- 1.14 Outside of their own direct experience, intermediary organisations stated that they were aware of cases of poor quality advice and services, unscrupulous behaviour and exploitation by immigration barristers.
- 1.15 Intermediary organisations believed that access to good quality legal advice at the earliest stage possible was paramount to streamlining the process individuals go through, preventing exploitation and unnecessary problems/complications and relieving the system of unnecessary pressures.



- 1.16 To this end, they felt that there was a need for more accurate, detailed information to be fed to consumers at points of entry into the system helping them understand their rights (including how to access financial assistance) and how to access good quality advice and services.
- 1.17 In addition, organisations made several suggestions about how to drive up standards. These included compulsory courses and exams on immigration law for those practising in this area, more rigorous monitoring and quality control systems and a more effective complaints procedure.

Complaints procedures

- 1.18 The research identified several barriers that individuals experience when considering complaining about a barrister. In addition to lack of knowledge about the process, the perception was that it can be a complicated, intimidating and arduous procedure with no discernible positive outcome for the client. Making a complaint was also perceived by individuals to hold a risk of invoking a negative reaction from immigration authorities. In addition, it was felt that complaints would not be investigated in a thorough, objective and transparent way due to a perceived lack of independence in the process.
- 1.19 Both consumers and intermediary organisations believed that complaints procedures need to be promoted to a greater degree and that more support should be offered to consumers looking to complain. They also felt a greater level of guidance should be provided to consumers about what constitutes an unacceptable level of service so that individuals can make an informed decision about whether they have reasonable grounds for a complaint or not.

Conclusions

- 1.20 Some of the main conclusions that it appears possible to draw from this research are outlined below.
- **There is a heavy reliance on word of mouth for information about the legal system (including barristers).** There may be scope for the Bar Standards Board to work with grassroots organisations looking to raise awareness to ensure specifically that the information communicated about barristers is accurate.
 - **Individuals are generally unclear of the distinction between barristers and solicitors. This can lead to confusion and anxiety when a barrister is involved in their case further down the line.** This can get the relationship with a barrister off to a bad start.
 - **It is worth considering whether individuals should be given more choice over the barristers that are instructed on their behalf.** Again this could help the relationship with barristers to get off on a better footing.
 - **In cases where individuals are referred to barristers by a solicitor/ intermediary organisation, many of individuals' concerns could potentially be alleviated through an initial meeting with their barrister in advance of any court/tribunal hearing.** The lack of an initial meeting opens barristers to criticism of not having made the effort to understand individuals' circumstances (an issue likely to be a key cause of dissatisfaction in the event of a negative outcome).
 - **It would be beneficial to agree protocols for providing updates on progress at the outset of the case (or at the start of a barrister's involvement) and particularly clarifying what communication is the responsibility of a solicitor/intermediary and what is the responsibility of the barrister.**
 - **The research has found evidence that immigration clients are perhaps less likely to voice their concerns or dissatisfaction with the service received even though the key complaints about levels of service may well apply to areas of activity beyond immigration advice and service.**



- **There could be value in raising awareness of intermediary organisations of public access to the Bar.**

2 Introduction, Objectives and Approach

- 2.1 The Bar Standards Board commissioned IFF to conduct a qualitative research project into consumer experiences of seeking advice on immigration issues from barristers. The BSB wanted to investigate concerns that have been raised by the Legal Services Board about the lack of ability of those seeking immigration advice to judge the quality of service that they receive from barristers.
- 2.2 Whereas some information can be obtained through reviewing complaints data held by the BSB, the overall volume of complaints relating to immigration cases is very low and hence the BSB was reluctant to rely solely on this complaints data as a source of evidence.
- 2.3 Research was therefore commissioned look to provide more detail about the experiences of individuals accessing advice. The findings from the research will feed into the BSB's assessment of whether the existing regulatory framework provides sufficient protection for those receiving immigration advice from barristers.
- 2.4 Barristers operate principally on a referral basis and hence the most common route through which consumers access barristers is via a solicitor instructing one on their behalf. However it is also possible for consumers to directly approach a barrister themselves through the public access scheme. It is also possible for consumers to be referred to barristers through an intermediary organisation working on their behalf (without the intervention of a solicitor) through the licensed access scheme.
- 2.5 This research explored access to the Bar through these routes by conducting research both among individuals themselves but also among intermediary organisations who support or advise them. The individuals interviewed were those who had received advice or services from a barrister either for themselves on behalf of a relative.
- 2.6 The interviews with intermediary organisations specifically sought to explore the following areas:
- Circumstances under which organisations have dealings with barristers on immigration issues;
 - Organisations' experience of consumer awareness of legal system and role of barristers within it;
 - Sources of information about barrister services;
 - Organisations' views on the services provided by barristers to clients and the extent to which they believe consumers know how to judge if they are getting good or bad advice;
 - Awareness of the complaints process (both for organisations themselves and among their clients).
- 2.7 In the interviews with consumers, the research had the following aims:
- Exploring how consumers approached the process of finding appropriate advice;
 - Establishing understanding of the barrister's role in their case;
 - Gauging views on the legal advice and service that they received from the barrister;
 - Establishing overall satisfaction with the process, advice and service received.



Methodological Approach

2.8 The study took a qualitative approach involving face to face interviews with both audiences. Interviews were conducted by IFF moderators and tended to last between 1-1.5 hours. Semi-structured discussion guides were used during the interviews which were designed by IFF and approved by BSB.

Intermediary Organisations

2.9 Interviews were conducted with individuals working for organisations who support individuals seeking advice on immigration interviews. In total ten interviews were conducted. The BSB provided IFF with an initial list of contacts to be approached for this element of the research and seven interviews were secured from this list.

2.10 To supplement these, IFF identified additional relevant organisations and three interviews were conducted with intermediary organisations that were not on the original list.

2.11 The organisations interviewed and a brief summary of their role/activities is shown in the table below.

Organisation	Summary of role
Joint Council for the Welfare of Immigrants:	Helps migrants with legal issues relating to immigration, nationality and asylum. Also undertakes policy work and direct casework. Additionally they provide training courses and publications and provide information to migrant communities interested in how law changes are affecting them. The organisation operates a telephone advice and drop-in service.
Asylum Aid:	Provides legal representation and advice for asylum seekers. They also undertake policy and campaigning work. They offer a full range of legal services from initial advice through to judicial reviews and High Court work.
Migrants Rights Network	Umbrella organisation aiming to strengthen networks between various organisations involved in working with migrants and work with them to identify common themes. MRN conducts research and projects aimed at enabling migrants and groups working in support of migrants to engage with key legislative and policy issues and also regularly produces analysis and comment on ongoing developments affecting the rights of migrants
Detention Advice Service:	Registered charity providing immigration advice, information and support to those detained, or threatened with detention, under immigration powers.
Visa Legal	Offers legal representation focusing on immigration and asylum.
Bail for Immigration Detainees	Provides legal representation and advice to detainees which involves preparing bail applications and instructing counsel. In addition, the organisation provides and delivers self-help materials and outreach packs.
Citizens UK	Umbrella organisation aligned to 340 groups. Leaders are trained to work on justice issues. The organisation works to empower local communities and build capacity.
UK Gay and Lesbian Immigration Group	Promotes equality and dignity for lesbian, gay, bisexual and transgender and inter-sex (LGBTI) people who seek asylum in the UK, or who wish to immigrate here to be with their same-sex partner. The organisation offers free information and advice and additional work



Organisation	Summary of role
	includes undertaking legal referrals and policy work.
London Law Centre	Provides a free, client-centred legal advice service to people who are resident in or who work in Greater London, including telephone advice
Southall Black Sisters	Not-for-profit organisation which aims to meet the needs of black (Asian and African-Caribbean) and minority ethnic women. The organisation runs a advice, advocacy and resource centre and offers specialist advice, information, casework, advocacy, counselling and self-help support services.

Consumers

2.12 In total 16 face to face interviews were undertaken with individuals who had accessed the services of barristers on behalf of themselves or a friend or relative. Eight each were undertaken in London and Birmingham. 14 respondents were recruited using free-find methods. Individuals who had previously made a complaint to the Bar Standards Board were sent a letter alerting them to the research and requesting their participation. A further 2 respondents were recruited through this route.

2.13 A sample breakdown of the consumer interviews is outline below:

Gender	Location	Country of origin
Male	Birmingham	Pakistan
Male	Birmingham	Bangladesh
Female	Birmingham	India
Female	Birmingham	India
Female	Birmingham	Bangladesh
Female	Birmingham	Bangladesh
Male	Birmingham	Pakistan
Male	Birmingham	India
Male	London	Uganda
Male	London	Jamaican
Female	London	Nigeria
Male	London	Bangladesh
Male	London	Bangladesh
Male	London	Latvia
Male	London	UK

2.14 One interview was undertaken using a translator but the rest were conducted in English.

2.15 The nature of immigration cases means that, beyond the difficulties always inherent in qualitative samples, it is particularly difficult to be confident that these consumers are representative of all those seeking the services of barristers. A number of those with unsuccessful outcomes from immigration cases will be extremely difficult to contact for research and the findings from the research should be interpreted in this context.

2.16 The following chapters outline the main findings from the interviews with organisations and consumers.



3 Processes of seeking legal advice

- 3.1 This chapter looks at the processes consumers went through to access legal advice/services in general. It also details the views of intermediary organisations on the barriers to accessing legal advice in general and barristers in particular.

Sources of information

- 3.2 The intermediary organisations interviewed reported that clients came to them for legal advice and services through several routes including word of mouth from friends, family or others within their communities and referrals from frontline immigration or refugee organisations (such as the Refugee Council, Red Cross & Refugee Action). Organisations also stated that common places for consumers to seek advice prior to coming to them included Citizens Advice Bureaux (CAB) and Law Centres.
- 3.3 Similarly, the individuals interviewed for the research mentioned seeking legal advice and information regarding where to secure representation from a range of sources. The most commonly cited sources were friends and family, the internet and the Citizens Advice Bureaux. A few people approached other intermediary organisations and charities, and two people mentioned a TV channel, specifically aimed at the Bengali community, where solicitors and barristers advertise services for people with immigration issues. Individuals often used two or three information sources during their case for reassurance and also because some sources were perceived to be unhelpful or slow to respond.

I looked on the internet and I'm not too good with computer skills so went to CAB and got a bit of info there. The wedding date was getting closer and knew that had to act, so went to see a solicitor.

- 3.4 Evidence gathered from both the consumer and intermediary interviews suggests that the vast majority of information received from individuals about the legal system and how to access representation comes through word of mouth from friends, family and other community members.
- 3.5 Of the consumers interviewed, those who approached friends and family generally chose to do so because they knew people who had been in similar situations. They trusted the advice of these individuals, whether it was about which barrister or solicitor to use or just where to go to for more information, particularly if the case had had a positive outcome. They were reassured by 'success stories' and felt that following a 'tried and tested' approach saved them the time and hassle of having to search for a suitable representative themselves.
- 3.6 Intermediary organisations were concerned that this reliance on word of mouth carries a risk of being exposed to poor quality advice and services or clients being exploited. Their experience was that information that clients had received from others in their community prior to approaching the organisation was often be incorrect. Although sometimes the frequency with which particular immigration issues were experienced within communities meant that there was a good bank of knowledge available, intermediary organisations found it was more common for word of mouth to result in confusion about accessing legal services. Intermediary organisations felt that there was a large degree of misinformation, rumour and speculation circulating within communities which can ultimately lead to ill-informed decision making and leave consumers vulnerable to poor quality advice.

A lot of people get their information from friends. They get poor information. Friends tell them all sorts of things that are dangerous. There's a lot of



scaremongering. They give you such and such a line and you say “Well that’s not true”.

Another prisoner’s experience may not be relevant to your case and that prisoner is saying you can do x or y. There is a lack of knowledge and where there is knowledge it is not correct but bits and pieces of other people’s experiences which may not be relevant.

- 3.7 Several organisations stated that they deal with a lot of cases where individuals had already been through the legal system on the back of word of mouth recommendations, have been subjected to poor quality advice and services and were then looking for someone to assist them with re-applications or appeal processes.

In my experience, a lot of them when they first arrive will know someone who knows someone who can get an advisor and legal representation and that is not generally the best quality. A lot of the time when we come into contact with them it is either that they have had an advisor or someone who has taken on their case and not done a good job.

- 3.8 In terms of other sources of information, many individuals searched the internet for legal advice but found the volume of information available overwhelming. In several cases, individuals were looking for a simple step-by-step process outlining how to seek legal advice and the options available to them but found the information available to be dense and often largely not relevant to their circumstances.
- 3.9 Only a few individuals participating in the research approached official government organisations for advice on accessing legal services. One person approached HM Prison Service but found them to be unable to provide this information. In addition, a few individuals sought advice from organisations within the not-for-profit sector. Most commonly this was a Citizens Advice Bureau. Those who had contacted CAB in connection with their case had had mixed experiences. Some individuals found CAB staff to be helpful, including one in particular whose contact would phone them about any relevant information or pamphlets that had come in so he could pick them up. Others however, said it took a long time to get an appointment and/or that the advisers lacked detailed knowledge about immigration issues.
- 3.10 One intermediary organisation felt that Citizens Advice Bureaux were currently struggling to provide clients with good quality advice about seeking legal representation. They felt that pressures on funding and prioritisation of other types of service (such as debt advice) were leading to difficulties in providing immigration clients with the support they need.

Barriers to seeking advice

- 3.11 The interviews with intermediary organisations explored views on the barriers to seeking legal advice generally and the services of barristers in particular. They key issues mentioned are discussed below.

Lack of knowledge

- 3.12 Organisations felt that there was a general lack of understanding among clients about their legal circumstances, the stages of an immigration case and particularly at what stage representation may be required.



Access

- 3.13 Intermediaries mentioned a number of difficulties in accessing barristers. They had experienced difficulties with detainees contacting legal representatives from inside prisons or detention centres. One organisation explained that the system of approving phone calls can mean that if individuals are unable to reach their chosen representative within a short time period/specified number of attempts then they have to reapply for approval. Intermediary organisations had experienced cases where this system had led to delays of up to 2 months in reaching a representative.
- 3.14 In addition, issues around geographic location were mentioned. Although there was felt to be a good level of representation in and around London and the South East, intermediary organisations felt it was limited in other areas of the country. They had experienced clients struggling to find representation because of a lack of local availability and Legal Aid restrictions prohibiting travel beyond a certain distance.
- 3.15 Furthermore, one organisation had experience of clients having difficulties securing representation because of the complexity of their circumstances. They felt that the fact that clients often have a number of inter-related emotional and practical problems can make legal representatives reluctant to engage with them.

Financial

- 3.16 Both intermediary organisations and consumers mentioned that the cost of instructing a barrister can be prohibitive to some clients. There was evidence of a lack of awareness of pro bono services and a lack of understanding of the right to access Legal Aid. Even when Legal Aid had been secured, issues were mentioned around the availability of Legal Aid lawyers to meet demand.

Fear or insecurity

- 3.17 Emotionally, the process of engaging with the legal system was felt to be extremely daunting. Individuals and intermediaries mentioned a lack of certainty over status/circumstances and a fear that accessing legal services could result in detention. Intermediaries felt this can be particularly the case when clients have been through a similar process previously and have become mistrustful of the system. Intermediaries mentioned fears around embarking on an adversarial process being particularly acute among clients who had mental health problems and / or were extremely vulnerable for other reasons.
- 3.18 One organisation stated that their clients often find it difficult to repeat their story, especially to someone they have had limited contact with and whom they may not have built a good level of rapport with. In addition, clients are often apprehensive about going to court and potentially not being believed.

Barrister's manner

- 3.19 Several organisations stated that because of the nature of their work and the role in the process, barristers can come across as being slightly more aloof, distant and less empathetic than other legal representatives. In addition, one organisation stated that, in conferences barristers' approach can be relatively combative in order to ensure that their client is thoroughly prepared for court and that they understand the types of questions that may be asked of them. This distance or confrontational manner can make clients feel uncomfortable or intimidated or that no effort is being taken to understand their situation.



Language barriers

- 3.20 Although few consumers interviewed for the research experienced language barriers, intermediary organisations felt this was something they frequently witnessed as being an issue for clients throughout the legal process. They cited cases of detainees experiencing problems where communication with prison staff was problematic (even though prisoners have access to language services, intermediary organisations felt they were not always effectively used by prison staff).

I have to pick up the phone and get Language Line or ALS on the phone ... they [the prison staff] are not bothered.

- 3.21 In addition, although Language Line is available within prisons, organisations provided examples where there had been difficulties because legal firms did not subscribe to this service.

If you don't speak English it is a big problem. Even we have problems ... when we are in the prison we can use Language Line but if they are calling from inside the prison it is impossible unless you happen to be a firm that has access to translation services.

- 3.22 Outside of detention, intermediary organisations felt that language barriers persist. They had experienced cases where fee-paying clients had used friends or family with limited English to translate rather than engaging a professional (for cost reasons) resulting in misunderstanding/confusion.

- 3.23 One organisation stated that sometimes clients will refuse a translator in court because they are concerned that the details of their case will get back to others in their community (although clients are able to choose their translator in meetings with representatives leading up to their case, at the court hearing, they have no say over who is their translator).

- 3.24 Furthermore, legal language can be complex and intermediary organisations felt that some barristers were not sensitive to the need to use plain language when dealing with clients.

The [legal] language that they would use is often difficult for a lay person to understand. That's a massive generalization but a lot of the barristers I know will talk in barrister language...maybe they don't have enough client-facing work so the.



4 Choosing barristers

- 4.1 This chapter looks at the process of selecting barristers. More generally, it also looks at individuals' overall level of understanding of the UK legal system and the distinction between barristers and solicitors that they had at the time when they had contact with barristers.
- 4.2 Of the individuals interviewed, most were referred to a barrister through their solicitor. Some accessed their barrister directly (two had their barrister referred to them by friends or family and one had used a barrister he had had prior experience with). Three people were introduced to their barrister through an intermediary organisation.
- 4.3 Other than the umbrella organisations interviewed, intermediary organisations either had qualified solicitors or legal representatives working for them (in which case they would assess if the case had merit, take on the case themselves and instruct a barrister where necessary) or had a network of trusted solicitors that they used regularly who would then subsequently instruct a barrister when one was required.
- 4.4 Below we discuss the experiences of selecting/engaging barristers through each of these routes.

Direct access

- 4.5 Those who found their barrister via friend/family referral felt that they were provided with plenty of information from their contacts – generally consisting of success stories and an overview of the process they were to go through. These individuals generally decided to approach a barrister directly because they were under the impression that they were likely to need one at some point in their case and hence felt it made sense to engage them from the start. They also felt that this process would be quicker than other alternatives (including filling in the relevant papers and documents themselves or going through an intermediary organisation or approaching a solicitor first).

We shared information with other people who had been through the same sorts of situations and actually won. We knew about them (organisations) but there was no point... When I spoke to [my friend] she said this barrister won it for her friend who had been through exactly what my cousin was going through....Had it not been for her I would have not known where to go initially.

- 4.6 One individual went straight to a barrister he knew prior to his case. He was aware of alternative routes (i.e. accessing a solicitor first) but chose to engage the barrister directly as he felt it would result in a quicker process and he had a good relationship with the barrister.
- 4.7 Within intermediary organisations, none of those interviewed were aware of any clients that had accessed the Bar directly. In some cases, organisations were unaware that direct access was a possibility and others were only in the early stages of beginning to understand the process. Generally, organisations did not advise clients on how to access the Bar directly because they were unsure of how to do it themselves.

When the whole thing happened and they could use direct access, [detainees] knew about it before I knew about it.

On the whole solicitors are the people that instruct barristers. I think that's starting to change. Are they trying to make themselves much more



accessible to the public? Historically they haven't been, their relationship has been with the solicitors. They instruct them, so it's always been one step removed from direct access.

- 4.8 Opinions were divided on whether direct access was a positive option. One organisation felt that this could be positive for clients and that more effort should be put into ensuring that the public were aware of this route. Another had negative views on direct access believing strongly believing that partnership between solicitors and barristers to be an extremely beneficial part of the legal process.

I'm not a supporter of direct access – not because I'm a solicitor – but I have a huge belief in what one can achieve for a client when the dynamic between the solicitor and the barrister is near perfect, when you have a good working relationship, and the barrister is fighting with you for all it's worth. And that's what immigration is all about.

Referral through solicitors

- 4.9 From both the consumer and intermediary organisations interviews, it was clear that clients were rarely presented with a choice of barristers when a barrister was instructed on their behalf by a third party.
- 4.10 Individuals interviewed whose access to a barrister was through a solicitor had very little involvement in the decision to instruct a barrister. Often individuals working with a solicitor had very little contact with their barrister. Some did not talk directly to the barrister prior to their court/tribunal hearing. There was only one case where a solicitor put forward two possible barristers to the client. However, this was only because the individual had used the first barrister previously and informed the solicitor that they did not want them representing them again, rather than two being simultaneously presented to him to compare and make a choice.
- 4.11 While many people felt that their solicitor was supportive in recommending a particular barrister, there were some who would have preferred to have been presented with a choice. Having a choice would have reassured them that they had some control over their case. The key things that individuals felt they would have looked at to compare were fees, previous case studies and success rates. In addition, there was a degree of wariness among some individuals that the reason behind the instruction of the barrister by the solicitor was not necessarily based on perceptions of merit but because of an arrangement between the two parties.

Also, I don't know what relationship the [solicitor] had with the barrister – what dealings they had with him, what the commission base was, so I don't know if he was acting in my interest or in the solicitor's interest.

Referral through intermediary organisations

- 4.12 Similarly, the intermediary organisations interviewed stated that they rarely presented their clients with a choice of barristers when making a referral. This tended to be because they felt that their clients were unfamiliar with the legal system and hence not well placed to judge who is the best person to represent them. They felt that their clients trusted and relied on them to choose the most appropriate person to represent their case. As outlined by a representative from one of the umbrella organisations interviewed:



Typically the process will go – here is the issue and organisations will identify a range of barristers with suitable expertise. It is a blank area for clients. They are happy for the organisations to do whatever to get the right man.

- 4.13 Intermediary organisations argued that their clients are not necessarily aware of their own needs and only really understand their case at a general level. They felt that once they explained the need to instruct a barrister, their clients were happy to rely on organisations to secure someone they were confident in.
- 4.14 One organisation stated that as part of their Legal Aid contract, choice had to be presented to their clients. However their interpretation of this was simply that, when recommending a barrister, they had to make it clear that the client could decide not to take up this recommendation (rather than presenting the client with a choice of barristers).

We say “In my view, Chamber x is very well known for doing immigration enquiries or that this other chambers is well known”...We’ve got an equality and diversity policy and we pay due regard to the nature of the case and connect it up to the expertise of a particular counsel. In immigration it’s usually very obvious to me who I’m going to instruct for a case. I’ll discuss it with a client and I don’t think I’ve ever had one client say to me “I’m not happy with who you’ve instructed.”

- 4.15 An exception to this came from one organisation who had a working relationship with barristers that went beyond instruction for specific cases. In this instance, they had a pool of barristers that volunteered for the organisation and who regularly spoke at asylum events and partnership meetings (the latter of which involved one to one meetings with potential clients). This contact sometimes led to clients requesting a particular barrister to represent them and this was accommodated where possible.
- 4.16 Regardless of whether organisations were instructing barristers directly or referring clients first to a solicitor, they all affirmed that strong, long-term working relationships with legal representatives, trust and a mutual desire to do what is best for the client were imperative in ensuring reliable advice and good quality service. Organisations stated that they only worked with a selection of reputable lawyers with whom they had built up relationships with over time, whom they were confident were committed to this area of law and would deliver good advice and service.

As far as barristers are concerned, we instruct between us probably about five or six barristers who we’ve had long working relationships with and are from Chambers who are committed to doing this work

- 4.17 Intermediary organisations stated that they had worked hard to identify and build links with barristers who they believe to be dedicated and proficient. In most cases, for those organisations that were instructing barristers directly, for each individual case, they would select a barrister from their network who had specific expertise in the area of immigration law they were dealing with.
- 4.18 Although they rarely presented clients with a choice of barristers, intermediary organisations stated that they were careful to explain the reason for the barrister’s selection, background information about the barrister and the overall principles on which their case would be argued.



Understanding of the roles of solicitors and barristers

- 4.19 The individuals interviewed were not entirely sure of the differences between a barrister and a solicitor even after having been through the process of seeking immigration advice/services. The general consensus was that barristers have a higher level of authority and are able to represent clients in court (the assumption was generally that solicitors could not do this). Solicitors, on the other hand, were perceived to do more of the groundwork and gathering of information in relation to a case. Individuals generally felt that barristers are more educated and experienced than solicitors and so, as well as charging more, they can deal with more complex cases and often specialise in one type of law.

I don't know what they can do because I thought they were both educated in law so I'm not sure what the real difference would be.

- 4.20 This lack of understanding of the relative roles of barristers and solicitors meant individuals were often surprised and confused to be referred to a barrister when they had initially approached a solicitor. Some assumed that a barrister became involved because their case was too difficult for the solicitor or because the solicitor was unable to represent them in court. In several cases individuals felt let down when their solicitor engaged the barrister because they felt this indicated that their solicitor was unable to complete their case. It seems possible that negative feelings around the involvement of a barrister in their case may have scope to affect some clients' perceptions of their relationship with the barrister going forward.

I was under the impression that the solicitor would take the case to court and appear in front of the judge and deal with it. When a barrister was mentioned, thought the solicitor could not do his job properly – my heart just sank and then I thought, if he could not do it why didn't he tell me before.

We tried solicitors over the years and to me some of them were like "Come in, come in, pay some money and we'll go to court." They couldn't stand up properly in front of a judge. They look scared.

- 4.21 Intermediary organisations tended to echo the information provided by individuals. They also reported that their clients tended to have very limited understanding of the UK legal system and the types of representation open to them unless they had already been through a similar process (although even in these cases, organisations reported that knowledge can still be patchy as clients have often they have had a negative service experience or been given inaccurate advice). On the whole, intermediary organisations felt that clients do not understand the difference between barristers and solicitors and that there was a great deal of confusion on this issue. Organisations reported that clients tend to assume barristers are more highly qualified and have a higher degree of expertise in the area of immigration law.
- 4.22 Intermediary organisations felt that solicitors were generally more familiar to their clients because of a lack of visibility of barristers within their communities. They felt barristers were often quite removed from frontline interactions with client communities.
- 4.23 Again in line with the experiences reported by individuals, intermediary organisations reported that their clients could often be somewhat mystified by the need for a barrister in their case when they have initially approached a solicitor. They found that the need for a barrister and their role in their case was not always communicated clearly to clients.



You're having a conversation sometimes and they say "when I went to court it wasn't my solicitor but some man I had never met before and he didn't know my case". I have to explain that was a barrister and then they say "Can I access the barrister directly now."

- 4.24 Organisations felt that a lack of understanding of the relative roles of barristers and solicitors can lead to unnecessary anxiety. They had found that clients could be concerned that, after having spent a great deal of time with one person (the solicitor / caseworker) building their case, it then undermined their case when someone they did not know represented them in court (the barrister).
- 4.25 In addition, they found that, because there is not a thorough understanding of the legal process and the nature of the courtroom, this and the barrister themselves could seem to be enigmatic. They reported that this sometimes led to clients,, not only feeling intimidated by the process, but also garnering misconceptions or false expectation about the manner in which they felt it should be conducted. This is illustrated by the following anecdote:

They don't seem to know when a barrister's being good or not. There are a couple of barristers that I know that have a fairly quiet way of doing [things], like presenting appeals and stuff. They're really, really successful because they know the law inside out and they've got a nice manner that you just tend to take to them. And [clients] expect someone to go in almost thumping the table and this kind of stuff. So I think they've got an unrealistic expectation or image of barristers. Also they expect the flash suit and all the rest of it and somebody who's not quite so flash can be just as successful or more successful . . . they don't seem to realize. They've got this preconceived idea of what the barristers should be and how they should behave and it doesn't really equate to success, or quality of service, I don't think.

- 4.26 Representatives from organisations that provide immigration advice and guidance and prepare casework stated that they were careful to explain the role of barristers and solicitors to the clients that they deal with.

I have to explain it to them. The way I explain it is it's quite nice to have a second eye on their case. And they're one step removed so it's easier for them to concentrate on the law.

Sometimes we have to explain that we're instructing this barrister because they have specific experience and expertise in this area, more so than the solicitor doing the representation. We do our best to explain the system and the process and the advantages of instructing counsel sometimes.

What we try to do at the meetings is we try to define the roles, so we say "This is very much the role of the solicitor. Now the barrister is going to speak." And the barrister would start with how a courtroom would be set up, where the judge would sit, what's the different between the appellant and the respondent.



5 Quality of Barristers' Services: Consumer Views

- 5.1 This chapter looks at individuals expectations around the service that they would receive from barristers and their views of the way in which their case was handled.

Rationale for barrister involvement

- 5.2 As mentioned earlier in this report, consumers were often unclear about the reason for a barrister being involved in their case if they initially approached a solicitor (or an intermediary organisation). Individuals were often not led to expect this at the outset of their case and were therefore surprised when the involvement of a barrister was mentioned.
- 5.3 Individuals who were recommended a particular barrister did not feel that they were provided with much information about why a barrister was needed or why this particular one was being recommended. In hindsight they said that they would have liked to have known all the available options to them.
- 5.4 Even though several consumers did not understand why a barrister was needed, they tended not to ask their solicitor. Several felt under pressure at the time and this lack of understanding often added stress. However, they generally felt secure accepting the recommendation put forward to them as they trusted the solicitor to instruct an expert. Many also relied on this referral as they did not have any contacts themselves and did not know how to find an alternative. Time was an important factor for many and going with a recommendation was a quick and easy option.

Because it was towards the end of the case there was not time to do anything about it and I did not want to spoil the relationship with the solicitor, so just went along with it. Felt I was not involved and I was not introduced so I felt a bit let down. Choice was not the issue as would not know whether a particular barrister is good or not but would have liked to have known there was going to be a barrister involved and to have met at the solicitors office beforehand.

- 5.5 This perhaps indicates that in order to instil confidence in clients and help them feel more connected to the people who are making decisions for them and the barrister themselves, the reasons behind the choice should be explained thoroughly and background information on the barrister provided.

Level of contact

- 5.6 A number of clients who accessed the services of a barrister through a referral from a solicitor or an intermediary organisation were disappointed at the lack of opportunity that they had to discuss their case with their barrister.
- 5.7 Although most individuals did not expect a high level of contact with their barrister (with some being unsure if they would even have any access to the barrister aside from the court hearing), most said that they expected an initial face to face consultation with them in order to discuss their case and allow them (the client) to express their views. Not all individuals had an initial consultation. For some, the first time they met their barrister was directly before attending court. These individuals generally stated they would have liked to have had a conversation with the barrister before agreeing to have them represent them, even if this was via a phone call. This would have enabled them to present their own case, discuss their concerns and to gauge whether the barrister understood their case.



- 5.8 Although some individuals did have an initial meeting, it was not necessarily as in depth as they had expected. Some said this was acceptable as it cut their costs, while others felt that this meant they were not given the opportunity to articulate their circumstances and concerns and as a result were not fully involved in the process. Individuals were not overly concerned with knowing about the “nitty gritty” part of court proceedings but many did want a more active role in terms of presenting their case when they first met their barrister.

It was just a case of 'let's see the paperwork you have got, this is where you are, this is where you want to be and this is how we are going to assist you'. It was very much factual bullet points of what they were going to do for us and they didn't appear to go out of their way to understand/ they didn't ask if I was married or go into a lot of detail about my family or my circumstances. I felt that such information was necessary to get a broader picture- it was very superficial as if they were not that interested.

By talking to the barrister directly before going to court, you would feel that they could get to know the case better. Did have a meeting with the barrister but was made to feel that they only wanted to speak through the solicitor – was made to feel that we did not know what we were talking about. It was not the law we were talking about but the circumstances and you don't need a law degree to say what has happened.

- 5.9 A lack of contact with their barrister left some individuals feeling that their barrister had not made much effort to find out about the details of their case. For most of the individuals that we spoke to, the outcome of their case was positive and, as a result, this lack of opportunity to provide detail and context to their case had become a relatively minor issue. However, in the event of a negative outcome, it is possible that a perceived lack of contact/attention could become a bigger reason for dissatisfaction.



CASE STUDY

An individual sought legal advice from a solicitor in the first instance and when the case came to court, the solicitor instructed a barrister to represent the case. The individual was unsure of the exact reason why a barrister had been involved but trusted his solicitor to instruct appropriate legal representation. Although he was not directly involved in choosing the barrister, he reviewed the instructed barrister's credentials on their Chamber's website.

On the Friday before the Monday of the hearing, the client had not received any communication from the barrister. Concerned that the case was imminent, the client telephoned the barrister to discuss the case. When he reached the barrister, he found they were reluctant to discuss the case and instead wanted to focus on issues around payment. The respondent found the barrister's manner during this conversation to be very aggressive.

The client was surprised that the issue of fees was raised as he had assumed that payment would have been arranged through his solicitor (to whom he had already paid a fee for case preparation). He was threatened with the barrister's absence in court unless payment was made that day, something he did not believe was feasible. When telephoning again later, he was not allowed to speak direct to the barrister but only to the Chambers clerk. The clerk suggested that the client meet him with payment at a tube station. This felt inappropriate to the client who refused to make payment in this way and was subsequently told that the barrister would not take the case any further. On the following Monday, the barrister did not turn up in court and the case was not heard. Consequently, the client had to go through the legal process again.

The client felt that he would have liked to have had a detailed discussion with the barrister well in advance of it going to court in order to feel satisfied that they understood the case. This would have also helped mitigate the issue raised regarding fees as this would have been something that was resolved prior to the hearing.

Progress updates

- 5.10 Some individuals were also disappointed about the amount of information they were provided with about the progress of their case.
- 5.11 Again individuals often assumed that they would have limited contact with their barrister but they did expect to receive updates on the progress of the case. This would have provided reassurance that the case was moving forward and highlighted any problems or if any more information from them was needed.
- 5.12 Most individuals felt that having regular updates was an important part of the service. However, the majority did not receive regular communication and after the initial consultation many barely had any contact with their barrister. These individuals felt that they were "kept out of the loop" and many had to chase for updates, often having to leave a message with their barrister's secretary who was unable to state when a response could be expected. Generally, individuals did not expect their barrister to be as quick to respond as their solicitor (appreciating that barristers can be in court a lot of the time) but they felt a complete lack of response or a very delayed response was unreasonable.
- 5.13 Some individuals felt guilty for chasing for information and some were reluctant to chase for fear of annoying their barrister and causing a rift which could upset the case.



- 5.14 Although a minority of clients felt they had a satisfactory level of contact with their barrister and therefore felt supported, most individuals commented on the lack of support they received from their barrister. The majority were new to the UK legal process and did not understand how it worked, how long their case would take or what would be needed of them. In the majority of cases, little was explained to them by their barrister, which left individuals feeling uncertain and worried. Some commented that the only time the barrister spoke to them was to request money and when this was settled, they “*disappeared off the scene again*”.
- 5.15 There were some individuals who were satisfied with the support provided during the process but not at the case’s conclusion. Many would have liked a follow-up discussion in order to inform them about what the outcome meant in terms of dates and paperwork and whether anything was outstanding. One individual was particularly frustrated when they chased for a progress report on their case, they found out their visa had been granted 3 weeks previously.

The service was really good up until the end. Aunt had been granted the visa but the barrister did not let the family know and neither did they receive a letter from the immigration office. Aunt telephoned the immigration office in Bangladesh to be told the visa had been granted 3 weeks ago – it was 3 weeks wasted of her 6 months visa.

- 5.16 There were a few cases, however, where the barrister was regularly in contact with the client to keep them informed or to chase for paperwork. Clients were grateful for this and it reassured them that the case was in good hands and was being progressed.

The barrister was actually ahead of us. She was in contact with her client which is my cousin more than we were. We didn’t need to get in touch. They were communicating more. So we had to call him and he was telling us what was going on so we didn’t have to be too much of a pain, calling her.

Language issues

- 5.17 Most of the individuals interviewed for the research did not encounter any language issues in dealing with their barrister. The majority of individuals had a good level of English and some of those that did not had barristers that were able to communicate with them in their mother tongue without the use of an interpreter. One respondent however, said that he had difficulty reading some of the documents he was given despite the fact his spoken English was fluent and another said that the barrister could have made more of an effort to speak in their own language more often.

Professionalism

- 5.18 Individuals had high expectations when it came to the professionalism of the barrister in and outside of the court and these expectations tended to be met. The general perception was that barristers were highly competent. In court, they were described by their clients as confident, focussed and able to take control.



Quality of advice

- 5.19 Individuals were generally positive about the advice they received from their barrister. Many said that the quality of the advice was good, the barrister was knowledgeable and the information and advice they provided was up to date. Some commented on the helpful guidance that they had received, including advice on how to present themselves in court and others appreciated receiving non-legal advice. One individual praised his barrister for advising him on financial matters and on issues around how employment and visits abroad might impact on their case.

At the point of asking for a meeting to discuss what is going to happen on the day and what can expect in terms of the questions will be asked, what questions would it be wrong to be asked [so know whether to answer a question or not]. They were good at telling me about the courtroom activity.

The advice was in-depth – he went through a lot of information in full detail – gave lots of leaflets and paperwork to look at and explained the after process and the consequences if Aunt did not go back when visa expires.

- 5.20 Although the general consensus was that the quality of the advice was good, several felt that the amount of advice that they received was minimal and that they would have appreciated more detail or explanation. Some said that they did not need any extra information or advice as they were only interested in the final outcome and appreciated that keeping communication to minimal levels cut down on costs. A few assumed that while they had minimal contact, their barrister and solicitor were in close communication and so they were not too concerned.
- 5.21 Again it is worth bearing in mind that most of those participating in the research had positive outcomes to their case and it is possible that this skews findings relating to the quality of advice received.

Difficulties

- 5.22 The majority of individuals did not experience any difficulties within their case. In a minority of cases, difficulties arose due to missing paperwork and documents, which delayed the legal process and caused stress to the individual, particularly when the original copy of the documentation was not in their possession or when the person they were acting on behalf of was out of the country.
- 5.23 In the few cases where information was known to be missing, the legal team (not necessarily the barrister) chased the individual and told them exactly what was required and how the missing information would impact on their case. One of these individuals thought that this reflected poorly on the barrister and that they were unprofessional for not having informed them of all the documents required upfront. They believed that earlier notification would have saved time and stress.
- 5.24 One individual had difficulties because he could not find the right documents and felt that his barrister was not providing any assistance with how to approach this. However he did also state that he wouldn't have wanted to incur any additional fees for assistance..

They leave it to you, but then again it's my problem, they are just there to deal with what you give them. It brings up their costs. They're trying to minimise their running around otherwise they're having to pay an extra person to do extra running around, so they keep their costs down that way.



6 Quality of Barristers' Services: Intermediary Views

6.1 This chapter looks at the views of intermediary organisations on client expectations, the level of service currently provided by barristers and the steps that they feel could be taken to drive up the standard of service that clients receive.

Client expectations

6.2 Organisations were mixed in their views on client expectations and clients' ability to judge the advice and service they receive from barristers. Some organisations believed that their clients had few expectations, largely because of their lack of awareness/understanding of the legal system. They felt that there was a tendency to judge the quality of advice received purely on the basis of the outcome achieved.

6.3 In other instances, organisations stated that, because they briefed clients on the quality of the barristers they had instructed on their behalf, expectations of the advice and service they would receive were often high. However, these organisations stressed that they sought to manage expectations in terms of outcome by thoroughly explaining the strengths and weaknesses of their clients' cases.

6.4 Some organisations felt that clients judged the quality of advice on the basis of the fee paid. They felt there was a perception that the higher the fee, the better quality the advice. These organisations had found clients to be distrusting of the quality of work provided on a pro bono basis or funded through Legal Aid. They had found a presumption that as free-to-client services, these would be of poor quality.

The ones I have come across, they are of the opinion that if you pay you get the best deal but that doesn't always work because sometimes you get fleeced. They have gone for a barrister because as far as they are concerned the barrister knows what they are doing and they are paying for it. Some people tell you they don't want legal aid but want someone who they want to pay. If you are paying you get a better service and a free service will not be as good.

6.5 On a general level, organisations felt that clients' hopes or expectations were just that their barrister will present their case in a better way than they are able to do themselves. They felt that clients were looking for someone to help them understand the situation they are in, what options are available to them, to articulate their case well and reassure them that every effort is being made to try and secure them a positive outcome.

6.6 Several organisations stated that where clients had fixed expectations, these largely related to communication and keeping them informed (and as the previous chapter demonstrated these were the key areas where individuals tended to feel they had been let down). Intermediary organisations felt that clients tended to have the following expectations in terms of communication:

- At the outset, to have the merits of the case made clear to them in a transparent and honest way and to be given an indication of their chances of success;
- To be given the opportunity to put their case across to the barrister in meetings prior to any hearing (enabling them to feel confident that their barrister fully understands their case);



- Where possible, to be given clear indications of what to expect in terms of timescales and, in instances where it is not possible to predict the length of the case, to be clear on this at the outset so that individuals are not left feeling anxious that their case has been forgotten about.
- 6.7 Several organisations stated that client expectations were often not met in terms of regularity of communication because they generally anticipate more frequent contact than is deemed possible or necessary by the barrister representing them. It was believed that expectations could be managed in this respect if timescales for communication were outlined at the outset.
- 6.8 Another organisation stated that they believed it to be the solicitor's role to meet many of these expectations in terms of support and keeping the client updated on their case and that barristers should not be involved in providing the progress updates that clients expect/need.

The reason why some barristers are particularly good at their job (which is that they are advocates) that they time or the resources to sit and read the law, and draft lengthy legal arguments) is because that they are protected by solicitors from the phones ringing continually and direct client contact. That is one thing that I will shield a barrister from.

Quality of advice provided

- 6.9 In terms of intermediary organisations' views on the quality of advice and service delivered by barristers, they generally felt that they did not have an entirely representative experience because they work with a small network of barristers with whom they have long-standing relationships and who they are confident provide good quality advice.
- 6.10 On the whole, organisations felt they had excellent relationships with barristers. Having had years of experience working in the field of immigration, representatives from intermediary organisations felt they had a good knowledge of legal service providers. Organisations felt that they shared a common cause with the barristers they work with, who they considered to be dedicated and passionate about the work they do.
- 6.11 Intermediary organisations believed this common interest was demonstrated by the work their barristers did outside of casework for example, campaigning, policy work, volunteering for community organisations, providing seminars and training and keeping the legal and not-for-profit community updated on law changes e.g. through blogs. Several individuals in organisations mentioned attending training seminars held by the barristers they work with. In addition to helping their own professional development, this enabled their links with barristers to be strengthened and gave them the opportunity to network and receive updates on changes and recent developments in immigration law.
- 6.12 Organisations also stated that their barristers often had their "doors open" should they need clarification on a specific issue and were on hand to give advice in relation to cases when needed. One organisation stated that if they were struggling to find a solicitor to represent their client, they would contact a barrister to check to see whether the case had merit or not and this backing would subsequently help secure a solicitor's involvement. Another umbrella organisation stated that they would often get barristers to review policy documents they produced before circulating them to other organisations.
- 6.13 In addition to having confidence in the barristers they instruct, one organisation outlined that as part of their Legal Aid contract, quality of service is monitored and assured. In this respect an official system is in place which ensures service delivery is of a high standard and helps make the process more "customer friendly". They felt this ensured that any concerns were discussed and addressed.



- 6.14 As such, intermediary organisations generally had a great deal of respect for the lawyers they work with and some said they found it difficult to judge the quality of service delivered by other barristers. Nevertheless, organisations felt that, outwith the community of dedicated immigration lawyers that they regularly engage, the quality of service provision could vary.
- 6.15 In some respects, organisations felt that barristers were pressured by external constraints which subsequently affected the quality of their service delivery, specifically Legal Aid restrictions. Due to the conditions of Legal Aid, it was felt that barristers were not able to spend as much time on cases as was often required.

Legal Aid does not provide sufficient time for the solicitor or barrister to do a good job. [The amount of time needed] depends on the case. People should be able to charge the Legal Aid system for the work required to do the job well. It's not about how many hours – if you can do the job well in an hour, great. If it takes ten, to do it then it takes ten.

- 6.16 One organisation felt that under these conditions, barristers did not have the opportunity to fully develop their critical thinking and that this had led to a “conveyor belt approach” to cases. They believed that time pressures sometimes led barristers to reproduce facts from one case to another (based on their experience in the specific area or with a particular group of people) rather than looking in detail at each case’s merits. The organisation felt that the result of this was a “deadening and flattening of issues”.
- 6.17 Additionally, another external constraint that organisations felt impacted on the quality of service barristers were able to deliver in the context of clients who were detained, was the lack of coordination within prisons and detention centres between funders, hosters and suppliers. One organisation working specifically with detainees stated that often there was a discrepancy between willingness to provide a service from suppliers (the barristers) and the availability of resources to do so, notably Legal Aid funding and the provision of space within detention centres to hold conferences.
- 6.18 In addition, organisations mentioned that some prisons and detention centres operated exclusive contracts with law firms that they believed to be problematic both in terms of limiting the number of barristers able to operate within detention centres and prisons and meaning that clients could often wait a long time to get an appointment.
- 6.19 One organisation felt that there was a problem with the reluctance of some barristers to admit being unsure or unfamiliar with a particular area of immigration law and that this reluctance could sometimes lead to poor advice and service or exploitation of clients.
- 6.20 Along similar lines, two organisations felt that there was not enough compulsion for barristers handling immigration cases to remain up-to-date on developments in this area. They felt the fact that barristers are not obliged to take specific asylum and immigration courses and/or exams before they represent clients on immigration matters was problematic because of the fast pace at which laws can change.

They may not have done immigration but actually they can still represent in immigration matters. That's the same with privately paid solicitors. That's something that I think it's a massive problem. They ought to be obliged to do immigration and asylum courses because some of them don't and they will try to represent [clients] . . . When you sit in the court waiting for your case you get to see barristers who know absolutely nothing about immigration and they're ripping off their clients and it's really awful. It's so upsetting. Barristers don't like being told that they have to re-educate themselves. They think the



Bar Standards Board should be enough. I don't think so, especially in immigration. It's an area that changes so quickly that the clients are so vulnerable; they should be forced to take exams in immigration and asylum in order to practice in that area.

Sometimes I meet some barristers and I find I become appalled by their knowledge on some things. It's not all the barristers. But some, they've completed the bar and they become barristers, [but that] doesn't mean that they are proficient or competent in this field of law.

6.21 In addition, several organisations made reference to the existence of unscrupulous legal advisors. They felt that as a result of high demand, there was a huge market for immigration practitioners and some individuals had capitalised on this by offering untrustworthy advice and services to vulnerable individuals. A lot of the comments made related to the immigration legal landscape in general, rather than to barristers specifically. Several bad practices were mentioned including:

- Giving poor quality advice due to lack of knowledge of immigration law;
- Poor preparation of cases / not being prepared in court;
- Non-transparent fees (e.g. overcharging, charging for work that had not been completed);
- Charging clients for attending court and adjourning on their own grounds;
- Not seeing cases through;
- Taking cases on where there is no merit;
- Taking cases on when legal representation is not unnecessary.

[We have cases] where they've been completely and utterly exploited by previous advisors. Immigration historically has been plagued by cowboy advisors who take money from people and give them bad advice and prepare their cases badly and quite often we end up with those cases on our desks.

I have seen there are rogue practitioners, directly [that] I've seen. And for my dealing in the community level sometimes people come and talk to me. Sometimes I become amazed discussing with them that they do not have the basic knowledge of what they're talking about.

There [should be] more rigorous CPD monitoring and a more rigorous complaint process. [I'm] not talking about the responsible organisations but there are sharks and unscrupulous people around. They are exploiting people, giving bad advice and exploiting innocent, weak people of society.

There have been one or two barristers who have said "try and get it on a day I'm available because I would like to take this further or see the case to the end" – but not all barristers do that; do their slot and they are gone.



- 6.22 One organisation outlined concerns that the impact the cut in Legal Aid funding for immigration matters could lead to this situation worsening.

People pay ridiculous amounts for perhaps not the best quality advice – not all the time, there is amazing advice out there too. We thought if increasingly more people [due to the changes in Legal Aid] will have to pay it could potentially create a scenario where a market rate is set and then cowboys start operating below that rate. So how can we prevent our people from going to these individuals who often are operating in their own communities?

- 6.23 Therefore, although organisations believed that their direct experience of barristers operating in immigration law is that they were knowledgeable and professional, they believed that they were a number of less competent and unethical individuals providing poor quality services. Given the lack of knowledge clients often have about the legal system, they felt that the chances of individuals securing the right legal representation can be a bit of a gamble.

It's a lottery basically. It's who your solicitor is and which barrister they instruct. That's why we only refer to firms that we've dealt with, because we know what quality of work they provide.

Driving up standards

- 6.24 In order to combat malpractice or poor service quality and help overcome barriers clients experience when accessing services, organisations had several suggestions:

- Compulsory courses and/or examinations in immigration law for all barristers representing clients in immigration matters:
- Removing Legal Aid restrictions on the time spent on cases so that barristers are able to charge what they need to represent the case well;
- A greater degree of client contact prior to the hearing;
- More transparency over fees. They felt that clients should be provided with more detailed written communication about the role of the barrister and fees they should expect to pay
- Improved continuity on cases / at tribunals – in particular ensuring that the same barrister represents a client throughout the case to stop clients from feeling disorientated
- Increased monitoring of barristers with regards to professional standards, possibly through:
 - A higher level of Continued Professional Development monitoring
 - Placing monitoring information in the public domain
- Introducing a more rigorous / objective complaints process
- Better co-ordination of services in and removal of exclusive contracts to barristers within prisons and detention centres
- A greater number of barristers interacting directly with clients/client communities so that clients become more aware of the direct access route.

- 6.25 In addition, organisations had several suggestions on how their relationship with barristers could be improved to make the delivery of legal advice and services a more streamlined process and help



deliver accurate information to clients. Suggestions generally related to opening up or improving the lines of communication and strengthening links between organisations and barristers.

- One organisation said that it would benefit from a robust referral system, enabling them to make direct referrals to barristers if, for example, a client came to them with an imminent appeal deadline and they were struggling to find a solicitor to take the case on.
- Another suggestion was operating an advice line or surgery for legal practitioners if there was something they want to “double-check” when working on a case.
- The seminars that barristers operate as part of their Continued Professional Development were thought to be extremely beneficial and it was suggested that more Chambers should hold them.
- The information provided on barrister’s websites was felt by one organisation to be lacking in terms of specific expertise. They wanted more details on individual barristers’ specialisms as their view was that currently information tended towards a broad brush approach of the areas of law they are proficient in.



7 Improving access to good quality service and advice

- 7.1 Intermediary organisations were asked for their views on what would help to ensure that immigration clients had access to good quality service and advice. Their opinions are summarised in this chapter.
- 7.2 Intermediary organisations were consistent in their view that access to good quality legal representation at the earliest stage possible was key for all parties involved in the process from the client, to frontline organisations to government bodies. In their view, this simplifies the process and reduces problems occurring further down the line which can put unnecessary pressure on the system.
- 7.3 Organisations felt that getting legal advice at the outset of a case can reduce the risk of clients being the target of exploitative legal practitioners as it prevents their case from reaching a critical stage where desperation can creep in. They felt seeking early advice can enable clients to feel less intimidated and more involved in the process. In addition, they felt that this can also mean that the extent to which cases have potential merit is identified at an early stage, perhaps preventing the system from getting clogged up with applications that have little hope of success. Organisations also felt it could reduce the need for appeals and reapplications due to mishandling of cases and in some cases, remove the need for a barrister altogether.

What we press as an organisation in terms of our policy work is about early access to good quality legal advice. This is the main barrier. If people can access legal advice before they go to claim asylum, so they understand the process, and it's good quality [advice], then they're going to be in a much better position to not feel as threatened by the process . . . or they'll be able to engage with it, or they'll understand their case and what the pros and cons of their case are. That engagement with the legal rep will also benefit the decision-making process because there'll be somebody representing them, on their behalf through the process from an early stage. This also helps to hopefully make better decisions at an earlier time. It benefits the system as a whole. People will be getting the right decisions made the first time at as early stage as possible.

If we get people from the beginning, (meaning that they have not had any interaction with the UKBA) then the chances are they will never need a barrister because they will prepare their case well and they will be granted [asylum] by UKBA. So a barrister won't be involved. They won't be refused and won't need to go to court. However many, many, many of our clients come to us part way through [with] that process already begun so they're not 'from the beginning'.

- 7.4 It was felt that many of the barriers to accessing good quality legal services were caused by a lack of effective communication channels and gaps in the provision of information. In terms of improving information channels, intermediary organisations believed that a range of organisations had a role to play to ensure that up to date, accurate and consistent information is provided – immigration bodies, frontline organisations and communities themselves.
- 7.5 In terms of actively feeding official information to frontline organisations and communities, it was felt that better co-ordination and delivery of information could come from the following agencies.



- UK Border Agency: They felt UKBA should be providing better information about migrants' rights with regards to accessing the legal system. Intermediary organisations had had a great number of clients who were unaware about their rights to access legal services and the possibility of Legal Aid funding.

The UK Border Agency has a duty to assess people or make people informed. We have asylum seekers who don't know they can get free legal representation. Someone's not telling them about that. That's important.

That's a big area of concern that people aren't getting informed that they should be able to access Legal Aid. [So who should be responsible for that?] I think UKBA. I think some legal representatives might not be informing clients that they should be able to access Legal Aid, and could be taking them on privately. You have legal reps that have Legal Aid contracts that might still choose to take clients privately and not inform them that should or could be able to access Legal Aid. You have other private practices that don't have Legal Aid contracts that will obviously have even more of an incentive to take a case on privately.

- Bar Council and the Law Society: Intermediaries felt that these organisations had a responsibility for providing and co-ordinating the delivery of information on law changes to legal practitioners.
- Prisons / detention centres: Intermediary organisations felt there was a need for better signposting and information related to the different legal services available and when they should be accessed. Intermediaries felt that contact details for legal representatives should be distributed and placed in appropriate places e.g. libraries, next to phones in prisons. At present, it was felt that the detention system was not adhering to their duty to provide information as well as they could be.

7.6 In addition, organisations believed that they as frontline organisations were also responsible for ensuring they were kept up to speed with changes to the landscape in which they operate to ensure accurate advice was being delivered to clients, including policy and law changes. Currently this was achieved by attending seminars and training (often held by barristers), subscribing to information from organisations such as the Immigration Law Practitioners Association and the Office of the Immigration Service Commissioner or blogs from high profile immigration barristers or drawing on resources from their network of trusted law practitioners.

7.7 Organisations also felt that there was scope to enhance the role played by migrant communities in the distribution of information through ensuring that the information that is passed around is accurate. As referenced earlier, intermediary organisations had found word of mouth within communities to play a key role in information distribution, especially because of the mistrust a lot of migrants have of government-backed bodies. As such, it was felt that the information from "official" sources needed to be supported by trusted people within communities. They felt that community leaders in particular should ensure that they are well equipped with accurate, up to date, reliable information.

There are organisations like ourselves and there are the communities themselves. They might not want me to say this but the priests, teachers and imams have a massive responsibility because they are organisations people trust. There a lot of Pentecostal churches in African communities and they believe what the pastor says so the pastor is in an incredibly powerful position to be able to educate their community. What tends to happen is they say pray about it and you will be fine, which is perhaps not the best thing to do. They also need to be saying "have you thought about this?" A. I'm thinking about who people trust and how people can access information. For many people I represent the authority too so I need to be paired with



information from someone they trust ... legal professionals don't have the time.

- 7.8 Intermediary organisations felt that neighbourhood-level structures to connect the legal world with the migrant community were key to ensuring that the information distributed by communities was as accurate as possible. They felt that readily available, accessible, free and impartial legal information at a neighbourhood level was vital but also currently under threat through the financial pressures placed on organisations such as the Law Centres and the CAB (and even local libraries) that they felt had already led to closures.



8 Complaints Procedures

- 8.1 Both intermediary organisations and individuals who had used barristers for immigration advice and services were asked to discuss their views on the process for making a complaint about the service received. These views are discussed in this chapter.

Understanding how to make a complaint

- 8.2 Although most of the individuals interviewed had no reason to make a complaint against the barrister who dealt with their immigration case, some were not sure where they would have gone if they had. Some individuals said that they would have gone to the legal ombudsmen whilst others thought that they would have approached a Citizen's Advice Bureau, either to try and lodge their complaint there or to ask them for advice on where to go. Less common assertions were that they would go directly to the barrister or their Chambers or to the Law Society. A few were not sure at all and said that they would "Google it".
- 8.3 Few intermediary organisations had dealt with complaints from clients about a barrister's advice or service. Because organisations were acting in an intermediary role, and were instructing barristers on their clients' behalf, they generally expected that if a client had a complaint, they would encourage them to complain through their organisation (rather than approaching the barrister directly).
- 8.4 Intermediary organisations varied in terms of the degree to which they had an official system in place should a client complain about a barrister. Some were unsure how this would be handled (largely because they have not had to deal with this eventuality to date), others appeared to have informal procedures and some stated that they brief their client at the outset how to make a complaint and that the procedure is outlined in their client care letter.
- 8.5 At a general level, organisations believed that consumers would not necessarily know how to make a complaint because the legal system is complicated and information about making complaints is not widely circulated. In addition, they felt that there were a range of barriers that could prevent consumers from embarking on a complaints process.

Barriers to making a complaint

- 8.6 Consumers and intermediary organisations raised several issues that they felt prevented individuals from making complaints about the service received from barristers and these are outlined below:

Anxiety about affecting the outcome of their case

- 8.7 Intermediary organisations believed that the complaints process can be intimidating for complainants for several reasons. Firstly, they felt that individuals tend to lack trust in government-backed immigration and regulatory bodies generally and did not believe that any complaint lodged would not influence the views that the authorities would take of their case. Intermediary organisations mentioned specifically that individuals can be wary of approaching the OISC because of its obvious link to the Home Office (the OISC webpage forms part of the Home Office website) and it was their experience that migrants are wary about getting involved with alerting additional attention from the Home Office. In addition, intermediary organisations had found clients to be apprehensive about complaining against someone who is representing them through fear that it will end up being detrimental to their case. Intermediary organisations also felt clients believed that their chances of 'winning' a case against a barrister who obviously has detailed knowledge of the law and the legal system were slim because of their own lack of familiarity with the process. One organisation stated:



It's very difficult to pursue a complaint against a lawyer because they're articulate people and they will make up stories – I'm talking about unscrupulous ones.

- 8.8 This fear of 'taking on' a barrister was also reflected in interviews with individuals. Fear of lodging a complaint against an expert in law was perceived to be a key barrier. Individuals felt that barristers' deep understanding of the law, and all its loopholes, would mean that a case against them would be very unlikely to be successful. Individuals tended to imagine that making a complaint would result in a court case and they felt that they would not be believed by the court over a barrister..

They carry a lot of power in what they can say so it's you against them. I did try to make a complaint about a barrister and because of my anger they insinuated I was mad. I was almost threatened that if I complained about them I could be sectioned. I kept my complaint down because I knew they had power.

Not a good experience as barristers seem powerful and they know the law 10 times better than I. I would not know if I had a case against them or not.

He's professional, he knows and you don't so why are you questioning his judgement

- 8.9 Some were also worried that the complaint would count against them by all barristers within the Chambers where their barrister worked and if ever they needed legal services in the future they would receive poor advice and services.

I would have to engage another barrister within the profession who may work in the same chambers or rubbing shoulders and would therefore hesitate to give advice in terms of the shortcomings of the original barrister.

Complicated process

- 8.10 As mentioned above, intermediary organisations felt that it could be very difficult to work out how to start the process of making a complaint. They felt that the number of different regulatory bodies make the legal system difficult to navigate. One organisation outlined that the Bar Council / Bar Standards Board, the Solicitors Regulatory Authority, the Office of the Immigration Services Commissioner and the Chartered Institute of Legal Executives all have their own complaints procedures and that it can be difficult for those with limited understanding of the legal system to work out who to complain to. Organisations also felt that even once the correct body was identified, the complaints process itself could be complex, especially for someone without English as their first language.

Perceived lack of objectivity

- 8.11 Intermediary organisations also felt that legal complaints processes are not as robust, rigorous or objective as they should be. They felt that several of the regulatory bodies had commitments to the legal professionals that they represent and that this meant there was a degree of protectionism in the handling of complaints.



Timescales for complaint

- 8.12 The time limit within which complaints must be made was also seen to be a barrier and a potential reason why complaints tend to be low. Intermediary organisations believed that a number of potential complaints were not formally lodged because, by the time clients have identified an issue (i.e. if there have been mistakes made on their application or the wrong application has been submitted), then it is beyond the 6 month window where a complaint is allowable. One organisation stated:

Timeframe is a massive issue. I have been working with people recently who had significant grounds for a complaint and the legal world would not do anything because it was a year later.

Perceived lack of gain from making a complaint

- 8.13 Organisations felt that the complaints process could be extremely challenging and lengthy with little or no gain at the end. Their experience was that often the resurrection of clients' cases that lodging a complaint requires could be emotionally difficult. They also found that making a complaint could involve instructing another lawyer (when clients are in a position where they have lost faith and trust in legal representatives). In addition, they felt that there was often an absence of an effective remedy (for example if the claimant has been deported) and therefore no personal or financial gain at the conclusion even if a complaint was upheld. Hence they had found that clients often do not feel making a complaint is worth the effort involved.
- 8.14 This was supported by the consumer interviews, with key barriers to complaining perceived to be the time, costs and hassle involved. Individuals felt the process was likely to be an emotional ordeal with an uncertain outcome and all at a high cost.
- 8.15 Because of the issues involved, many people said that if they had had any difficulties with their barrister they would not have complained and the only step they would have taken would be to alert other people in their community about their dissatisfaction.

Overcoming complaints barriers

- 8.16 Intermediary organisations and consumers gave several suggestions on how they felt the complaints process should be improved. At a general level, it was felt that the process should be easier to access, streamlined where possible and should instil confidence in complainants that their submission will be investigated objectively. Specifically, the following measures were discussed.

More information available on how to complain

- 8.17 Individuals wanted clear guidance on how to make a complaint and in fact greater levels of awareness that it is possible to make a complaint about poor service. They felt this could be achieved through posters in public places within migrant communities such as libraries or doctors surgeries. Some people also thought that there should be more information available in the offices of chambers/law firms (perhaps in the form of posters) as well on barristers' websites.
- 8.18 Intermediary organisations also stated that better provision of information by bodies such as the Legal Ombudsman, the Bar Standards Board and the Law Society was called for. Additionally it was felt that the UK Border Agency has a role to play as they are a common contact for many of those seeking immigration advice and services.



Guidance as to what constitutes a poor service

- 8.19 Related to this, several of the individuals interviewed would have liked to have had clear guidance as to what a barrister should and should not be doing which would help them to understand the basis on which they could complain. This would have had the potential to clarify for those with grievances whether or not they had a reasonable basis for complaining.

*This is the rule, they must follow this rule and if they don't you can complain.
If it was set like that, you are more likely to think 'hang on, they have not followed this, I have a case here'.*

- 8.20 Organisations felt that responsibility for providing this information again fell to regulatory bodies and the UKBA. It was felt that the latter should provide literature to people when they make an application stating what they should expect in terms of service quality from legal representatives and how to complain if standards are low.

Ensuring a robust complaints process

- 8.21 Intermediary organisations felt that the complaints process needed to ensure that it was more independent, robust and objective. Organisations believed that consumers should have confidence that their complaint is going to be scrutinized in a transparent way and independent from decisions made on their status. Currently, they felt clients had little faith that this happens. Intermediary organisations felt that the regulators had a role to play in convincing consumers that complaints will be thoroughly investigated and that where malpractice or professional misconduct is uncovered, that the action taken will be appropriate.

A personal approach

- 8.22 Individuals wanted a more personal approach when it comes to lodging a complaint. They felt that making a complaint against a barrister could be intimidating and so felt it would be preferable to be able to make a complaint to a person rather than filling in a complaints form in order that they could seek reassurance, ask questions and be supported.

Where responsibility lies for ensuring awareness about the complaints procedure

- 8.23 Several consumers felt that responsibility for raising awareness about complaints procedures lay with law firms and chambers. Some thought that barristers should inform their clients of the complaints procedure at the outset of their case. Many recognised that barristers may not be receptive to this through fear of encouraging complaints. However, one individual stated that alerting clients how to complain should they receive a dissatisfactory service was the standard approach of other professional services (e.g. accountancy firms).
- 8.24 Intermediary organisations believed that they themselves and legal practitioners also had a role to play in ensuring their clients were well informed about complaints procedures and this should happen at the outset as part of the client care process.

There should be a simpler complaints procedure and there should be a confidence given to people – if you complain, we will follow the complaint properly.... One of the way to stop [unscrupulous people], is an easier complaints procedure and clients having confidence in that.



- 8.25 Some individuals also suggested that law firms / chambers should proactively contact clients on the conclusion of their case to explore how the service was received.
- 8.26 Several people said that the responsibility for ensuring awareness of complaints processes lay with local and central government bodies who they felt should increase awareness of complaints procedures through promotional activities. In addition, it was felt that awareness of the legal ombudsman should also be increased as consumers were either largely unaware of it or aware but unsure how and when it could be contacted.

Experiences of the complaints process

- 8.27 Both the respondents who had made a complaint to the Bar Standards Board who participated in the research found the complaints process fairly straightforward. One respondent spoke to the Bar Standards Board during the process and found them to be very responsive. However, both felt the process took longer than expected.
- 8.28 That said, neither of the complainants were convinced that the complaints process was independent or objective. There were complaints that the written communication received was relatively generic and left individuals feeling that their issues were not taken seriously.
- 8.29 One individual felt that the evidence sought focused on reports collected from their barristers' colleagues and felt that this was not objective. He felt that these reports were at odds with his own experience.

I don't hold a personal grudge but what happened was bordering on corruption. The person causing the problem got away scot free and she was able to let someone else take the fall.

- 8.30 These individuals therefore had little faith in the complaints process. While they felt that the BSB had attempted to investigate claims, they felt that the investigation was not done rigorously or with any real intent to take action against barristers. They felt that the process was currently designed only to protect barristers rather than to uphold the rights of complainants.



9 Conclusions

- 9.1 Some of the main conclusions that it appears possible to draw from this research are outlined below.
- 9.2 **There is a heavy reliance on word of mouth for information about the legal system (including barristers).** Individuals often rely on word of mouth advice from others in their communities to help to navigate the legal system. This can leave them open to misinformation and bad advice. Several intermediary organisations were involved in trying to increase the availability of accurate information within migrant communities including through making links with community leaders. There may be scope for the Bar Standards Board to work with organisations with this goal in order to ensure specifically that the information communicated about barristers is accurate.
- 9.3 **Individuals are generally unclear of the distinction between barristers and solicitors. This can lead to confusion and anxiety when a barrister is involved in their case further down the line.** It could perhaps be argued that making a clear distinction to individuals would be hard to achieve, however what is key for individuals to understand is why, when their primary case-worker is a solicitor or an intermediary organisation, it is still possible that a barrister might be required. When individuals initially approached a solicitor who then instructed a barrister, this led some to conclude that the involvement of a barrister reflected a failing on behalf of their solicitor or that they were 'handing over' the case. This then did not get the relationship with a barrister off to a good start.
- 9.4 **It is worth considering whether individuals should be given more choice over the barristers that are instructed on their behalf.** It appears to be rare for individuals to be presented with the possibility of choosing a barrister either by solicitors or intermediary organisations. Often this is because solicitors/intermediaries do not believe that their clients would want choice or be able to make an informed choice. However, the research indicated that a lack of choice (or at least consultation) tended to leave consumers feeling that they had no control over their case. Again this could help the relationship with barristers to get off on a better footing.
- 9.5 **In cases where individuals are referred to barristers by a solicitor or intermediary organisation, many of individuals concerns could potentially be alleviated through an initial meeting with their barrister in advance of any court/tribunal hearing.** There are likely to be cost implications of this but it would greatly reassure the individual that their barrister understood their circumstances and give them the opportunity to explain their case in their own words. Several individuals stated that they would have been willing to settle for a telephone call if a face-to-face meeting would have incurred considerable costs. The lack of an initial meeting opens barristers to criticism of not having made the effort to understand individuals' circumstances (an issue likely to be a key cause of dissatisfaction in the event of a negative outcome).
- 9.6 **It would be beneficial to agree protocols for providing updates on progress at the outset of the case (or at the start of a barrister's involvement).** It seems possible that some of the dissatisfaction with provision of information about progress relates to communication that was the responsibility of a solicitor or an intermediary but the balance of responsibility was rarely clear to individuals. Individuals tended to assume that once a barrister 'took over' it would be their responsibility to let the client know how the case was progressing. If a barrister represents them at a hearing then individuals tend to assume that it will be the barrister that will communicate the outcome of the case.



- 9.7 **The research has found evidence that immigration clients are perhaps less likely to voice their concerns or dissatisfaction with the service received.** Given that much of the negative feedback related to issues that did not specifically concern the quality of advice received, it seems possible that these issues are common to barristers' clients across all fields. However, the research indicated that immigration clients are particularly likely to feel in too vulnerable a position to voice any discontent with the service received from their barristers through fear that any complaint or request for additional levels of service could impact negatively on the way in which their barrister approached their case. Similarly, even retrospectively, there is a strong inclination not to complain so as not to attract attention from the authorities.
- 9.8 **There could be value in raising awareness of intermediary organisations of public access to the Bar.** The research uncovered low levels of awareness/understanding of this possibility among intermediary organisations and this meant that it was an option that they rarely presented to their clients.

