

Evaluation of the Solihull Pilot

for the

United Kingdom Border Agency

and the

Legal Services Commission

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Glossary

AIT	Asylum and Immigration Tribunal
ASC	Asylum Seeking Children
CID	Case Information Database
CLR	Controlled Legal Representation
EAP	Early Legal Advice Pilot
EAP provider	LSC funded organisation holding a contract to undertake work in the Pilot
FRE	First reporting event
Legal representatives/advisors	Accredited Adviser within the EAP Provider
LH	Legal Help
NAM	New Asylum Model
NASS	National Asylum Support Service
PMIT	Performance Management & Information Team
PSA	Public Service Agreement
RAR	Review and Reconsideration
Routing	A system of dispersal of asylum seekers to the regions from initial emergency accommodation

Executive Summary

I **Background**

In March 2006 United Kingdom Border Agency (UKBA), formerly known as the Border and Immigration Agency (BIA) and the Legal Services Commission (LSC) developed a joint draft proposition paper for improving the quality of asylum decisions. The proposal was to allow claimants access to quality information and advice from legal advisors from the earliest stages of the asylum process.

II Parts of the proposal to be tested included a more interactive role for the legal representatives before, during and after the substantive asylum interview, prior to the decision. Simultaneously relevant evidence gathering was to be funded prior to the decision.

III One of the main aims of the pilot was to ensure that all material facts and all relevant evidence were in front of the decision maker at the time they made the decision.

IV The test of the new approach sometimes referred to as the Early Advice Pilot was in Solihull, initially over a six-month pilot period. For the purposes of this report it will be called the Solihull Pilot.

V I was commissioned by UKBA and the LSC to evaluate the Solihull Pilot. From my past experience I have detailed, first- hand knowledge of the Solihull Pilot. I am completely independent. I am not employed by UKBA, the LSC or any stakeholder organisation.

VI From April 2006 to the end of May 2007 I was the Assistant and then the Deputy Director of UKBA's Central Quality Team. The Quality Team did not have any day-to-day involvement with the Solihull Pilot but it did have a role in the overall evaluation of the Solihull Pilot. In this capacity, I attended the Stakeholder consultation workshop in June 2006, I attended the Solihull Pilot Evaluation Group meetings and the Project Board meetings from the Solihull Pilot's inception in November 2006 until June 2007. I was also a regular attendee of the Solihull Pilot User Group meetings (User Group).

VII From May 2004 – March 2006 I set up and led UNHCR’s Quality Initiative (QI) project and was responsible for drafting the first three QI Reports to the Minister.

Methodology - Overview

VIII The evaluation included analysing the available data collated by UKBA Performance Management Information Team (PMIT), the LSC’s data and interpretive report.

Observations and caveats regarding the statistical data

IX UKBA’s statistics are based on information recorded electronically on UKBA’s Case Information Database (CID). PMIT gave the following caveat to the accuracy of Solihull Pilot statistics: that the Solihull Pilot, Solihull non pilot and Leeds statistics were as recorded on CID.

X Leeds was a “blind” control group. With the benefit of hindsight, it is apparent that this did not happen in a scientifically controlled manner and the profile of the intake of applicants in Leeds was very different to that of Solihull. This impacted on the usefulness of some of the raw data because there was not a like by like comparison.

XI In order to maximize the robustness of the statistics UKBA and the LSC cross referenced their statistics and achieved a common database covering the statistics that both organisations had recorded as pilot cases.

XII In addition for the case conclusion data a further set of data has been produced by UKBA. This comprises of a smaller control group of Leeds cases and relates only to those cases cross referenced with the LSC where the LSC has an outcome recorded as well as UKBA. (LSC/Leeds correlated sample).

XIII This relates to 415 cases rather than 3350 cases, the latter represents all applicants recorded by UKBA who claimed asylum in Leeds during the period of the Solihull Pilot.

XIV First hand narrative background information from Case owners and legal representatives was obtained through a series of interviews.

XV I held meetings with two key stakeholders who were members of the Evaluation Group, UNHCR and Maurice Wren from Asylum Aid. The reports from UNHCR, Maurice Wren and the LSC's Quality Review were given due consideration. They have been quoted in the report and included as appendices to the report.

Key Success Indicators

XVI There were three main elements identified as being key indicators of the overall success of the Solihull Pilot (Key Success Indicators) and one objective. The Key Success Indicators have to include the UKBA Public Service Agreement (PSA) target; where the applicant is recognised as a refugee and integrated or not recognised as a refugee and removed within six months (case conclusion target).

Key Success Indicators

- XVII
1. Case conclusion targets met (cases where the applicant is integrated or removed within six months). In line with UKBA's Public Service Agreement (PSA) target.
 2. Overall cost savings with any rise in the Legal Aid budget offset by savings elsewhere
 3. Faster, higher quality and more sustainable asylum decisions.

Objective

XVIII In order to achieve the above Caseowners and legal representatives had to commit to achieving the cultural change required.

Findings

XIX The detailed analysis, the evaluation of the practical application of the Solihull Pilot procedure and the supporting information for the following summarised findings can be found in the main body of the report at pages 35-96.

1. Key Success Indicator: Case conclusion targets met (Cases where applicant is either integrated or removed within six months).

XX Finding

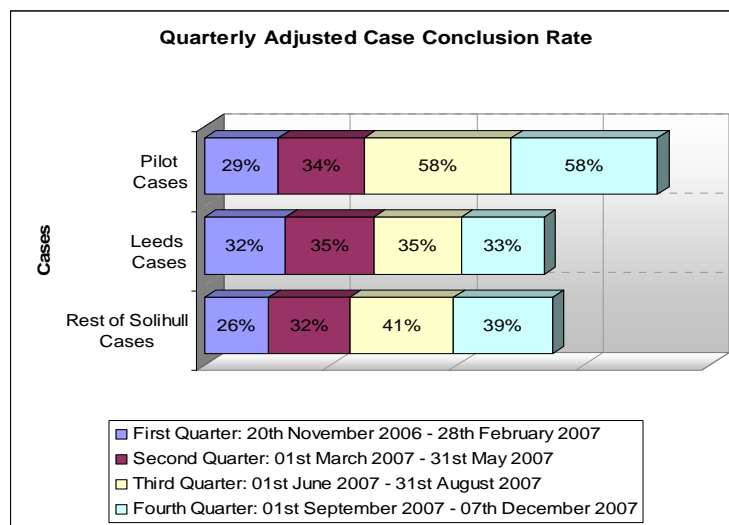
Key Success Indicator met and exceeded in the Solihull Pilot. There was a significant and sustained improvement in the period when the Solihull Pilot was properly operational. In

the third and fourth quarters 58% of cases were concluded within a six month timeframe.

XXI This compares favourably with both the rest of Solihull and Leeds which showed a smaller and negligible improvement respectively in the case conclusion rate over the third and fourth quarter.

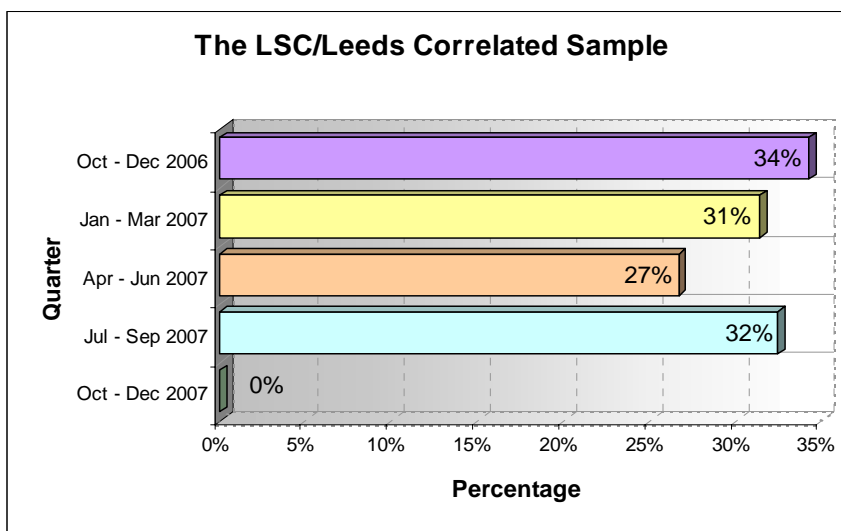
PMIT			
Quarterly Adjusted Case Conclusion Rate	Pilot Cases	Rest of Solihull Cases	Leeds Cases
Adjusted Quarterly Intake	116	250	392
First Quarter: 20th November 2006 - 28th February 2007	34	64	126
Adjusted Quarterly Intake	126	545	793
Second Quarter: 01st March 2007 - 31st May 2007	34	174	277
Adjusted Quarterly Intake	74	589	839
Third Quarter: 01st June 2007 - 31st August 2007	43	242	292
Adjusted Quarterly Intake	109	816	1158
Fourth Quarter: 01st September 2007 - 07th December 2007	63	318	382

PMIT			
Quarterly Adjusted Case Conclusion Rate	Pilot Cases	Rest of Solihull Cases	Leeds Cases
First Quarter: 20th November 2006 - 28th February 2007	29%	26%	32%
Second Quarter: 01st March 2007 - 31st May 2007	34%	32%	35%
Third Quarter: 01st June 2007 - 31st August 2007	58%	41%	35%
Fourth Quarter: 01st September 2007 - 07th December 2007	58%	39%	33%



XXII These statistics were compared to the LSC/Leeds correlated sample for case conclusions.

The LSC/Leeds Correlated Sample	
Quarter	Concluded In time
Oct - Dec 2006	34%
Jan - Mar 2007	31%
Apr - Jun 2007	27%
Jul - Sep 2007	32%
Oct - Dec 2007	0%



XXIII The LSC/Leeds correlated sample substantiates that the Leeds case conclusion rate hovers around the 30 to mid 30 % range throughout the period of the pilot.

2. Key Success Indicator: Overall cost savings with any rise in the Legal Aid budget offset by savings elsewhere

XXIV Finding

- The constraints of the statistical data did not allow a like by like comparative finding to be drawn on this point.
- Considerable potential savings in NASS, AIT and LSC costs have been identified in direct relation to the lower allowed appeal rate achieved in the Solihull Pilot. See pars 224-249

- If this lower allowed appeal rate was replicated throughout the country there would be a tremendous saving to the “public purse.”
- A more structured statistical analysis is required to calculate the savings based on a like by like comparator using the more detailed, sophisticated reporting template designed by the LSC for Early Legal Advice providers (EAP providers).
- Some EAP providers’ apparent inappropriate behaviour in applying the CLR merits test and taking cases to Review and Reconsideration (RAR) could have had a negative impact on the overall potential savings to the Legal Aid budget. This behaviour was indicative of the providers’ general behaviour and not specific to the Solihull Pilot.
- The sophisticated data reporting system designed for the Solihull Pilot is a much more transparent system. It allows the LSC to monitor provider behaviour and outcomes at every stage of the procedure.

3. Key Success Indicator: Faster, higher quality and more sustainable asylum decisions to include:

- XXV
- All material facts and all relevant evidence are identified and placed into account
 - prior to decision
 - More focused interviews lead to shorter interview times
 - Faster recognition and integration of refugees
 - More sustainable negative decisions with lower appeal allowed rate
 - More effective conclusion of negative decisions
 - Closer case contact management resulting in fewer absconders
 - Improved overall quality of service provided by the system.

XXVI The seven elements listed above were identified as being factors to be given consideration in relation to this Key Success Indicator.

- **All Material Facts And All Relevant Evidence Identified And Placed Into Account Prior To Decision**

XXVII Finding

- It is self evident a decision maker should have all material facts and evidence before

them at the time of making the decision.

- Caseowners all stated that having a statement of claim before the interview and all necessary evidence before a decision helped them make a well-reasoned decision on the case.
- This element was met through the Solihull Pilot procedure.
- **More Focused Interviews Leading To Shorter Interview Times**

XXVIII Finding

This element was met where the pre-interview procedure was applied correctly.

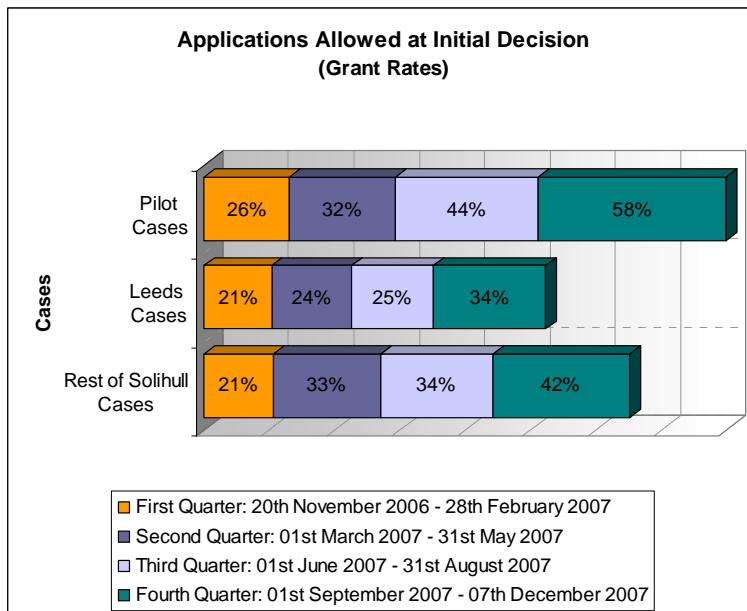
- **Faster Recognition And Integration Of Refugees**

XXXIV Finding

This element was met in the Solihull Pilot.

PMIT			
Applications Allowed at Initial Decision (Grant Rates)	Pilot Cases	Rest of Solihull Cases	Leeds Cases
Intake	126	253	421
First Quarter: 20th November 2006 - 28th February 2007	33	54	87
Intake	102	542	828
Second Quarter: 01 st March 2007 - 31 st May 2007	33	178	202
Intake	85	556	837
Third Quarter: 01 st June 2007 - 31 st August 2007	37	191	211
Intake	104	674	886
Fourth Quarter: 01 st September 2007 - 07 th December 2007	60	280	304

PMIT			
Applications Allowed at Initial Decision (Grant Rates)	Pilot Cases	Rest of Solihull Cases	Leeds Cases
First Quarter: 20th November 2006 - 28th February 2007	26%	21%	21%
Second Quarter: 01 st March 2007 - 31 st May 2007	32%	33%	24%
Third Quarter: 01 st June 2007 - 31 st August 2007	44%	34%	25%
Fourth Quarter: 01 st September 2007 - 07 th December 2007	58%	42%	34%



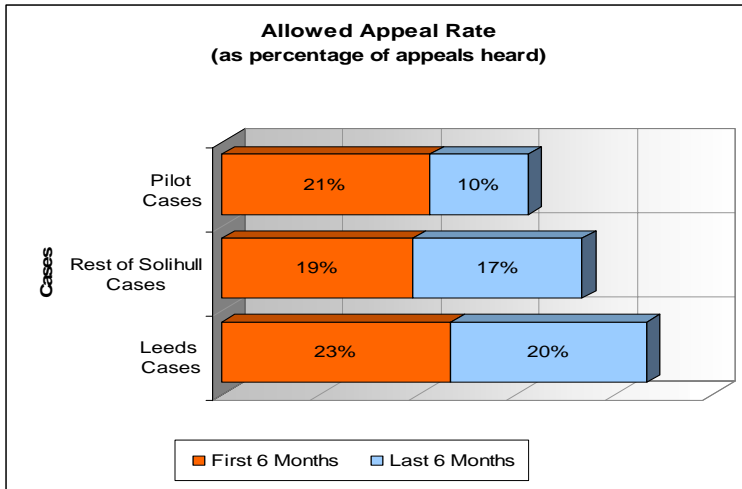
- **Lower Appeal Allowed Rate**

XXXV Finding

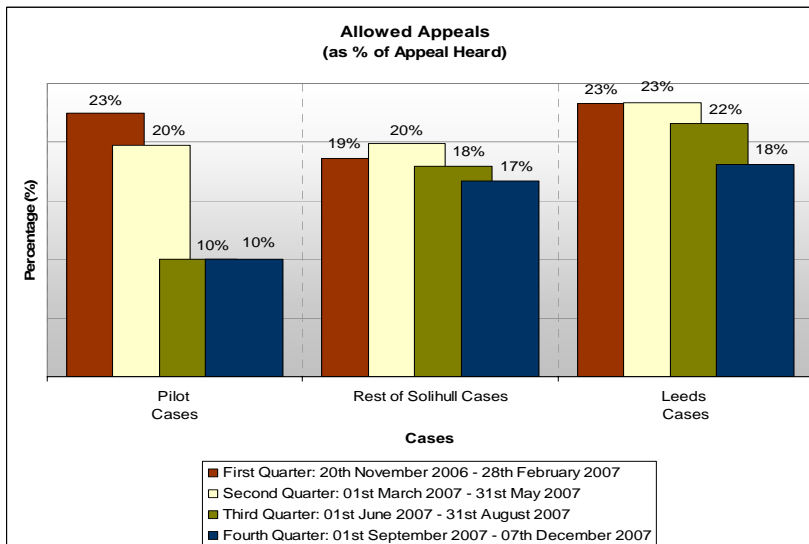
This element was met with a significant and sustained improvement in the period when the Solihull Pilot was properly operational. The Appeal Allowed rates in quarters three and four in the Solihull Pilot were half of those in Leeds and significantly less than those in the Solihull non pilot cases.

PMIT			
	Pilot Cases	Rest of Solihull Cases	Leeds Cases
Comparison Allowed Appeal Rates			
First 6 Months			
Total Appeals Heard	146	402	707
Total Appeals Allowed	31	78	165
Last 6 Months			
Total Appeals Heard	80	456	706
Total Appeals Allowed	8	79	141

PMIT			
	Pilot Cases	Rest of Solihull Cases	Leeds Cases
Comparison Allowed Appeal Rates			
First 6 Months	21%	19%	23%
Last 6 Months	10%	17%	20%



PMIT			
Allowed Appeals (as % of Appeals Heard)	Pilot Cases	Rest of Solihull Cases	Leeds Cases
First Quarter: 20th November 2006 - 28th February 2007	23%	19%	23%
Second Quarter: 01st March 2007 - 31st May 2007	20%	20%	23%
Third Quarter: 01st June 2007 - 31st August 2007	10%	18%	22%
Fourth Quarter: 01st September 2007 - 07th December 2007	10%	17%	18%



- **More Effective Conclusion Of Negative Decisions**

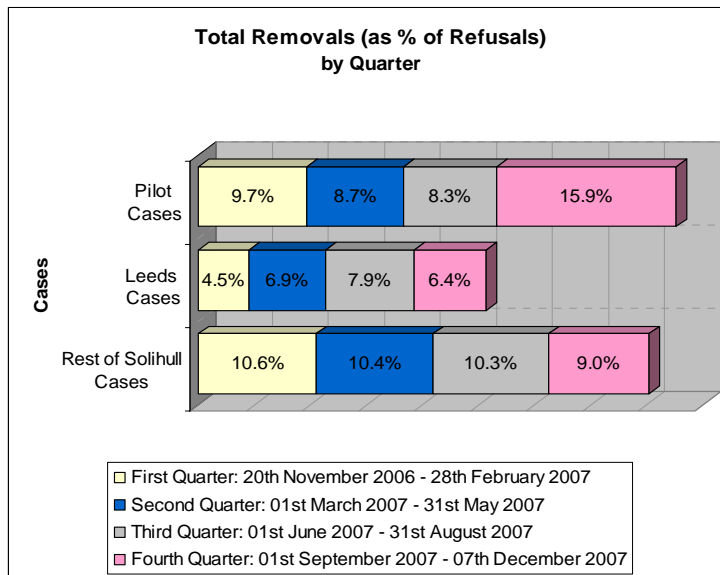
XXXVI Finding

The overall numbers are too small to draw a conclusion based solely on the statistics. The statistical information that is available is supported by the anecdotal evidence below.

XXXVII This element appears to have been met with an improvement in the period when the Solihull Pilot was properly operational.

PMIT			
Total Removals (as % of Refusals) by Quarter	Pilot Cases	Rest of Solihull Cases	Leeds Cases
First Quarter: 20th November 2006 - 28th February 2007			
Total Removals (as % of Refusals) by Quarter	9	21	15
Second Quarter: 01 st March 2007 - 31 st May 2007			
Total Removals (as % of Refusals) by Quarter	6	38	43
Third Quarter: 01st June 2007 - 31st August 2007			
Total Removals (as % of Refusals) by Quarter	4	37	49
Fourth Quarter: 01st September 2007 - 07th December 2007			
Total Removals (as % of Refusals) by Quarter	7	35	37

PMIT			
Total Removals (as % of Refusals) by Quarter	Pilot Cases	Rest of Solihull Cases	Leeds Cases
First Quarter: 20th November 2006 - 28th February 2007			
Total Removals (as % of Refusals) by Quarter	9.7%	10.6%	4.5%
Second Quarter: 01 st March 2007 - 31 st May 2007			
Total Removals (as % of Refusals) by Quarter	8.7%	10.4%	6.9%
Third Quarter: 01st June 2007 - 31st August 2007			
Total Removals (as % of Refusals) by Quarter	8.3%	10.3%	7.9%
Fourth Quarter: 01st September 2007 - 07th December 2007			
Total Removals (as % of Refusals) by Quarter	15.9%	9.0%	6.4%



XXXVIII Caseowners and legal representatives both reported that they thought there was a greater understanding and acceptance by the applicant of the reasons for a negative decision. Caseowners and legal representatives commented that because the applicant had been involved throughout the whole process the applicants seemed to appreciate that they had been able to put their case fully.

XXXIX Report on the Evaluation Working Group:

“That the interactive process, building on the NAM Case Owner model, delivered better overall ‘client care’, with Case Owners and Legal Representatives all reporting positive client feedback and a strong impression that negative decisions were better received by the asylum claimants;”

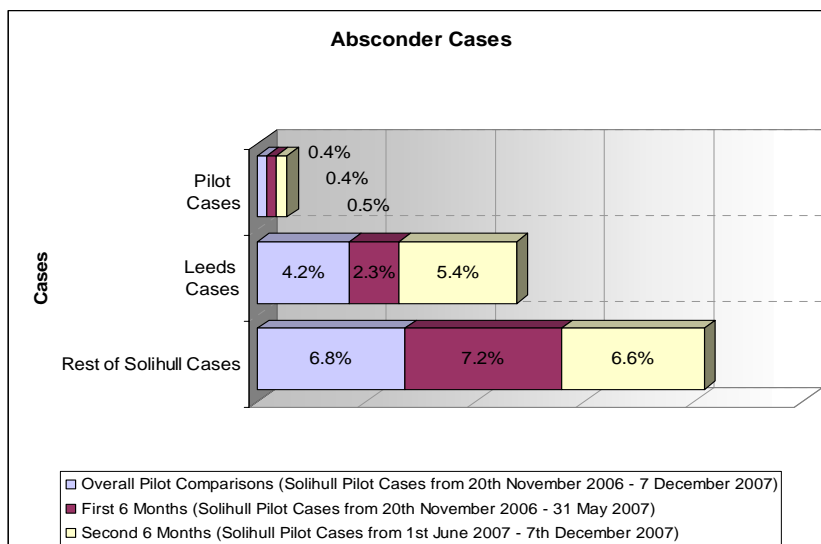
- **Closer Case Contact Management Resulting In Fewer Absconders**

XL Finding

The numbers involved are too small to draw a conclusion based solely on the statistics but again the statistical information that is available is supported by the anecdotal evidence below. It appears this element was met.

PMIT			
Absconder Cases	Pilot Cases	Rest of Solihull Cases	Leeds Cases
Overall Pilot Comparisons (Solihull Pilot Cases from 20th November 2006 - 7 December 2007)			
Total Intake	242	936	1315
First 6 Months (Solihull Pilot Cases from 20th November 2006 - 31 May 2007)			
Total Absconders	1	67	30
Second 6 Months (Solihull Pilot Cases from 1st June 2007 - 7th December 2007)			
Total Absconders	1	110	120

PMIT			
Absconder Cases	Pilot Cases	Rest of Solihull Cases	Leeds Cases
Overall Pilot Comparisons (Solihull Pilot Cases from 20th November 2006 - 7 December 2007)			
	0.4%	6.8%	4.2%
First 6 Months (Solihull Pilot Cases from 20th November 2006 - 31 May 2007)			
	0.4%	7.2%	2.3%
Second 6 Months (Solihull Pilot Cases from 1st June 2007 - 7th December 2007)			
	0.5%	6.6%	5.4%



XLI Caseowners reported that they felt the overall close contact with the applicant and the

legal representative helped in the respect of effecting a removal if the application was ultimately refused.

- **Quality Of Service**

XLII Finding

The anecdotal evidence was that the overall quality of service to the applicant was thought to be greatly enhanced. Caseowners and legal representatives both reported that the applicants benefited from the Solihull Pilot procedure. Overwhelmingly they reported that the applicants felt more engaged with their claim and that they seemed to have a better understanding of what was happening at each stage of their claim.

This element was met in the Solihull Pilot

Key Success Indicator: Faster, higher quality and more sustainable asylum decisions

XLIII Finding

Taking account of the seven elements in the round this Key Success Indicator was met where the Solihull Pilot procedure was followed.

Objective

XLIV **Caseowners And Legal Representatives To Commit Themselves To The Cultural Change Required**

Finding

This element was met in the main in the Solihull Pilot.

XLV Maurice Wren's Notes For the Project Board Meeting 08 October 2008

Maurice Wren, Director of Asylum Aid, was the key stakeholder representative on the Evaluation Group throughout the period of Solihull Pilot.

XLVI Maurice ran the Evaluation Workshops for legal representatives and Caseowners and wrote Early Legal Advice Pilot – Report on the Evaluation Workshop (Appendix 3).

XLVII In this capacity Maurice was invited to attend and address the final Project Board meeting

to give his perspective on the Solihull Pilot.

- XLVIII The Project Board requested that Maurice submit notes summarising his contribution at the Project Board meeting for inclusion in the executive summary in addition to his full Evaluation Workshop report contained in the Appendices.
- XLIX Maurice's notes are attached at the end of the executive summary at page 21.

Conclusions

- L The findings indicate that the Solihull Pilot procedure was successful.
- LI Where conclusions could be drawn from the statistics and supporting information, the Solihull Pilot met its Key Success Indicators when the Solihull Pilot procedure was followed.
- LII The Solihull Pilot exceeded the Key Success Indicator for case conclusion targets (when applicants are either integrated or removed within six months).
- LIII The potential for large savings on NASS support, AIT and LSC costs have been identified in relation to more sustainable decisions and a consequent reduction of allowed appeals. More detailed statistical retrieval would need to be undertaken to quantify these on a like by like comparator.
- LIV It was not possible to draw comparative conclusions between the Solihull Pilot and Leeds about the cost implications because of deficiencies in the statistical information available and control group limitations.
- LV The sophisticated system of data collecting, detailed reporting and closer liaison designed by the LSC for the Solihull Pilot is a greatly improved system for statistical analysis and monitoring.
- LVI There was unanimous agreement on the importance of having a witness statement and all relevant evidence in front of the decision maker before a decision.

- LVII There was a marked difference between the first and second six months when the Solihull Pilot was properly operational.
- LVIII There were some problems identified during the Solihull Pilot in effecting the practical implementation of parts of the Solihull Pilot procedure.
- LIV When the Solihull Pilot procedure was followed there were noticeable benefits for all parties involved.
- LV There needs to be adherence to the timelines detailed below at pages 95-96 to allow all elements of the procedure to be implemented.
- LVI The following recommendations are made in the light of the above conclusions:

Recommendations

- LVII The Solihull Pilot procedure and timelines contained in this report at pages 95-96 should become the normal procedure adopted for the decision making element of an asylum claim.
- LVIII Solihull should be the first region to implement the procedure which must be followed by all parties.
- LIX The procedure and timelines that are detailed below at pages 93-96 must be followed.
- LX A full life cycle costing analysis should be conducted by UKBA in preparation for a business case to roll out the Solihull Pilot procedure to all regions.
- LXI A more structured statistical analysis is required to calculate potential savings based on a like by like comparator.
- LXII This analysis should utilise the more detailed, sophisticated reporting template designed

by the LSC for EAP providers.

- LXIII The LSC should introduce the reporting template designed for the detailed statistical analysis underpinning any new contracts with providers. Funding will be subject to a robust monitoring system linked to Key Performance Indicators (KPIs).
- LXIV The LSC should introduce the same quality review criteria as that applied in the Solihull Pilot as the norm, to include a detailed quality analysis of advice and/or action at each key stage which will be incorporated into KPIs
- LXV All new contracts should state explicitly that the quality standards expected will underpin the contract. Contract compliance will be subject to robust monitoring through the reporting template in conjunction with a quality review based on these criteria.
- LXVI The LSC template and the quality review criteria will be the basis for strict contract compliance for representation for each client at all stages of the claim. Failure to comply with any KPI will constitute a breach of contract and will result in loss of payment from the LSC for the whole or part of that case.
- LXVII UKBA should allocate a dedicated manager to oversee the implementation and to ensure the new procedure is fully implemented.
- LXVIII Attendance at the User Groups, training and briefing sessions should attract CPD points for the legal representatives and should be treated as working hours for Caseowners and managers as an integral part of their working duties.
- LXIX An Implementation Group should be established, the make up of which should include representatives from UKBA including Caseowners, LSC, EAP Providers and One Stop Service Providers. The key functions of this group would be to monitor the implementation of the new procedure and to raise and try and resolve any practical problems in the implementation of the new procedure.
- LXX Following a further six month period of the Solihull Pilot procedure being established in

Solihull, UKBA working in liaison with the LSC will plan a steady and phased introduction of this procedure to the other regions.

Key Stakeholder's Notes For the Project Board Meeting 8 October 2008.

Maurice Wren – Director of Asylum Aid

The Pilot

- LXXI The idea for the Solihull Pilot grew out of the external stakeholding process established in 2005 to support the development of the NAM. The design of the Pilot was the outcome of a collaborative process initiated by the BIA and LSC, and involving NGO stakeholders, in 2006.
- LXXII The concept of the Pilot was a logical extension of the NAM reform and represented a practical expression of the BIA's commitment to improve the quality of initial asylum decision-making by frontloading of the system and achieving 'cultural change' in the asylum determination process.

Key Qualitative Outcomes

- LXXIII
- **Client care**
- The Pilot has delivered impressive client care. The statistics on absconding suggest a high degree of claimant confidence that is borne out by the anecdotal evidence from COs and LRs. Indeed, the Pilot gave real force and significance to one of the cornerstones of the NAM: the relationship between CO and claimant.
- LXIV
- **Good practice**
- High levels of pilot compliance were achieved because the interactive process works for all parties – COs, Legal Reps and claimants. Strong evidence to support this is in the adoption of Pilot practices by Solihull COs and Legal Reps in their other work, and in the Stone Rd Initiative
- LXV
- **Rebalancing the system**
- The pilot enhanced the roles of the CO and LR, by challenging the prevailing view that the

real work starts at the pre-appeal stage. This increased job satisfaction and ensured that the investment in frontloading really began to pay off. The increased engagement between COs and LRs generated mutual understanding and respect. This meant that *empathy* - towards claimants, and towards COs and LRs - began to play a part in the decision-making process. A rebalanced system also takes pressure off the AIT and enables it to do the job it was designed for.

LXVI • **Communication and Control**

The Pilot fostered dependable channels of communication – case and non-case based - and invested local participants with the authority to adapt the process to fit local conditions. These proved to be vital in the generation of cultural change.

LXVII • **Reliable data**

The provision of reliable performance monitoring data provided clarity and a firm platform for shared analysis. This reinforced the confidence of all participants in the Pilot removing suspicions and created the sense of a level playing field.

LXVIII • **Flexibility**

Flexibility over the interpretation of national guidelines and the application of national targets enabled problems to be overcome swiftly and inclusively, in ways that encouraged and rewarded ownership of the pilot process.

Learning the Pilot lessons

LXIX Just as the problems besetting the Pilot were rarely Solihull specific, so the lessons of the pilot are not Solihull specific either:

LXX • **Constructive engagement – operational/strategic stakeholding**

The Pilot proved that effective operational collaboration is possible between the UKBA, LSC and the NGO sector, if there is a basis of trust, respect and clarity of purpose. The way the Pilot worked should inform future stakeholding engagement and the further development of the NAM. This means more joint planning, proposition testing, problem solving, data analysis, participant influence and control. Critically, all sides were able to maintain ‘clean hands’ throughout the collaborative process.

LXXI • **UKBA/LSC liaison**

The Pilot demonstrated the extent of UKBA/LSC collaboration needed to make frontloading work. A national roll out of the Pilot would require a far higher degree of joint strategic planning than is presently the case.

LXXII • **The problem of mediocrity**

Poor quality decision making and incompetent legal representation present obvious problems for the NAM. What the Pilot demonstrated is that mediocre and careless service provision is just as big a problem, though one that's far less recognised. The Pilot highlighted the need for mechanisms that can ensure consistent, higher levels of constructive engagement, if real and sustainable cultural change is to be achieved.

LXXIII • **Staff Retention**

Staff who derive self respect and job satisfaction from their work are more likely to stay in post and, as the Pilot suggests, embed cultural change. We all have a vested interest in changing the poor image of jobs in the asylum sector. True frontloading means that COs and LRs see themselves as working in the protection and human rights business. Better staff retention also represents a further saving that can be fed into the cost equation.

LXXIV • **System credibility**

The Pilot demonstrates that genuine frontloading imbues the system with credibility and enables all the participants to achieve their objectives – a fair hearing for the claimant, due process for the Legal Reps and sustainable, timely decisions for the COs.

Background to The Solihull Pilot /Early Legal Advice Pilot (EAP)

Front-Loading Legal Advice

- 1 In March 2006 United Kingdom Border Agency (UKBA), formerly known as the Border and Immigration Agency (BIA) and the Legal Services Commission (LSC) developed a joint draft proposition paper for improving the quality of asylum decisions. The proposal was to allow claimants access to quality information and advice from legal advisors from the earliest stages of the asylum process.
- 2 Following an agreed consultation process with external stakeholders, there was a detailed, joint submission by UKBA and the LSC in July 2006, which received formal approval from the two respective Ministers, for a small-scale test of some aspects of this approach.
- 3 The parts of the proposal to be tested included a more interactive role for the legal representatives before, during and after the substantive asylum interview, prior to the decision. Simultaneously relevant evidence gathering was to be funded prior to the decision.
- 4 One of the main aims of the pilot was to ensure that all material facts and all relevant evidence were in front of the decision maker at the time they made the decision.
- 5 Funding is not available generally to legal representatives for detailed evidence gathering or expert reports pre-decision in the vast majority of claims funded by L H, prior to the decision, thus the full facts and evidence of a claim are often not available until the appeal stage of a refused asylum claim.
- 6 The test of the new approach was in Solihull, initially over a six-month pilot period, it was known by different parties as the Solihull Pilot, the Early Advice Pilot, the Early Advice Pilot in Solihull and the Early Legal Advice Pilot in Solihull. For the purposes of this report it will be referred to as the Solihull Pilot.
- 7 UKBA agreed the necessary changes to allow for attendance of the legal representatives at

interview. Authorisation under Section 6 (8) Access to Justice Act 1999 made the necessary changes to the legal aid provision to bring attendance at interview back into the scope of legal aid for the Solihull Pilot.

- 8 The role of the legal representative at interview was to play an active role. It was expected that the interview would be the forum for clarifying issues, testing issues that remained in dispute, identifying where further evidence or submissions may be required and agreeing on a timescale to submit these. The representative was to assist in identifying where further examination may help to elicit extra relevant information and was expected to make oral submissions at the interview. Both sides at the interview were to share the responsibility of ensuring that all matters relevant to the claim had been put forward, tested and were available for consideration before the decision was made on the claim.
- 9 The LSC invited the firms providing legal representation in the West Midlands to put in a tender if they wanted to participate in the Solihull Pilot. The tender criteria stated that providers should offer *“the best service to clients through sufficient numbers of skilled and experienced staff, effective supervision arrangements, applicable experience and who had a good track record of audit with the Commission.”* It was felt this was necessary to ensure that the same legal representative could do all aspects of the work on a case including representation at interview, which is Level 2 work. This would give a mirrored continuity of Caseowner and legal representative for the benefit of the applicant. There were 12 providers selected to be EAP providers. In light of the requirement to attend and play an active role in the interview EAP providers were remunerated at higher advocacy payment rates of £69.60 per hour.
- 10 The stated operational objectives of the Solihull Pilot were to:
Give all parties an earlier opportunity to identify relevant evidence through a much closer working relationship before the interview and a more interactive role for the representative at the asylum interview itself, including through the early and funded provision of factual claims, country information, documentary evidence and/or expert opinions.
- 11 Ensure that most cases are decided within tight time limits but on the overriding understanding that the entire case has been put forward before the initial decision rather

than coming to light fully only at the appeal stage.

- 12 The aims of the Solihull Pilot were to:
Ensure fast access to quality legal advice immediately upon dispersal and contact between the case owner and legal representative from the moment the file reaches the New Asylum Model (NAM) team.
- 13 Achieve faster, higher quality and more sustainable asylum decisions leading to:
- Faster recognition and integration of refugees;
 - More sustainable negative decisions and fewer successful appeals;
 - Faster and less controversial enforcement of negative decisions;
 - Overall cost savings with any rise in the Legal Aid budget offset by savings elsewhere.
- 14 Leeds was supposed to be the statistical control group to test the effectiveness of the Solihull Pilot because it was a contemporaneous new NAM team. It was envisaged that because Leeds and Solihull were two contemporaneous new NAM teams that in all matters other than the unique features of the Solihull Pilot, like would be compared to like, thus indicating the impact of the various elements of the Solihull Pilot. With the benefit of hindsight, it is apparent that this did not happen in a scientifically controlled manner and the profile of the intake of applicants in Leeds was very different to that of Solihull.
- 15 Leeds was a “blind” control group i.e. no-one in Leeds was informed that it was the control group for the Solihull Pilot. Again, with the benefit of hindsight this adversely affected the ability of the LSC to collate comparative data.
- 16 Although the Solihull Pilot nominally commenced in November 2006, the first three months were beset with administrative and referral problems. Changes were made to the referral system and routing arrangements. The Solihull Pilot continued with the improved systems in February 2007. Further constraints and operational matters resulted in insufficient statistics being available by May 2007 and by agreement the Solihull Pilot was extended until 07 December 2007.

Methodology And Background Information For The Evaluation Report

- 17 Statistics were collated by UKBA Performance Management Information Team (PMIT). PMIT is to be thanked for the sterling effort it has made in order to collate the statistical data that is available from UKBA. These have formed the basis of the statistical analysis of the effects of the Solihull Pilot Procedure. (PMIT statistics Appendix 1)
- 18 The statistics are based on information recorded electronically on UKBA's Case Information Database (CID). At each stage of an asylum claim the Caseowners are required to make an electronic entry into this central information system. It is recognised that compliance with entering the data is variable. PMIT gave the following caveat to the accuracy of Solihull Pilot statistics: that the Solihull Pilot, Solihull non pilot and Leeds statistics were as recorded on CID.
- 19 LSC is to be thanked for its detailed statistical analysis and interpretive report, (Appendix 2). The LSC Report is illuminative regarding the practical application of the Solihull Pilot by the EAP providers.
- 20 The LSC commissioned a Quality Review, designed particularly to review the performance of the EAP providers in all aspects of the Solihull Pilot (Pages 15-24 of the LSC report).
- 21 The LSC Report and the Quality Review have proved to be very helpful documents in evaluating some of the Key Success Indicators of the Solihull Pilot, examining the practical application of representation of the EAP providers and in informing some of the conclusions and recommendations in this report.
- 22 Leeds was a "blind" control group. With the benefit of hindsight, it is apparent that this did not happen in a scientifically controlled manner and the profile of the intake of applicants in Leeds was very different to that of Solihull. This impacted on the usefulness of some of the raw data because there was no like by like comparison.
- 23 In order to maximize the reliability of the statistics UKBA and the LSC crossed referenced their statistics and achieved a common database covering the statistics that both

organisations had recorded as pilot cases.

- 24 In addition for the case conclusion data a further set of data has been produced by UKBA. This comprises of a smaller control group of Leeds cases and relates only to those cases where the LSC has an outcome recorded as well as UKBA (LSC/Leeds correlated sample)
- 25 I attended a series of meetings with UKBA and LSC.
- 26 I interviewed 14 out of the 24 Caseowners and legal representatives in all of the EAP provider firms. In all but two of the EAP provider firms, I interviewed a number of the legal representatives who had participated in the Solihull Pilot.
- 27 These interviews were conducted in order to assess if the Key Success Indicators had been met and to provide informative, first-hand, narrative background to explain some of the statistical data in context.
- 28 I held meetings with two key stakeholders who were on the Evaluation Group, Maurice Wren, Director of Asylum Aid, who ran the Evaluation Workshops for legal representatives and Caseowners and who wrote Early Legal Advice Pilot – Report on the Evaluation Workshop (Appendix 3), and UNHCR who had been asked to conduct an evaluation of the Solihull Pilot. UNHCR Evaluation Report (Appendix 4)
- 29 From April 2006 to the end of May 2007 I was the Assistant and then the Deputy Director of UKBA's Central Quality Team. The Quality Team did not have any day-to-day involvement with the Solihull Pilot but it did have a role in the overall evaluation of the Solihull Pilot. In this capacity, I attended the Stakeholder consultation workshop in June 2006, I attended the Solihull Pilot Evaluation Group meetings and the Project Board meetings from the Solihull Pilot's inception in November 2006 until May 2007. I was also a regular attendee of the Solihull Pilot User Group meetings (User Group). I have used the discussions at these meetings as background information when analysing the data provided by UKBA, the LSC and when evaluating the success of the Solihull Pilot.
- 30 UNHCR's Quality Initiative (QI) team conducted an evaluation of the Solihull Pilot at the

request of UKBA and the LSC. (Appendix 4)

31 UNHCR’s report is useful in its descriptive analysis of the Solihull Pilot procedure. It will be referred to in this context, however due to the personnel constraints of the QI team it was unable to collect sufficient statistical data, which has had a negative impact on the reliability of any comparative statistical conclusions drawn in the UNHCR Evaluation Report.

32 UNHCR undertook to audit “10% of all decisions taken within the Solihull Pilot and an adequate proportion of interviews” and to “sample and assess a similar proportion of interviews and decisions by the NAM teams in Leeds to enable, in so far as is possible, a comparison with those sampled and assessed in Solihull”. (Terms of Reference Annex 1 UNHCR Evaluation Report).

33 The covering letter of UNHCR’s Evaluation Report states “In order to highlight the impact of pilot procedures on quality, UNHCR sampled a smaller number of non-pilot (Solihull and Leeds) interviews and decisions to make comparative assessments between these regions and pilot cases.” Unfortunately the numbers of decisions and interviews audited in Leeds and in the Solihull non pilot cases by UNHCR, was so small a proportion of cases as to render statistical “comparative assessments” unviable.

34 Decisions audited by UNHCR

Solihull Pilot	13.3%	(60 out of 451 cases)
Leeds	1.2%	(41 out of 3550 cases)
Solihull non pilot	0.45%	(12 out of 2613 cases)

35 Interviews audited by UNHCR

Solihull Pilot	3.1%	(14 interviews assessed)
Leeds	0.05%	(2 interviews assessed)
Solihull non pilot	0.03%	(1 interview assessed)

36 It is not possible to draw any statistical conclusions from one or two cases (the interviews in Leeds and Solihull non pilot cases) nor from samples of less than 1.5% on such a small base number of cases assessed in Leeds and Solihull non pilot cases.

37 Nevertheless, despite the UNHCR Evaluation Report's statistical shortcomings, the narrative account was helpful. The QI team made interesting findings from the file reviews and interviews that are informative about the application and effect of the Solihull Pilot procedure. UNHCR is thanked for its efforts in contributing to the evaluation of the Solihull Pilot procedure and for its comments and observations about the Solihull Pilot.

Success Criteria For The Solihull Pilot

- 38 There were three main elements identified as being key indicators of the overall success of the Solihull Pilot (Key Success Indicators), and one objective. The Key Success Indicators have to include the UKBA Public Service Agreement (PSA) target. The PSA target is in cohorts from June 2007 - December 2007 – May 2008 it was 40% of cases to be concluded within six months, this changed in June 2008 – December 2008 to 60% of case concluded within six months. Cases are concluded when an applicant is integrated or removed within six months (case conclusion)
- 39 UKBA and the LSC defined the Key Success Indicators in order to evaluate if these were met wholly, in part or not at all through the Solihull Pilot procedure. The Key Success Indicators were based on the original aims and operational objectives in the proposition paper “Testing Implementation of Early & Interactive Legal Advice New Asylum Model Quality Team & Legal Services Commission July 2006” (Proposition Paper). (Appendix 5).

Key Success Indicators

- 40 There were three main elements identified as being key indicators of the overall success of the Solihull Pilot and one objective.
- 41
- 1 Case conclusion targets met (cases where the applicant is integrated or removed within six months)
 - 2 Overall cost savings with any rise in the Legal Aid budget offset by savings elsewhere
 - 3 Faster, higher quality and more sustainable asylum decisions where:
 - All material facts and all relevant evidence are identified and placed into account prior to decision
 - More focused interviews lead to shorter interview times
 - Faster recognition and integration of refugees
 - More sustainable negative decisions with lower appeal allowed rate
 - More effective conclusion of negative decisions

- Closer case contact management resulting in fewer absconders
- Improved overall quality of service provided by the system

Objective

- 42 In order to achieve the above Caseowners and legal representatives had to commit to achieving the cultural change required.

The Solihull Pilot Procedure

- 43 As defined in the Proposition Paper.
- 44 One of the main aims of the Solihull Pilot was to ensure that all relevant information and evidence be identified and put in front of the decision maker for consideration prior to the decision. This was to assist in making an informed, coherent and more sustainable decision.
- 45 Funding is not available generally to legal representatives for detailed evidence gathering or expert reports in the vast majority of claims funded by Legal Help pre decision. It is usually only available following the refusal of an application when the claim is proceeding to the appeal stage.
- 46 The Solihull Pilot was designed to expect the legal representatives and the Caseowners to work together to identify the key issues in the case, which issues were not in dispute or were not relevant to the core of the claim and which issues may benefit from further specific evidence. This would allow the matters that do not require specific evidence to be quickly dispatched, allowing for evidence gathering being concentrated on material issues that remain in dispute.
- 47 There was an expected timeline and procedure for the Solihull Pilot outlined as follows:
Ordinary Timelines
- Day one applicant screened
 - Day two applicant dispersed by routing team to Solihull catchment area
 - Within three days of arriving in the Solihull catchment dispersal area the applicant is given an appointment with a legal representative from the rota
 - Six days after this initial interview the legal representative submits a statement of claim and supporting evidence, normally country of origin information and other objective evidence already in the public domain.
 - Pre-interview, pro forma discussion. At sometime during the next five days the Caseowner and legal representative agree on matters that are not considered in dispute and agree on the focus of the interview. If further specific evidence is

required at this stage then the Flexibility Criteria will be adopted allowing the legal representative an agreed time that is required in order to provide specific evidence on material issues so that the Caseowner can make a decision with all available evidence in account.

- Following the Pro Forma discussion the substantive asylum interview takes place
- The substantive interview is an interactive interview. The Caseowner remains in charge of the interview but s/he may invite the legal representative to ask questions for clarification and will expect the legal representative to make oral submissions.
- Post-interview discussion/pro forma/submissions/ representations. It is open to the parties to agree a timetable for further submissions or evidence either in relation to issues already raised or to those which arose for the first time during the interview. As with all aspects of the Solihull Pilot the objective is to ensure that all relevant evidence has been put into account.
- Decision is served

What Happened In Practice And Evaluation

Constraints On The Solihull Pilot During The First Six Months

30 Day Decision Target

48 Higher central management took a decision that all cases should be decided in 30 days. This instruction did not always work with one of the main aims of the pilot i.e. for both Caseowner and legal representative to work together to ensure that all relevant evidence was before the decision maker and could therefore be taken into account at the time of the decision. It was anticipated that in a minority of cases this could result in a delay to the decision but if this resulted in a more sustainable decision this delay would still result in an earlier case conclusion. The Proposition Paper detailed instances where a delay may reasonably occur in the section “The Flexibility Criteria”.

49 *“The flexibility criteria seek to define, without being exhaustive, those occasions when a fair and sustainable decision may not be able reasonably to be made within one month. The criteria set out circumstances where the time limits may (but not necessarily will) have to operate flexibly by agreement to ensure that applicants and their legal representatives have the time which is required to provide specific evidence on material issues in dispute and so that the case owner can make just decisions with all available evidence”.*

50 Even though this was stated clearly in the Proposition Paper, some of the managers at Solihull insisted that the 30 day decision target must be kept and refused to allow the flexibility criteria to be exercised. These managers instructed Caseowners to drop cases from the Solihull Pilot if the pilot procedure was going to delay the 30 day decision target and call them “non pilot” cases.

Referrals

51 The first three months of the Solihull Pilot were beset with administrative and referral problems outlined below:

52 For the period of the Solihull Pilot, the intention was that every asylum applicant being dispersed to Solihull would go through the Solihull Pilot with the following exceptions:

53 1. Applicants with existing legal representatives

54 2. Applicants with families who had legal representatives who opted to go to the same legal representative

55 3. Applicants who lived outside the 30 mile radius from Solihull.

56 4. Applicants paying privately for legal representation

57 At User Group, EAP provider and Caseowner meetings, it became apparent that the referral system to the EAP provider was not working as intended.

58 A number of applicants fell into categories 1 & 2 above, who had secured legal representatives in London and environs before they arrived in Solihull. It was discovered that there was a problem with the routing arrangements. This resulted in applicants staying in their emergency accommodation in the South East for a couple of weeks instead of a couple of days as originally planned. In this time, many applicants had already instructed a legal representative in London and the South East by the time they arrived in Solihull.

59 The referral system for the EAP providers was organised on a rota basis by the LSC. EAP providers were required to keep an agreed number of appointment "slots" on set days. The Caseowner at the First Reporting Event (FRE), which was the first contact point between the applicant and the Caseowner, then gave the appointments to the applicants.

60 In order for the timelines to work, it was imperative that the applicant turned up for their first legal appointment with their duly allocated rota EAP provider. In the period from November 2006 to December 2006 this was not happening in many cases.

- 61 The EAP providers complained that they had allocated the “slots” but no one turned up for the appointment and simultaneously applicants would turn up when there were no pre-arranged “slots” and without an appointment.
- 62 Sometimes applicants failed to arrive on time for the FRE and therefore would not be allocated an appointment with a legal representative.
- 63 It became impossible for a case to meet the timelines of the Solihull Pilot once the first FRE or appointment had been missed. The managers at Solihull took the view that it was not possible to delay conducting an interview in order to accommodate the Solihull Pilot. Managers instructed Caseowners to drop from the Solihull Pilot all missed FRE cases and cases where there was a delayed interview with a legal representative and call them “non pilot” cases. At least one manager told Caseowners any cases where a witness statement had not been received before the interview must always be taken out of the Solihull Pilot, even when the legal representative did keep the interview appointment. Managers told Caseowners to proceed to determine these cases in the usual way without any aspect of the Solihull Pilot procedure being applied. This caused confusion to Caseowners and undermined the implementation of the Solihull Pilot. It also resulted in cases being declared “non-pilot” cases in a random and arbitrary manner. Anecdotal evidence from the Caseowner meetings, and from the interviews with Caseowners, was that this also allowed Caseowners who were resistant to introducing the necessary cultural and procedural change to class most, if not all, of their cases as non pilot cases.

Cancelled Interviews

- 64 At User Group, EAP provider and Caseowner meetings it became clear that there was a problem with UKBA cancelling interviews without notifying the representatives. The cause of this appeared to be that the UKBA interpreter had either not been booked or did not turn up at the appointed time.
- 65 This had a negative impact on the timelines. Other work commitments meant that it was often difficult for the legal representatives and the Caseowners to reschedule an interview at short notice.

66 Managers ordered Caseowners to drop many of these cases from the Solihull Pilot because it was felt they were no longer able to meet the 30 day decision target.

Old/Pre-Existing Cases

67 All cases routed to Solihull were supposed to be new claims for asylum. At the Caseowner and User group meetings it became apparent that a significant number of applicants with outstanding claims were also being sent to Solihull inappropriately. In the first six month period there were numerous applicants who were not at the beginning of the process and some had even had already been refused asylum and had received a Reasons for Refusal Letter. All such claims had to be treated as Solihull non pilot cases because the pilot procedure could not be applied.

Changes Made For The Second Six Months

68 By the end of the first six months the User Group meetings had discussed the problems, actions were taken and they were mostly resolved. It took six months for the Solihull Pilot to be truly operational. The mutual cooperation to resolving the earlier problems was itself evidence that the User Group was functioning effectively.

Evaluation Of The Practical Application Of The Solihull Pilot Procedure

69 The anecdotal evidence given during the interviews conducted with the Caseowners and the legal representatives has informed the following observations. The LSC Quality Review, UNHCR's Evaluation Report and The Report on the Evaluation Workshop are quoted where these documents have commented on an aspect of the procedure.

Witness Statement And Supporting Evidence

70 This was often produced later than six days after the initial interview with the legal representatives. The witness statement was often faxed to the Caseowner either the evening before an interview or in the morning of an interview scheduled for the afternoon.

- 71 Without exception, the Caseowners expressed the view that receiving a witness statement before an interview was beneficial because it helped them to focus on the key elements in the interview and enabled them to conduct more targeted research before an interview.
- 72 Some of the Caseowners commented on the variable quality of the witness statements produced by different EAP providers.
- 73 One EAP provider routinely submitted a large generic “bundle” together with the witness statement. Caseowners expressed the view that this was not helpful because it always consisted of a collection of general reports available and commonly used by Caseowners, without being tailored to the specifics of the claim or its relevance identified through detailed representations.
- 74 LSC’s Quality Review:
“In EAP cases the advisor has ten days from the date that the applicant is screened within which to submit a witness statement and any supporting evidence. This is a very tight framework, but I noted that most advisors did strive to comply with these guidelines. In any event most did provide the Home Office case owner with their client’s statement prior to the client’s substantive interview, with some faxing the statement on the actual interview day”.
- 75 LSC’s Quality Review:
“On the whole this was the best feature of the EAP files. I noted that of the providers reviewed all produced good quality detailed statements, with some providers preparing statements of excellent quality.”
- 76 *“One providers’s statements were not of the quality that one would expect but generally statements were very well produced”.*
- 77 LSC’s Quality Review:
“The quality however of these written submissions varied from provider to provider. One provider routinely produced a standardised country of information document and

forwarded this to the Home Office prior to the substantive interview. Generally however most advisors were aware of the benefit of the submission of representations.”

78 Finding

Having a statement of claim before the interview and all necessary evidence before a decision assists in making a well-reasoned decision on the case.

Recommendation

79 That a good quality detailed witness statement is always produced to be with UKBA no later than three days before the substantive interview.

Pre-Interview Pro Forma And Pre- Interview Discussion

80 This was supposed to happen within five days of the witness statement being submitted. The anecdotal evidence is that there was often no time to conduct a pre-interview, pro forma discussion before the day of the interview but that it did usually happened immediately before the substantive interview. Some Caseowners appeared to be reluctant to make a record of these discussions.

81 UNHCR:

“While in the majority of cases the pilot pro forma was not used pre-interview to identify the relevant material facts and “narrow” the issues for consideration, in many cases there were indications that discussions between the Case Owner and Legal Representative may have occurred (e.g. note on file or UNHCR’s observation of the interview), even if they weren’t fully recorded on the pro forma. Indeed, over the course of the pilot there was growing evidence of these discussions having taken place.

82 *When observing live interviews, UNHCR was able to witness the conversations that took place between Case Owners and Legal Representatives even when they weren’t recorded appropriately on the pro forma. Anecdotally, it was often apparent that the conversations themselves led to more focused interviews and, on more rare occasions, agreement over required evidence that was then sought or commissioned at the pre-interview stage. Such evidence included medical reports, expert country reports, age*

assessments, and copies of arrest warrants from the country of origin.”

83 LSC’s Quality Review:

“In some cases it should be accepted that it is not practical to narrow the issues by way of a pro forma prior to the substantive interview if the advisor has not had the opportunity to do such where for example the interview takes place immediately after the statement has been submitted. In such cases I noted that commonly some case owners would either discuss the pro forma with the advisor prior to the substantive interview i.e. on the day or after the interview had actually been conducted”.

84 *“I would suggest that it is good practice to try and agree matters in advance of the client’s interview, as it then allows the advisor to concentrate on preparing the client for those areas of their case that remain in dispute.”*

85 Report on the Evaluation Workshop:

“The pressure of adhering to BIA (UKBA) target timescales also meant that the time for pre- and post-interview discussions on individual cases was limited”.

86 Finding

The pre- interview, pro forma discussion assists in focusing the interview. It can facilitate agreeing evidence required prior to the interview.

Recommendation

87 A pre-interview discussion must take place following receipt of the witness statement and no later than the day before the interview.

88 The pro forma discussion must take place and a copy placed on Caseowner and legal representatives’ files. The pro forma does not require a signature; it is a record of the discussion and it is not legally binding.

89 Managers must ensure this interview is scheduled into work diaries by the Caseowners.

Interactive Interview

- 90 It was felt this part of the Solihull Pilot was helpful where it worked. Every one of the Caseowners interviewed expressed the view that it was particularly beneficial for traumatised and vulnerable applicants.
- 91 There was a variable amount of interaction in the interviews by the different EAP providers and Caseowners.
- 92 Some EAP providers consistently took no active role in the interview and did not appear to contribute anything to the process.
- 93 There were credible but unsubstantiated reports of some “bad practice” by a few of the legal representatives. The reports included one legal representative who had fallen asleep during an interview, one who had read a local newspaper throughout an interview and one who had been sending and receiving text messages throughout the interview. The LSC is investigating these reports and will take up individual cases if and when appropriate.
- 94 Some legal representatives and Caseowners appeared to retain an adversarial approach in the interview rather than the inquisitorial approach outlined in the Proposition Paper. *“Legal representatives and Caseowners will work together to ensure that the key issues in the case are identified before the asylum interview and those which are not in dispute and do not require specific evidence are quickly dispatched, allowing the representative to concentrate on evidence gathering only for material issues which remain in dispute.”*
- 95 UNHCR:
“UNHCR’s review of interview records (as opposed to “live” assessments of interviews) suggests that the involvement of legal representatives in interviews was limited, but that it increased in the latter six months of the Pilot. However, observations of “live” interviews suggested that legal representatives’ involvement was greater than written records would suggest, as their questions were not always attributed to them on the interview record.

- 96 *In the interviews where legal representatives did take the opportunity to participate actively, UNHCR's assessments (particularly of live interview observations) suggested that this resulted in a positive impact on the focus and / or fact-finding potential of the interview and brought more relevant evidence to light through questioning".*
- 97 LSC Quality Review:
"There was some variance in the way that advisors behaved in the substantive interview. In many cases I noted that the advisor did not have to clarify any issues or even have to ask questions due to the fact that a detailed statement had been submitted and a pro forma agreed so hence all the major issues had been clarified.
- 98 *Where as in some interviews the Case owner themselves had asked the client for all relevant information so that it was not even necessary for the advisor to ask any questions.*
- 99 *I did note on some files advisors routinely would ask one or two questions but I would state that this is a hard area in which to comment on quality of advice due to the fact that every interview and client is different."*
- 100 *"The process states that the case owner will control the interview and allow the advisor to participate in the interview with the view that they jointly ensure that all factual issues are covered before the end of the interview as this represents the last opportunity for the client to put forward his case."*
- 101 *"With this in mind it would seem that representatives would be keen to assist their client in the substantive interview. However I noted that in many cases the advisor remained silent during the interview."*
- 102 Report on the Evaluation Workshop:
"That interactive interviews contributed significantly to better decision making by ensuring that all issues in dispute were thoroughly examined and that the asylum claimant was supported by an informed representative who was familiar with the case and with the Case Owner's initial thoughts about the claim"

103 Finding

The interactive interview is helpful when both parties employ the inquisitorial approach outlined in the proposition paper. It is particularly beneficial for traumatised and vulnerable applicants.

Recommendation

104 At regular intervals in an interview, following each section of an interview, the Caseowner will ask the legal representative if they have noted anything that needs further clarification. All exchanges will be recorded on the interview record.

105 There should be a functioning first instance complaints procedure to take matters of dispute or lack of a professional approach on either side without such cases necessarily being escalated to the formal complaints procedure.

Oral Submissions

106 The anecdotal evidence is that the oral submission usually did not take place. Some Caseowners complained that a couple of legal representatives made lengthy and inappropriate submissions at the interviews.

107 The Proposition Paper is helpful in detailing the approach envisaged:
“The legal representative may wish to make representation on legal points at the end of the interview and these will be taken into account by the case owner, but the interview should not become a forum for a detailed discussion between the legal representative and the case owner of legal points. The central role of the applicant and the establishment of the facts must always be in the forefront of the minds of all parties.”

108 There was an example of “best practice” in the area of oral submissions. The approach adopted was in the form of questions to the Caseowner asking them to identify any matters that had arisen in the case so far where they had any concerns or if there were any matters that the representative could help with. This embodied the interactive, inquisitorial approach envisaged in the Proposition Paper. If further evidence or

clarification by written representations on specific matters could assist, there would be an agreement on a timeframe for submitting this further information where applicable.

109 It is clear that the term “oral submissions” was not helpful and in order for this potentially useful element of the procedure to function it should be renamed.

110 LSC Quality Review:

“It would also be at this stage that the advisor would be given the opportunity to make any oral submissions in support of the client’s case. I did not see however any evidence of the submission of oral submissions at the substantive asylum interviews on any of the files that I reviewed in this sample”.

111 Finding

A final inquisitorial interaction at the interview was helpful in establishing that all relevant matters and required evidence had been explored prior to decision.

Recommendation

112 That immediately following all interviews the legal representative will be invited by the Caseowner to ask the Caseowner the following questions:

1. If they have any concerns with the evidence given at interview in an attempt to try and clarify any outstanding issues?
2. If there are any other matters where the legal representative can be of assistance?
3. If there is any other evidence that would be useful?
4. Discuss what case law applies if applicable.
5. If written representations would be of assistance at this stage?

Post - Interview Discussion

113 It appeared that rather than oral submissions immediately following an interview the Caseowner and the legal representative often agreed to have a post-interview discussion within a couple of days of the interview. Caseowners and legal representatives reported that post- interview discussions usually did not take place.

- 114 Both Caseowners and legal representatives said the main reason for this was pressure of other work on their time and an inability to coordinate diaries. The anecdotal evidence suggests that some of the managers in Solihull did not allow Caseowners to schedule this time into their work diaries.
- 115 Where the discussions did take place they were usually found to be beneficial in identifying if there were further matters that needed clarifying or that could be subject to further specific evidence. The following approach seemed to be the most favoured:
- 116 The Caseowner would indicate if they were “minded to grant or refuse” the application. The Caseowner and legal representative would then discuss if any further evidence would be useful and/or if written submissions on particular aspects of the claim could help for clarification. If either of these applied then the specifics of what was required and a mutually agreed timescale was arranged for the legal representative to supply the further information before a decision would be made.
- 117 It appears that one legal representative employed a more hectoring approach to post-interview discussions. This appeared to result in some Caseowners trying to avoid engaging in post- interview discussions with this legal representative and undermined the interactive principles underpinning the Solihull Pilot.
- 118 UNHCR:
“UNHCR’s assessments suggest that the pro forma was often not employed post interview to identify whether issues remained in dispute. In some cases, it was not possible to conclusively identify whether discussions occurred post interview; it appears that such discussions may have taken place in other cases, but without being recorded on the pro forma. However, UNHCR understands from conversations with legal representatives and Case Owners that the post-interview discussions did not take place in a significant number of cases and less so than pre-interview discussions.”
- 119 *“On the few occasions where UNHCR saw the pro forma employed post interview, again its use was inconsistent but included some examples of good practice and some examples where relevant information was recorded on the pro forma.”*

120 Report on the Evaluation Workshop:

“That the post-interview engagement between the Case Owners and the Legal Representatives, including the use of the pro-forma, was beneficial in ‘proofing’ the intended decision, by giving Legal Representatives the opportunity to make further submissions on specific issues, by agreement with the Case Owner;”.

121 Finding

An inquisitorial post- interview discussion is beneficial where further matters needed clarification or further evidence was required before the decision. This sometimes only became apparent to the Caseowner following reflection upon an interview.

Recommendation

122 At the end of the interview the Caseowner and the legal representative put an agreed 15 minute period in their work diaries in order that this discussion can take place.

123 The Caseowner should indicate if they are minded to grant or refuse the case. Any concerns should be raised and an agreement should be reached on whether further written representations or evidence would be of assistance.

124 A record of the discussion must be placed on the Caseowners’ and legal representatives’ files, including where it is agreed by both parties that there is no need for further discussion or evidence.

Post-Interview Written Representation

125 The Caseowners felt that the post- interview written representations were helpful in many instances. There appeared to be a wide variety of practice between EAP providers. Some EAP providers submitted post- interview written representations as a matter of course and at least one EAP provider never produced further written representations.

126 LSC Quality Review:

“The submission of written submissions was a far more common feature of these files

than of the advisors making oral submissions at the substantive interview.”

127 “Three providers in the sample did not evidence any written or oral submissions whatsoever”.

128 Finding

Written representations are useful where case and/or issue specific matters have been identified as needing addressing in this way.

Recommendation

129 Written representations will always be submitted by a specified date where it has been agreed with a Caseowner that this would be helpful. The written representations will be case and issue specific.

Identifying And Placing The Material Facts In Front Of The Decision Maker Before The Decision Is Made

130 Caseowners expressed the view that they preferred having the full case laid out before them. They all were in favour of having a witness statement and all the relevant evidence. Most Caseowners liked having written representations and all the points that the legal representative wanted to make before they made a decision.

131 There seemed to be a great variance between EAP providers and even the individual legal representatives within the EAP provider firms as to the level of involvement in each stage of the Solihull Pilot Procedure.

132 Overall it was felt that the Solihull Pilot procedure usually did help in identifying the material facts and relevant evidence in most of the cases.

133 UNHCR:

“On a very positive note, in 97% of cases the pilot procedure produced further material evidence that was available at the pre-decision stage (including the witness statement and any further testimony elicited at interview through the involvement of the legal representative).”

134 *“In a significant 40% of cases further evidence other than the witness statement and information obtained through the interactive interview was available at the pre-decision stage as a result of the pilot process. Such evidence included medical reports, country of origin information and the translation of certain documents”.*

135 Finding

It is self evident a decision maker should have all material facts and evidence before them at the time of making the decision.

Recommendation

136 There is a shared duty to identify relevant evidence.

137 All relevant evidence should be in front of the decision maker before the decision.

138 The legal representative must take all efforts to ensure the timeliness of acquiring evidence identified.

139 Realistic timelines should be agreed and adhered to.

Case Ownership And The Interactive Interview

140 The premise of the Solihull Pilot was that there would be a single Caseowner and EAP provider legal representative for one applicant for the whole of the asylum process. The exceptions were only to be where this was operationally impossible e.g. when a Caseowner left or was on sick or holiday leave. The desirable criteria set out by the LSC when procuring the representatives was:

“A requirement that the Level 2 accredited advisers in place in the organisation could provide ‘seamless case ownership’ of the whole process. The LSC envisaged having single file/case ownership under the pilot”. (LSC Report)

141 The anecdotal evidence is that this often did not happen.

- 142 The managers at Solihull insisted that other operational constraints impacted on the single Caseownership premise; in particular they cited the 30 day target for making a decision as overriding the principles of the Solihull Pilot. It has been accepted that a number of Solihull Pilot files were actually sent to Harmondsworth and Oakington for a decision to be made on a Solihull Pilot case. This was regrettable because it interfered with the end to end decision making process that underpinned the whole philosophy of Caseownership.
- 143 The principle behind NAM was end-to-end case management. Caseowners were supposed to represent UKBA at the Asylum and Immigration Tribunal hearings (AIT) if one of their decisions to refuse asylum was appealed. In practice, this rarely happened in Solihull. In the vast majority of appeals to the AIT from Solihull, Presenting Officers (POs) represented UKBA.
- 144 At least one of the EAP providers did not adhere to the principle of “seamless case ownership” for an applicant throughout the whole of the asylum process. One EAP provider allocated all applicants to a team of representatives.
- 145 LSC’s Quality Review:
“Further it is not always the same advisor who sees the client in the office that will attend the substantive interview with the client hence the person who attends needs to be in a position to be able to agree such matters with the case owner”.
- 146 *“I also noted that in a number of cases where the advisor attempted to schedule a pro forma discussion with The Home Office Caseowner, it was not always possible, for example due to the Caseowners illness, holiday leave or simply due to the fact that the case owner had left and a replacement could not be found to agree the pro forma. This was noted on a number of files”.*
- 147 Report on the Evaluation Workshop:
“The BIA staffing shortages in the Solihull office that caused considerable workload pressures for Case Owners and that undermined the ELAP (and NAM) end-to-end case management principle.”

148 Finding

A single Caseowner and legal representative for one applicant for the whole of the asylum process is beneficial for all parties. It underpins the end-to end case management and seamless case ownership which improves the engagement and understanding of Caseowner, legal representative and applicant all stages of the claim.

Recommendation

149 Managers must ensure that the end to end case management is implemented. The only exception to this is where it is operationally impossible.

150 Caseowners should do their own representation at the AIT.

151 EAP providers must adhere to the principle of seamless case ownership and have single file/case ownership. The only exception to this is where it is operationally impossible.

Performance Management

152 From the interviews with the Caseowners the anecdotal evidence is that the managers at Solihull did not allow Caseowners the time required to undertake the work required in the Solihull Pilot procedure. Caseowners complained that managers allowed them only to schedule interviews or decisions in their work diaries. Many of the Caseowners stated that managers would not accept time allocated in work dairies for the pre-interview discussion, reading the witness statement, preparation for the interview, the post-interview discussion or even for necessary administrative tasks.

153 The Proposition Paper referred specifically to Performance Management in the following terms:

“Within the asylum teams the case owners will be performance managed in such a way as to ensure that the benefits of the interactive and front-loaded process are realised. Case owner targets will be to complete as many cases as possible within a given period. Completion is defined as grant or removal and where unsustainable negative decisions continue to be made this target will not be reached. Team leaders and other

managers will therefore ensure that case owners understand the benefits of defining the issues in dispute, waiting for genuinely needed specific evidence and only making the decision when relevant evidence is available in the minority of cases expected to require specific evidence gathering”.

154 Report on the Evaluation Workshop:

“The impact of the tight timelines for decision-making led to cases being withdrawn from the Pilot (limiting the number of Pilot cases), confused participants about what constituted a ‘Pilot case’ and impeded the development of the clear and shared vision of what the ELAP was seeking to test.”

155 *“The pressure of adhering to BIA target timescales also meant that the time for pre- and post-interview discussions on individual cases was limited”.*

156 Finding

The Solihull Pilot procedure can only be followed in full if time is allocated in Caseowners’ and legal representatives’ working week for each element of the procedure to take place.

Recommendation

157 UKBA and EAP provider managers must be required to performance manage the full and correct procedure. This will include ensuring the Caseowners and legal representatives allocate time for the component parts of the procedure to take place.

User Groups

158 Attendance at User Group meetings was as an essential element of achieving the necessary change of culture to allow the component parts of the Solihull Pilot to work.

159 In practice the same Caseowners, managers and EAP providers consistently attended the User Groups, throughout the period of the Solihull Pilot. It was noticeable from the interviews, UNHCR’s Evaluation Report and the LSC statistics and LSC Quality Review that Caseowners, managers and EAP providers who did not attend User Group meetings did not have a full understanding of some of the basic principles underlying

the Solihull Pilot procedures including the practical application of the procedure itself.

160 The User Group did indeed prove to be instrumental in helping to achieve the necessary cultural change.

161 Of particular note was how the User Group worked together to identify and overcome the administrative and other problems that hindered the full implementation of the Solihull Pilot in its first six months of operation.

162 By the end of the first six months, the User Group was established and the Caseowners, managers and EAP providers that were regular attendees reported favourably on the Solihull Pilot procedure when it did work. Their collective enthusiasm and positive narrative feedback informed the Evaluation Group of the desirability of extending the Solihull Pilot for a further six months in order for it to be properly implemented.

163 Report on the Evaluation Workshop:

“That the greater emphasis on interaction – on individual cases and via the ELAP User Group meetings and other non-case specific contacts – had led to the development of a culture of mutual professional respect and trust between Case Owners and Legal Representatives that had not existed prior to the ELAP when relationships were characterised by mutual suspicion”

164 *“That user group and other non-case contacts (i.e. at EG meetings) enabled and underpinned the development of improved relationships between Case Owners and Legal Representatives, and that these, in turn, had reduced the incidence of problems occurring on cases”*

165 Finding

Attendance at User Group meetings is an essential element of achieving the necessary change of culture to allow the component parts of the Solihull Pilot to work.

Recommendation

166 Attendance at the User Groups attracts CPD points for the legal representatives.

Attendance at the user groups are treated as working hours for Caseowners and managers and are an integral part of their working duties.

Training/EAP Provider Briefings

167 UKBA did provide training on the Pro forma and the interactive interview and the principles behind the Solihull Pilot before and during the early months of the Solihull Pilot. Some Solihull Managers unfortunately did not always offer their support of the procedures required in the Solihull Pilot and some gave instructions to Caseowners that were contrary to the training.

168 Some Solihull managers gave instructions to Caseowners about the conduct of their cases, which was contrary to the Solihull Pilot procedures. This caused confusion to the Caseowners. As a result, Caseowners did not always follow the Solihull Procedures.

169 LSC did not provide training to its providers but held a briefing session at the start of the pilot

170 Some EAP providers did not attend the briefing session. There was a variance in the EAP providers' understanding and application of the Solihull pilot procedures.

171 Report on the Evaluation Workshop:
"The lack of a clear and dependable definition of what constituted a 'Pilot case' at the outset of the ELAP and the uncertainty and lack of clarity about other key parameters that dogged the early stages of the Pilot"

172 *"The conflicting guidance being given to Case Owners working on the ELAP by the internal BIA Quality Team, the UNHCR staff undertaking case auditing and by Senior Case Owners in Solihull".*

173 Finding
Training/ briefings on the application of the Solihull procedure is key to its effective implementation.

Recommendation

- 174 All Caseowners and managers must undergo specific training on the application of the procedure.
- 175 Legal representatives must attend briefings on the application of the procedure and this will be an integral part of the providers' contract.

Evaluation of Key Success Indicators and Objective

- 176 The evaluation of the Key Success Indicators of the Solihull Pilot refers to the statistical information provided by UKBA, the LSC's Report including the detailed statistics provided, the interpretive comment and the Quality Review.
- 177 UNHCR's Evaluation Report, the Report on the Evaluation Workshop and anecdotal evidence from the interviews conducted with the Caseowners and legal representatives will also be referred to in context.
- 178 During the first six months of the Solihull Pilot there were administrative and other problems referred to above at pages 35-38 above which affected the Solihull Pilot being properly operational. Solutions to the problems had been discussed at User Group and Evaluation Group meetings and were being implemented during the period February 2007 - May 2007.
- 179 By May 2007 there were insufficient statistics available to draw any conclusions about the effectiveness of the Solihull Pilot.
- 180 By May 2007 there was good anecdotal evidence from the User Group/Caseowner and EAP providers meetings that the Solihull Pilot was beneficial. It was apparent by then that the User Group meetings in particular, had fostered, to a large extent, the cultural change identified as the underlying objective to be achieved. By consent, it was agreed to extend the Solihull Pilot for a further six months in order that it may be properly evaluated.

181 Accordingly, the statistics have been shown as overall (November 2006 - 07 December 2007), first six months, second six months and quarterly figures, in order to help to evaluate the Solihull Pilot procedure.

UKBA Statistics

182 UKBA's statistics were collated by UKBA Performance Management Information Team (PMIT). PMIT is to be thanked for the sterling effort it has made in order to collate the statistical data that is available from UKBA.

183 The statistics are based on information recorded electronically on UKBA's Case Information Database (CID). At each stage of an asylum claim the Caseowners are required to make an electronic entry into this central information system. It is recognised that compliance with entering the data is variable. PMIT gave the following caveat to the accuracy of Solihull Pilot statistics: that the Solihull Pilot, Solihull non pilot and Leeds statistics were as recorded on CID.

184 A dedicated manager was appointed following the decision to extend the Solihull Pilot. The manager's responsibilities included to oversee the management of the Solihull Pilot and to identify relevant statistical data to evaluate the Solihull Pilot for the period June 2007- 07 December 2007. PMIT undertook to manage collating those statistics from June 2007 – 07 December 2007 and to retrieve the equivalent statistics retrospectively, where possible from the data on CID.

LSC Report And Statistics

185 LSC is to be thanked for compiling a comprehensive report including a detailed statistical analysis, a helpful interpretive account contextualising the statistics and a comprehensive Quality Review of the Solihull Pilot.

186 The LSC designed a new reporting system that was much more detailed and sophisticated than the normal reporting requirements under its existing Legal LH and Controlled Legal Representation (CLR) scheme.

- 187 LSC Report:
 “In undertaking this pilot the LSC initiated a different reporting regime for EAP providers. The current and existing reporting mechanism would not have given the LSC the detailed data that was required for analysis”.
- 188 The EAP providers were required to give monthly reports to the LSC, which contained relevant, detailed data on each aspect of the work undertaken in the Solihull Pilot. The statistics provided by the LSC give a very transparent overview of the costs of the elements of work undertaken in the Solihull Pilot.
- 189 This statistical information has been extremely helpful in helping form conclusions and make recommendations.

Evaluation

I Key Success Indicator: Case Conclusion Target Met (Cases Where Applicant Is Either Integrated Or Removed In Six Months)

- 190 The PSA target throughout the period of the Solihull Pilot and until 2010 is based on the Case Conclusion rate.
- 191 Cases are “concluded” when an applicant is granted asylum or given some other form of leave, Humanitarian Protection (HP) or Discretionary Leave (DL) or when they are removed from the country following a refusal of asylum once all appeal rights have been exhausted.
- 192 The PSA target for December 2006 – December 2007 was 40 % of cases concluded within six months, this changed in June 2008 to December to 60% of cases concluded within six-months.
- 193 PMIT’s Overall Pilot Figure November 2006 – December 2007 shows a positive outcome for the Solihull Pilot regarding the Case Conclusions. 44% of Solihull Pilot cases concluded within six months compared with 36% of Solihull non pilot cases and

34% of Leeds cases.

- 194 The First Six Month and Second Six month figures show there was a dramatic improvement in the Case Conclusion rates during the second six months, the period recognised as being when the Solihull Pilot was properly operational.

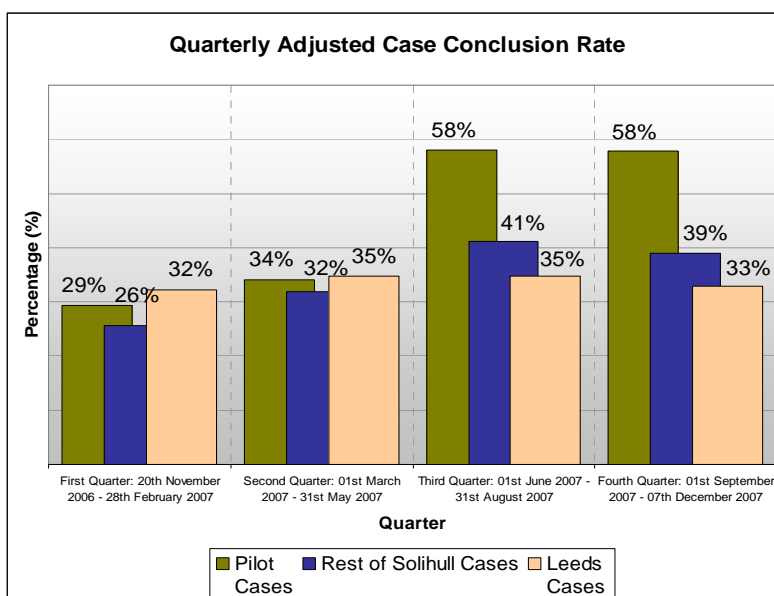
PMIT			
Adjusted Case Conclusion Rates	Pilot Cases	Rest of Solihull Cases	Leeds Cases
Intake	216	795	1185
First 6 Months	68	238	402
Intake	183	1405	1997
Second 6 Months	106	560	672

PMIT			
Adjusted Case Conclusion Rates	Pilot Cases	Rest of Solihull Cases	Leeds Cases
First 6 Months	31%	30%	34%
Second 6 Months	58%	40%	34%

- 195 In the second six months, the Solihull Pilot Case Conclusion rate jumps from 31% to 58%. At that time, June 2007 – December 2007 it was exceeding the PSA target.
- 196 Leeds kept the same Case Conclusion rate of 34% for each six-month period. Solihull non Pilot Case Conclusion improved to some extent from 30% to 40% but not as significantly as the Solihull Pilot
- 197 The quarterly statistics show the increased Case Conclusion rate was significant and sustained. Leeds and Solihull non pilot Case Conclusion rates both show a decline in the fourth quarter,

PMIT			
Quarterly Adjusted Case Conclusion Rate	Pilot Cases	Rest of Solihull Cases	Leeds Cases
Adjusted Quarterly Intake	116	250	392
First Quarter: 20th November 2006 - 28th February 2007	34	64	126
Adjusted Quarterly Intake	126	545	793
Second Quarter: 01st March 2007 - 31st May 2007	34	174	277
Adjusted Quarterly Intake	74	589	839
Third Quarter: 01st June 2007 - 31st August 2007	43	242	292
Adjusted Quarterly Intake	109	816	1158
Fourth Quarter: 01st September 2007 - 07th December 2007	63	318	382

PMIT			
Quarterly Adjusted Case Conclusion Rate	Pilot Cases	Rest of Solihull Cases	Leeds Cases
First Quarter: 20th November 2006 - 28th February 2007	29%	26%	32%
Second Quarter: 01st March 2007 - 31st May 2007	34%	32%	35%
Third Quarter: 01st June 2007 - 31st August 2007	58%	41%	35%
Fourth Quarter: 01st September 2007 - 07th December 2007	58%	39%	33%

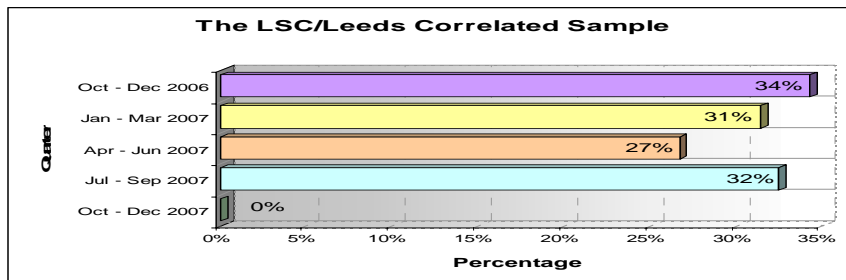


Case Conclusion Rate By Quarter

198	<u>Solihull Pilot</u>	
	First quarter	29%
	Second quarter	34%
	Third quarter	58%
	Fourth quarter	58%
199	<u>Solihull non pilot</u>	
	First quarter	26%
	Second quarter	32%
	Third quarter	41%
	Forth quarter	39%
200	<u>Leeds</u>	
	First quarter	32%
	Second Quarter	35%
	Third quarter	35%
	Forth quarter	33%

These statistics were compared to the LSC/Leeds correlated sample for case conclusions.

The LSC/Leeds Correlated Sample	
Quarter	Concluded In time
Oct - Dec 2006	34%
Jan - Mar 2007	31%
Apr - Jun 2007	27%
Jul - Sep 2007	32%
Oct - Dec 2007	0%



201 The smaller Leeds control group confirms that the Leeds case conclusion rate hovers around the 30 to mid 30 % range throughout the period of the pilot and does not improve in the third and fourth quarter.

202 Finding

Key Success Indicator met and exceeded in the Solihull Pilot. There was a significant and sustained improvement in the period when the Solihull Pilot was properly operational. In the third and fourth quarters 58% of cases were concluded in 6 months with the applicant being integrated or removed.

Two Other Factors For Consideration

203 It is worth noting two other factors when looking at the raw statistics of the Case Conclusion rate.

204 1. Asylum Seeking Children Applicants

205 ASC are subject to a special procedure that is UKBA Policy.

206 *“For all decisions made on or after 1 April 2007 (where asylum/HP is being refused) DL must [only] be granted to 17.5 years (or for 3 years (or 12 months for certain countries) whichever is the shorter period of time)”*. (APU Notice 3/2007 Amendment to Discretionary Leave Policy relating to Asylum Seeking Children)

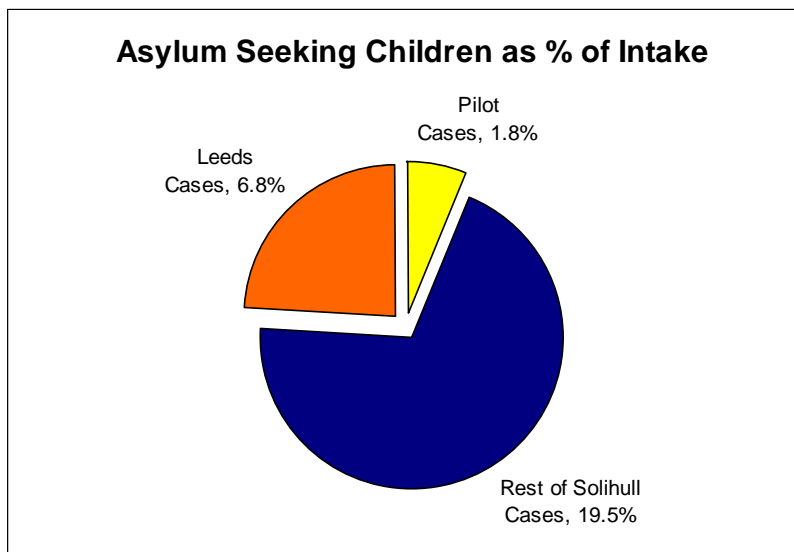
207 This special procedure and automatic grant of some form of leave for all minors up until 17.5 years of age should have a positive impact on Case Conclusion rates for all minor cases.

208 ASC claims were not supposed to go through the Solihull Pilot procedure. In the event 8 cases identified as ASC did go through the Solihull Pilot that was 1.8% of the intake. Leeds and Solihull non pilot had 6.8% and 19.5% of ASC respectively.

209 It would be reasonable to infer that the policy detailed above would have resulted in a more

favourable percentage case conclusion rate in Leeds and Solihull in light of these percentages of ASC.

PMIT			
	Pilot Cases	Rest of Solihull Cases	Leeds Cases
Minors as % of Intake	1.8%	19.5%	6.8%



210 ASC are subject to an automatic case conclusion and cases should be concluded quickly.

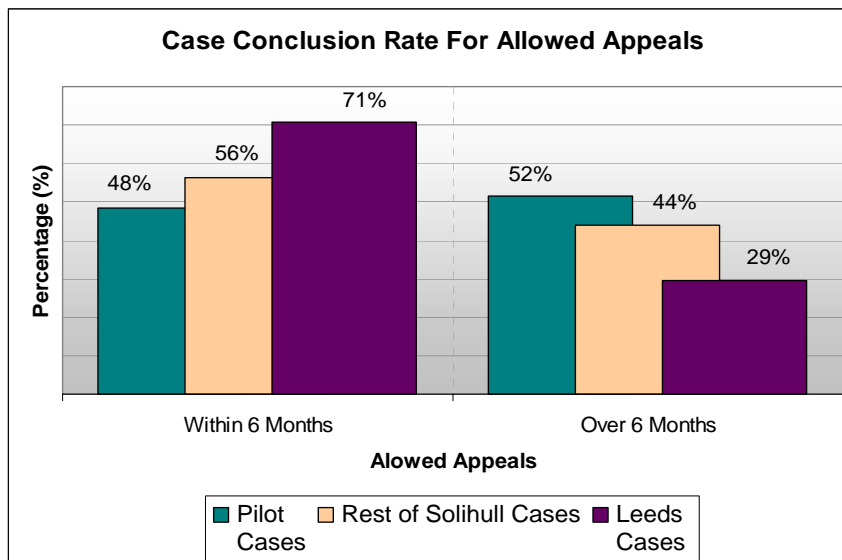
211 2. Case Conclusion Rate For Allowed Appeals

212 UKBA statistics revealed that there was often a problem in concluding allowed appeals of cases determined in the Solihull Pilot. This was somewhat puzzling because completing the paperwork and issuing a vignette following an allowed appeal is merely an administrative task. Further investigation uncovered the fact that following an appeal there was often a delay in the Caseowners receiving the returned file with the due notification to action. Following an allowed appeal, the file goes to an Appeals Management team in Solihull, whilst further UKBA appeal possibilities are considered. In Solihull, the Allowed Appeals team consists of two people. Anecdotal evidence was that the team is

overburdened and consequently there are delays in returning files to Caseowners. The case conclusion rate for allowed appeals is outside the control of the Caseowner.

PMIT			
Case Conclusion Rate for Allowed Appeals	Pilot Cases	Rest of Solihull Cases	Leeds Cases
Total Allowed Appeals	31	105	262
Within 6 Months	15	59	185
Over 6 Months	16	46	77

PMIT			
Case Conclusion Rate for Allowed Appeals	Pilot Cases	Rest of Solihull Cases	Leeds Cases
Within 6 Months	48%	56%	71%
Over 6 Months	52%	44%	29%



213 The Case Conclusion rate of the Solihull Pilot could be raised still higher by a simple change that would allow Caseowners to action either integration or a removal.

214 A properly resourced Appeals Management team with sufficient personnel to carry out the necessary functions efficiently.

II Key Success Indicator: Overall Cost Savings With Any Rise In The Legal Aid Budget Offset By Savings Elsewhere

- 215 As mentioned above, the LSC designed a detailed, sophisticated reporting template for the EAP providers. The EAP providers awarded the special contracts were required to return the detailed analysis on a monthly basis. This has enabled the LSC to provide extremely useful data. It has helped provide a cost analysis of individual segments of the Solihull Pilot procedure by each EAP provider. The EAP providers were required to give a breakdown of their disbursements by component parts both at LH and CLR stage. Disbursements can include translation costs, an interpreter, an expert report and witnesses, and travel costs.
- 216 The normal LSC reporting requirements collate Profit Costs, disbursements and where applicable counsel fees, a much blunter instrument not designed to identify individual elements of costs per claim.
- 217 Leeds was the comparative control group chosen by UKBA. A decision was taken that Leeds should be a “blind” control group. Unfortunately as stated above there were too many variable factors to make a like by like cost comparison between the Solihull Pilot and Leeds viable.
- 218 There may be scientific benefits to having a “blind” control group but in this instance, it has affected the ability of the LSC to collate comparative data regarding a detailed breakdown of the costings both for cases requiring just LH and those proceeding to appeal and being granted LH and CLR.
- 219 In the Leeds sample, the LSC had to rely on the data produced using existing LSC reporting data, the blunt instrument mentioned above.
- 220 Instead of the monthly reporting regime instigated with the EAP Providers, the Leeds providers had the normal three-month window following the end of a stage of a claim in which to report the costs and outcomes of that matter.

- 221 The LSC states that it “ *is aware of particular issues concerning incorrect billing and incorrect interpretation of codes guidance by some providers nationally, this is reflected and to some degree exaggerated in the Leeds control group:*”
- 222 Annex 2 gives a good example of the limitations of the data imposed by cases reported as “outcome unknown”. Through no fault of the LSC’s, the statistics do not make it possible to draw comparative conclusions on grants and refusal of CLR.
- 223 Pages 16 – 21 of the LSC Report gives an informative explanation of the data limitations of Leeds as a control group.
- 224 However the information and statistics available do allow for notional cost implications to be drawn.
- 225 Annex1 shows that the average cost of LH in the Solihull Pilot is £1,263.27
- 226 The average cost of LH in Leeds is £664.51
- 227 There is an average difference of £598.76 between the Solihull Pilot and Leeds cases at the LH stage. This represents the average extra front end cost to applying the Solihull Pilot procedure and front loading legal advice and evidence gathering.
- 228 There are three main costs incurred if a case proceeds to appeal at the AIT.
- 1 NASS support and accommodation costs
 - 2 The AIT costs
 - 3 LSC costs where CLR is granted
- 229 NB This does not take into account incidental extra costs like administration personnel costs incurred by UKBA.

1. NASS Support And Accommodation Costs

- 230 Using a notional support and accommodation cost of £150.00 per week, representing a

single adult over 25 allowance of £42.16 (Asylum Support (Amendment) Regulations) 2008 (Annex 6) and a modest notional £107.84 as an average accommodation cost (The fee paid for each bed space for one of the major NASS accommodation providers was £102 a week in 2005 (Guardian Article Wednesday 3 August 2005). The potential minimum savings of allowing a decision at first instance rather than it being allowed at the appeal stage can be given an estimation.

231 The average time to receive an allowed appeal decision from when an appeal is lodged is 58.5 days in Solihull and Leeds taken together. (UKBA Appeal timelines)

232 This equates to 7.4 weeks.

233 It can be reasonable to assume a minimum support and accommodation cost saving of £1,253.57 for every case allowed at first instance rather than at appeal.

234 It is highly probable that this figure is greatly underestimated because it does not take into account any family support costs and the estimated bed space cost has been deliberately underestimated using a known base figure for 2005 with a figure under inflation added on

2. Appeal Costs

235 In the Financial year 2007/2008 the average cost of an asylum appeal was £1477.00. This included elements for judicial salaries and fees, accommodation and IT costs.

236 This gives a total cost of £2,730.57 for the support and AIT elements of a case proceeding to appeal at the AIT.

3. LSC costs where LH and CLR apply

237 The total average cost for the Solihull Pilot is £3,124.38 where LH and CLR apply.

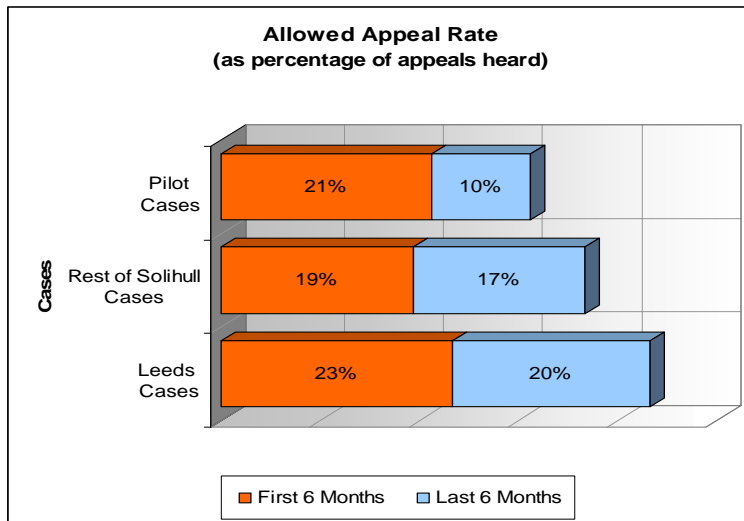
238 The total average cost for Leeds is £2,557. 18 where LH and CLR apply.

239 There is an average difference of £567.20 between Solihull Pilot and Leeds cases that had both L H and CLR i.e. cases that proceeded to a funded appeal.

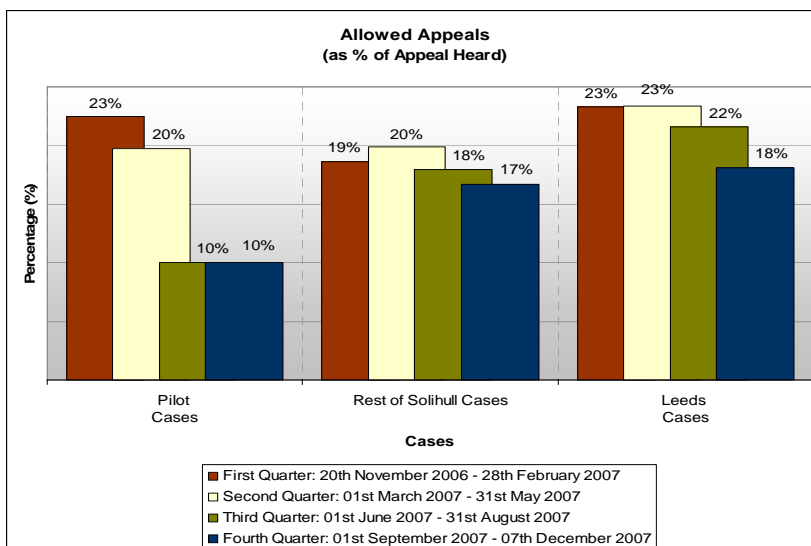
- 240 The average cost of a case proceeding to appeal stage to be allowed at appeal cost a total of £5,854.95 in the Solihull Pilot and a total of £5,287.75 in Leeds. (NASS,AIT+ LSC costs)
- 241 This shows a tremendous potential for savings even given the statistical constraints of the overall comparison costs at Annex 2 above, it is reasonable to assume that the Leeds figure is a good estimate of costs because it is based on actual returns made to the LSC.
- 242 The statistics show a marked improvement in lowering the “Allowed Appeal” rates in the Solihull Pilot in the last six months when the pilot was properly operational.
- 243 The quarterly statistics show that this improvement was both significant and sustained over quarters three and four. The Appeal Allowed rates in quarters three and four in the Solihull Pilot were half of those in Leeds and significantly less than those in the Solihull non pilot cases.

PMIT			
Comparison Allowed Appeal Rates	Pilot Cases	Rest of Solihull Cases	Leeds Cases
First 6 Months			
Total Appeals Heard	146	402	707
Total Appeals Allowed	31	78	165
Last 6 Months			
Total Appeals Heard	80	456	706
Total Appeals Allowed	8	79	141

PMIT			
Allowed Appeal Rates (as percentage of appeals heard)	Pilot Cases	Rest of Solihull Cases	Leeds Cases
First 6 Months	21%	19%	23%
Last 6 Months	10%	17%	20%



PMIT			
Allowed Appeals (as % of Appeals Heard)	Pilot Cases	Rest of Solihull Cases	Leeds Cases
First Quarter: 20th November 2006 - 28th February 2007	23%	19%	23%
Second Quarter: 01st March 2007 - 31st May 2007	20%	20%	23%
Third Quarter: 01st June 2007 - 31st August 2007	10%	18%	22%
Fourth Quarter: 01st September 2007 - 07th December 2007	10%	17%	18%



244 Taking a notional 100 cases proceeding to appeal stage, the effects of the lower appeal allowed rate achieved in the Solihull Pilot in the second six months when it was fully implemented allow the cost implications to be assessed. For completeness the statistics for both the first and second six months have been included in the tables below.

The Solihull Pilot

245 Out of 100 cases that proceed to appeal, it can be assumed that 10 cases would be allowed at the AIT.

246 Total average cost for the 10 cases = £ 58,549.50 (NASS, AIT + LSC costs).

Leeds

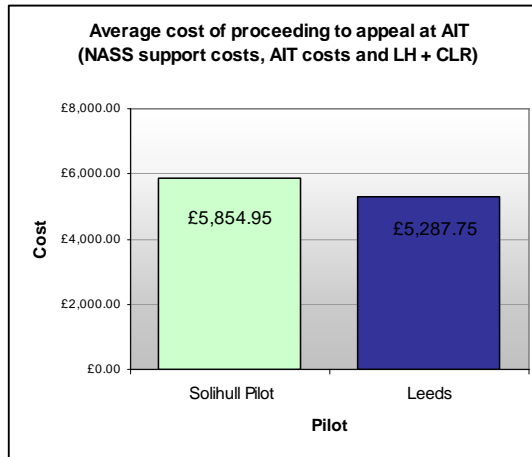
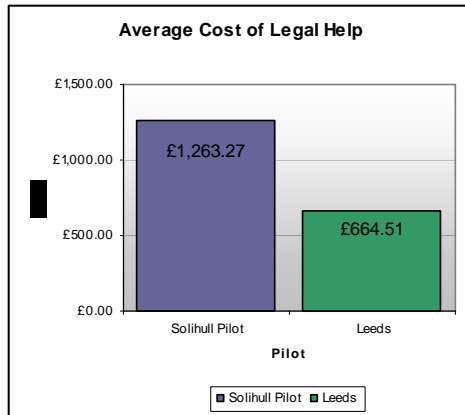
247 Out of 100 cases that proceed to appeal, it can be assumed that 20 cases would be allowed at the AIT.

248 Total average cost for the 20 cases = £105,755.00 (NASS, AIT + LSC costs).

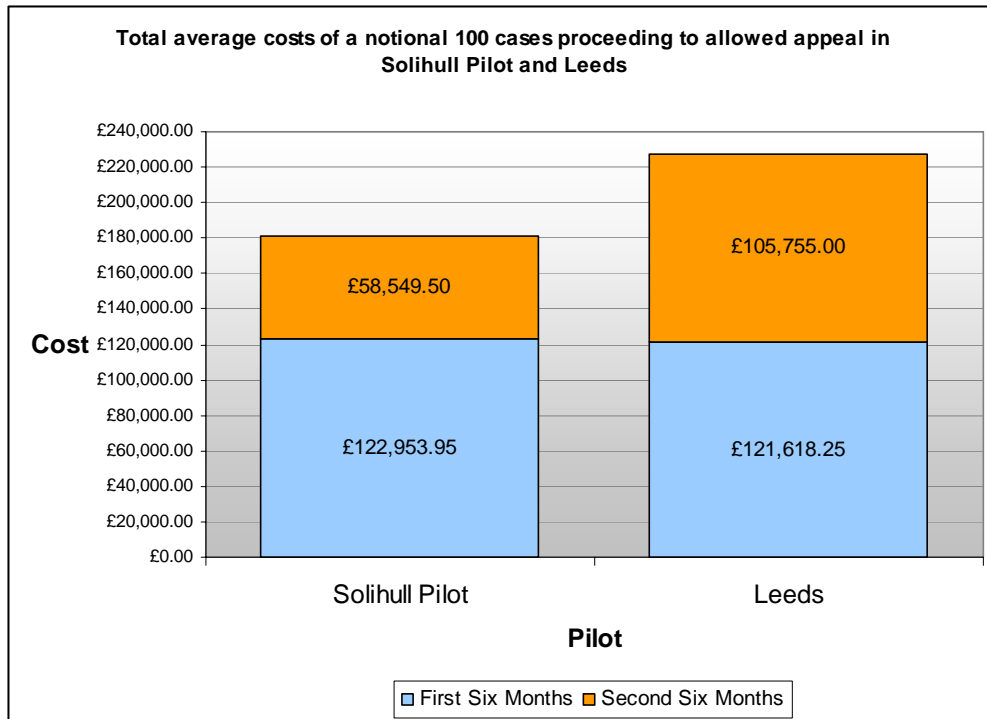
249 This equates to an average saving of £47,205.50 for every 100 cases proceeding to appeal because more sustainable decisions were made at first instance and there was a subsequent reduction in allowed appeals.

Average cost of Legal Help	
Pilot	Cost
Solihull Pilot	£1,263.27
Leeds	£664.51

Average cost of proceeding to appeal at AIT (NASS support costs, AIT costs and LH + CLR)	
Pilot	Cost
Solihull Pilot	£5,854.95
Leeds	£5,287.75



Total average costs of a notional 100 cases proceeding to allowed appeal in Solihull Pilot and Leeds		
	Solihull Pilot	Leeds
First Six Months	£122,953.95	£121,618.25
Second Six Months	£58,549.50	£105,755.00



250 Other observations on the LSC data

- 251 Annex 14
The overall provider comparison is limited to showing a comparison of overall costs and outcomes at first instance decision and appeals.
- 252 The statistical value of the comparison is limited because most of the firms had a very small sample of cases actually going through the Solihull Pilot.
- 253 Three Providers had the majority of the cases, which means each one of those Providers can have an unrepresentative effect on the statistics. Further details and investigation are required in order to draw conclusions from the raw data.
- 254 As an example Provider D's interpreters' costs seem disproportionately high when compared to other providers, even factoring in their higher Profit Costs. No conclusion can be drawn from this without further investigation. There could be a justifiable reason for this figure being so high. In any event Provider D impacts on the average interpreters cost and the total average L H costs in Annex 1 and the total average LH and CLR cases at Annex 3.
- 255 The Quality Reviewer was asked to comment on the interpreters' hourly rates in the Quality Review.
- 256 The Quality Review:
"From my review of these files I noted that the average hourly rate for an interpreter in the Birmingham area was £20. There were no additional rates for a specialist language or any additional fees for travelling from a distance.
- 257 *The most I saw was £30 an hour, and it was noted that many Providers used the same interpretation agency.*
- 258 *I did not see any evidence of excessive charging by interpreters on this sample of files".*
- 259 As noted above the LSC does not usually monitor interpreters' costs in isolation. They are usually contained in the overall disbursements.

- 260 Benefit Of LSC's Refined Data Gathering
One major benefit of the Solihull Pilot is the detailed breakdown of each element of the representation process, required by the special reporting mechanism with which the EAP providers had to engage.
- 261 It would appear that it would be crucial that the LSC should employ such a special reporting mechanism to ensure effective monitoring of cost effectiveness at each stage of the process by all providers.
- 262 This is borne out by the analysis in Annex 15.
- 263 Annex 15
This is an interesting document because this highlights how different the behaviour can be analysed at different stages of the process using the more sophisticated special reporting mechanism designed for the Solihull Pilot.
- 264 Pre-interview cost for Provider D are significantly higher than both Provider I and Provider N.
- 265 D's success rate at initial decision is significantly higher than both I and N. D having a positive outcome in 50 % compared to 30% and 30% for both I and N.
- 266 However, D only granted CLR to 41% of its refused cases whilst N granted CLR in 78%. N's allowed appeal rate does not appear to justify this grant rate because it only had a 14% positive outcome at appeal. Further information is required before any finding can be made, the more sophisticated, detailed analysis helps to identify where further data gathering or quality review information may need to be conducted.
- 267 The LSC's normal criteria for granting CLR applied to the Solihull Pilot cases. LSC expects a provider to have an average of 40% success rate of allowed appeals over a period as an indication of correctly applying the 50/50 test.
- 268 EAP provider D achieved a 21% success rate, I a 5% success rate and N a 14% success

rate at AIT. D, I and N all achieved well below the expected 40% success rate but this is without incorporating any analysis of EAP providers Review and Reconsideration (RAR) outcomes which would normally be included.

- 269 As explained at paragraphs 228-240 above there are significant extra costs involved in taking appeals. Routinely taking unmeritorious appeals is expensive and is unjustifiable.
- 270 The data is not available in this analysis to see whether the EAP providers meet the current 40% measurement but by looking at the AIT allowed rate compared to the CLR grant rate and taking into account the comments from the Quality Review below, there appears to be a misapplication of the merits test that would warrant further statistical and quality monitoring the RAR outcomes.
- 271 The detailed data gathered for the Solihull Pilot illustrates where the LSC could identify where and what areas a quality review may be needed to conduct further investigation.
- 272 A request was made that the Quality Reviewer looked at the application of the merits test in the Solihull Pilot case review.
- 273 The Quality Review:
LSC Merits test
"Within this sample there were some refusal cases. Surprisingly I noted that the LSC merits test was not being properly applied, as per the contract specification."
- 274 *"The specification states that CLR should not be granted where the prospects of success are above 50%."*
- 275 *"I noted that firms were not applying the test accurately with very little information being completed on the CLR form itself. I was somewhat disappointed that even now providers were incorrectly granting CLR to cases with little or no merit. Worryingly I noted that in a few cases after submitting an appeal the advisor would remove the provider from the record or once the clients appeal had been refused."*

- 276 *“I noted only on two files of the refused cases reviewed that the advisor had properly considered and granted CLR within the ambits of the specification. In both these cases the case progressed to an appeal and the appeals were granted”.*
- 277 Additionally provider N’s reporting suggests that 100% of their Non-EAP cases in the period quoted were taken to RAR. Whilst not all of these cases may have been initially dismissed at the AIT stage, it would be likely that the majority may have been.
- 278 It is a surprising statistic and may indicate a need for further investigation by a quality review.
- 279 Superficially, the statistics do indicate where front-loading of specific evidence gathering did not appear to be taking place and where EAP providers were still concentrating efforts at appeal and further appeal stage.
- 280 Once again, it is not possible to draw firm conclusions from these statistics but they do highlight where further investigation by the LSC may be useful to look at specific behaviour. The LSC is in the process of arranging a meeting with EAP providers to discuss these issues.
- 281 What is clear from looking at the statistical data provided by the LSC for the Solihull Pilot is that the sophisticated system of data collecting, detailed reporting and closer liaison is a greatly improved system for monitoring where LSC money is being spent . It enhances transparency and helps the LSC identify particular trends of behaviour. This may highlight best practice or indicate that a provider is not performing as expected and trigger a more detailed quality review.
- 282 The closer collaboration and sharing of relevant data between the UKBA and LSC has also led to a more informed analysis of the statistical data than would have previously been possible and has led to key issues and behaviours being more easily identifiable.
- 283 Finding
The constraints of the statistical data did not allow a like by like comparative finding to be

drawn on this point.

- 284 Using a notional 100 cases there appear to be significant potential savings in applying the Solihull Pilot procedure through NASS, AIT and LSC costs. These savings are in direct relation to a lower allowed appeal rate, itself indicative of more sustainable first instance decisions.
- 285 A more structured statistical analysis is required to calculate the savings based on a like by like comparator using the more detailed, sophisticated reporting template designed by the LSC for Early Legal Advice providers (EAP providers).
- 286 Some EAP providers' seemingly inappropriate behaviour in applying the CLR merits test and taking cases to Review and Reconsideration Appeal could have had a negative impact on the overall potential savings to the Legal Aid budget. This behaviour appears to be indicative of the providers' general behaviour and not specific to the Solihull Pilot.
- 287 That the sophisticated data reporting system designed for the Solihull Pilot is a much more transparent system. It allows the LSC to monitor provider behaviour and outcomes at every stage of the procedure. Taken in isolation it can not detect when a provider is not keeping to the terms of an LSC contract. It is a useful tool to identify where a particular quality review it may be useful. A detailed quality review is able to identify areas where the providers are not applying correct procedure.

Recommendation

- 288 The LSC should introduce the reporting template designed for the detailed statistical analysis underpinning any new contracts with providers. Funding will be subject to a robust monitoring system linked to Key Performance Indicators (KPIs).
- 289 The LSC should introduce the same quality review criteria as that applied in the Solihull Pilot as the norm, to include a detailed quality analysis of advice and/or action at each key stage which will be incorporated into KPIs.
- 290 All new contracts should state explicitly that the quality standards expected will underpin

the contract. Contract compliance will be subject to robust monitoring through the reporting template in conjunction with a quality review based on these criteria.

- 291 The LSC template and the quality review criteria will be the basis for strict contract compliance for representation for each client at all stages of the claim. Failure to comply with any KPI will constitute a breach of contract and will result in loss of payment from the LSC for the whole or part of that case.
- 292 The UKBA and LSC should develop a Service Level Agreement to allow the mutual sharing of relevant statistical information between the two parties, ensuring that such a relationship complies with both parties' data protection requirements.

III Key Success Indicator: Faster, Higher Quality And More Sustainable Asylum Decisions To Include:

- 293
- All material facts and all relevant evidence are identified and placed into account prior to decision
 - More focused interviews lead to shorter interview times
 - Faster recognition and integration of refugees
 - More sustainable negative decisions with lower appeal allowed rate
 - More effective conclusion of negative decisions
 - Closer case contact management resulting in fewer absconders
 - Improved overall quality of service provided by the system
- 294 The seven factors listed above were identified as being key to the overall consideration of this Key Success Indicator.
- **All Material Facts And All Relevant Evidence Identified And Placed Into Account Prior To Decision**
- 295 One of the main aims of the Solihull Pilot was to ensure that all relevant information and evidence be identified and put in front of the decision maker for consideration prior to the

decision. This was to assist in making an informed, coherent and more sustainable decision.

- 296 The anecdotal evidence from the Caseowners and the legal representatives was overwhelming in welcoming this aspect of the Solihull Pilot. Every person interviewed identified that this was extremely beneficial. The Caseowners all stated that having a statement of claim before the interview and all necessary evidence before a decision helped them make a well-reasoned decision on the case. All the Caseowners reported that it made the decision-making and writing a decision minute or letter more straightforward and focused on the pertinent issues. All the Caseowners felt that when further evidence was required; following discussions with legal representatives, the evidence requested and received was applicant, and claim specific in most instances.
- 297 UNHCR's Evaluation Report, the LSC Quality Review and the Report on the Evaluation Workshop are helpful in evaluating this Key Success Indicator.
- 298 UNHCR:
"On a very positive note, in 97% of cases the pilot procedure produced further material evidence that was available at the pre-decision stage (including the witness statement and any further testimony elicited at interview through the involvement of the legal representative)".
- 299 *"In a significant 40% of cases further evidence other than the witness statement and information obtained through the interactive interview was available at the pre-decision stage as a result of the pilot process. Such evidence included medical reports, country of origin information and the translation of certain documents."*
- 300 *"Positively, UNHCR's evaluation of the process of decision-making under the pilot confirms that the front-loading features of the pilot lead to more relevant evidence being identified and placed into account before the first instance decision. There have also been a number of clear examples of instances where the essential elements of the pilot have been properly implemented in particular decisions and where it has had a clear and positive impact on decision quality (Annex III)."*

301 *“Indeed, from UNHCR’s view, the increased availability of evidence at first instance is a welcome result of the pilot that brings benefit to the decision-making process in and of itself. Further benefits include:--*

- *clear identification of material facts and issues and resulting pursuit of further evidence to establish the credibility of those facts and issues.”*

302 LSC Quality Review:

Statement of Client’s Case

“On the whole this was the best feature of the EAP files. I noted that of the providers reviewed all produced good quality detailed statements, with some firms preparing statements of excellent quality.”---

303 *“One provider’s statements were not of the quality that one would expect but generally statements were very well produced”.*

304 *“I would go so far to comment that these files evidence the fact that well produced statements submitted prior to a substantive interview and before a decision is made enhances the client’s chances of a favourable result. If prepared properly the statement also gives the Home Office Case owners an opportunity to appraise themselves in advance of the substantive interview”*

305 *“In all cases advisors did identify the main issue and reason for their clients leaving their country of origin. Generally it was observed that the statement did provide a refugee or Human Rights convention reason for the client claiming asylum. Whilst the exact articles or wording of a convention reason were not used it was apparent from the statements produced as to what the clients was claiming whether an article or asylum convention reason”.*

306 Report on the Evaluation Workshop:

“That Witness Statements submitted before substantive interviews enabled the early and helpful clarification of which issues in the claim were in dispute and which not”.

307 *“That the pre-interview engagement between the Case Owner and the Legal Representative was an effective mechanism for clarifying what constituted the ‘core of the claim’ and for dealing with and, on occasion, for resolving, evidential issues, particularly where BIA flexibility over the decision making timescale was being sought by the Legal Representative”.*

308 Finding

- It is self evident a decision maker should have all material facts and evidence before them at the time of making the decision.
- Caseowners all stated that having a statement of claim before the interview and all necessary evidence before a decision helped them make a well-reasoned decision on the case.
- This element was met through the Solihull Pilot procedure.

- **More Focused Interviews Leading To Shorter Interview Times**

309 The anecdotal evidence from the Caseowners and the legal representatives was that interviews were more focused and generally of shorter duration, with the exception of one Caseowner who thought the interactive interviews were longer.

310 There are no comparative statistics on interview times recorded in the UKBA data.

311 The LSC Quality Review is particularly helpful in evaluating this element. The legal representatives record the length of an interview. The LSC pay for attendance at interview by time, accordingly a record of the length of the interview is on the EAP provider file. Thus, the LSC’s Quality Review is a reliable source regarding the length of interviews.

312 LSC Quality Review:

“I noted that where an advisor had prepared a detailed statement and a pro forma had been agreed the time taken to interview the client was considerably less than where the advisor had prepared a basic statement.”

313 *“As an observation it was noted that where an advisor had properly prepared a statement and paid close attention to detail, dates places events etc. The Home Office would simply*

agree these matters in the Pro Forma if one were agreed. This cut down the amount of questions that would be asked in an interview and allowed the Home Office Case Owner to concentrate on clarifying those issues in dispute or those which were not easily ascertainable from the statement”.

314 **Finding**

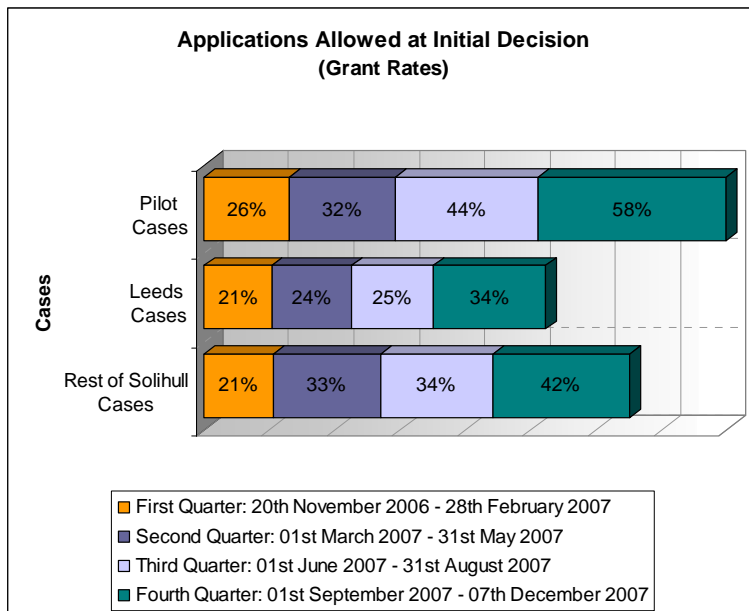
This element was met where the pre-interview procedure was applied correctly.

- **Faster Recognition And Integration Of Refugees**

315 One of the main aims of the Solihull Pilot was that because of a better considered decision taken on all the evidence and material information there would be a faster recognition of those requiring protection at first instance, which would allow refugees to be integrated. It would recognise refugees at an earlier stage than at appeal stage.

PMIT			
Applications Allowed at Initial Decision (Grant Rates)	Pilot Cases	Rest of Solihull Cases	Leeds Cases
Intake	126	253	421
First Quarter: 20th November 2006 - 28th February 2007	33	54	87
Intake	102	542	828
Second Quarter: 01st March 2007 - 31st May 2007	33	178	202
Intake	85	556	837
Third Quarter: 01st June 2007 - 31st August 2007	37	191	211
Intake	104	674	886
Fourth Quarter: 01st September 2007 - 07th December 2007	60	280	304

PMIT			
Applications Allowed at Initial Decision (Grant Rates)	Pilot Cases	Rest of Solihull Cases	Leeds Cases
First Quarter: 20th November 2006 - 28th February 2007	26%	21%	21%
Second Quarter: 01st March 2007 - 31st May 2007	32%	33%	24%
Third Quarter: 01st June 2007 - 31st August 2007	44%	34%	25%
Fourth Quarter: 01st September 2007 - 07th December 2007	58%	42%	34%



316 Finding

This element was met in the Solihull Pilot.

- **More Sustainable Negative Decisions With Lower Appeal Allowed Rate**

317 More sustainable negative decision with lower appeal allowed rate

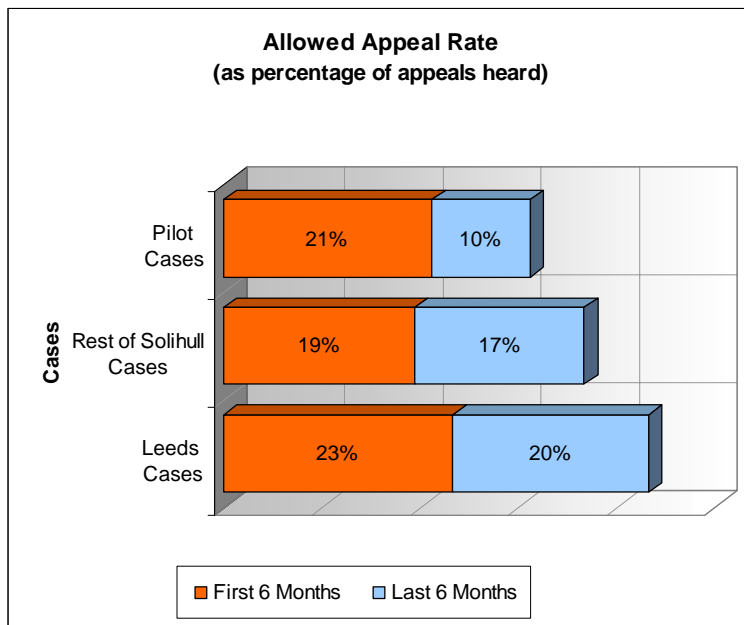
318 The statistics show a marked improvement in lowering the “Allowed Appeal” rates in the Solihull Pilot in the last six months when the pilot was properly operational.

319 The quarterly statistics show that this improvement was both significant and sustained over quarters three and four. The Appeal Allowed rates in quarters three and four in the Solihull Pilot were half of those in Leeds and significantly less than those in the Solihull non pilot cases.

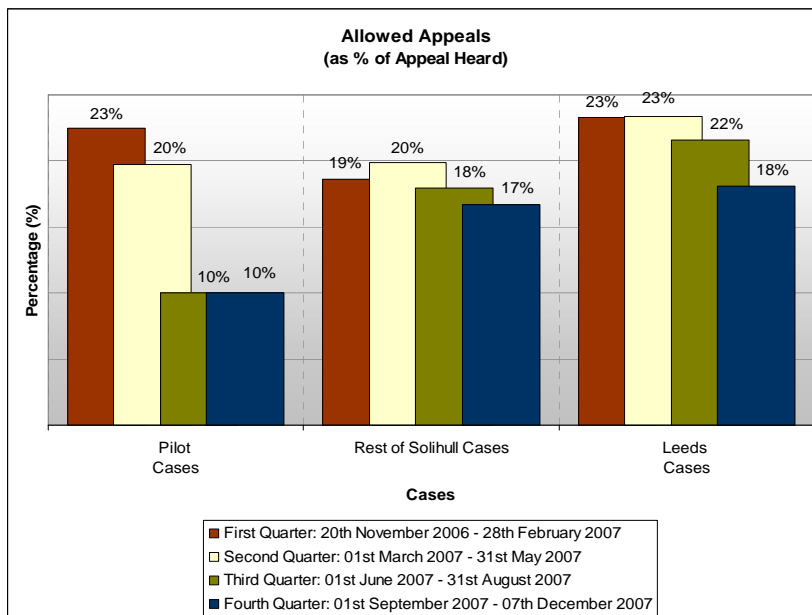
PMIT			
	Pilot Cases	Rest of Solihull Cases	Leeds Cases
Comparison Allowed Appeal Rates			
First 6 Months			
Total Appeals Heard	146	402	707

Total Appeals Allowed	31	78	165
Last 6 Months			
Total Appeals Heard	80	456	706
Total Appeals Allowed	8	79	141

PMIT			
Comparison Allowed Appeal Rates	Pilot Cases	Rest of Solihull Cases	Leeds Cases
First 6 Months	21%	19%	23%
Last 6 Months	10%	17%	20%



PMIT			
Allowed Appeals (as % of Appeals Heard)	Pilot Cases	Rest of Solihull Cases	Leeds Cases
First Quarter: 20th November 2006 - 28th February 2007	23%	19%	23%
Second Quarter: 01st March 2007 - 31st May 2007	20%	20%	23%
Third Quarter: 01st June 2007 - 31st August 2007	10%	18%	22%
Fourth Quarter: 01st September 2007 - 07th December 2007	10%	17%	18%



340 Finding

Met with a significant and sustained improvement in the period when the Solihull Pilot was properly operational. The Appeal Allowed rates in quarters three and four in the Solihull Pilot were half of those in Leeds and significantly less than those in the Solihull non pilot cases.

- **More Effective Conclusion Of Negative Decisions**

341 The overall numbers are too small to draw a conclusion based solely on the statistics. The statistical information that is available is supported by the anecdotal evidence.

342 Caseowners and legal representatives both reported that they thought there was a greater understanding and acceptance by the applicant of the reasons for a negative decision. Caseowners and legal representatives commented that because the applicant had been involved throughout the whole process the applicants seemed to appreciate that they had been able to put their case fully.

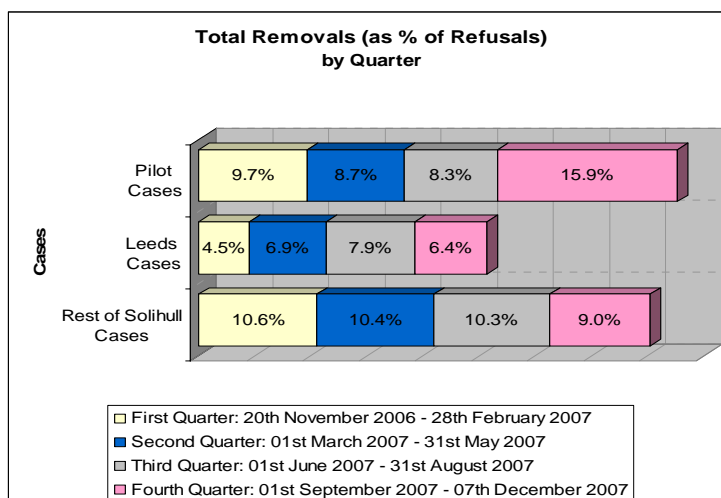
343 The Report on the Evaluation Workshop endorses this.

344 Report on the Evaluation Working Group:

“That the interactive process, building on the NAM Case Owner model, delivered better overall ‘client care’, with Case Owners and Legal Representatives all reporting positive client feedback and a strong impression that negative decisions were better received by the asylum claimants;”

PMIT			
Total Removals (as % of Refusals) by Quarter	Pilot Cases	Rest of Solihull Cases	Leeds Cases
First Quarter: 20th November 2006 - 28th February 2007			
Total Removals (as % of Refusals) by Quarter	9	21	15
Second Quarter: 01st March 2007 - 31st May 2007			
Total Removals (as % of Refusals) by Quarter	6	38	43
Third Quarter: 01st June 2007 - 31st August 2007			
Total Removals (as % of Refusals) by Quarter	4	37	49
Fourth Quarter: 01st September 2007 - 07th December 2007			
Total Removals (as % of Refusals) by Quarter	7	35	37

PMIT			
Total Removals (as % of Refusals) by Quarter	Pilot Cases	Rest of Solihull Cases	Leeds Cases
First Quarter: 20th November 2006 - 28th February 2007	9.7%	10.6%	4.5%
Second Quarter: 01st March 2007 - 31st May 2007	8.7%	10.4%	6.9%
Third Quarter: 01st June 2007 - 31st August 2007	8.3%	10.3%	7.9%
Fourth Quarter: 01st September 2007 - 07th December 2007	15.9%	9.0%	6.4%



345 Finding

This element appears to have been met with an improvement in the period when the Solihull Pilot was properly operational.

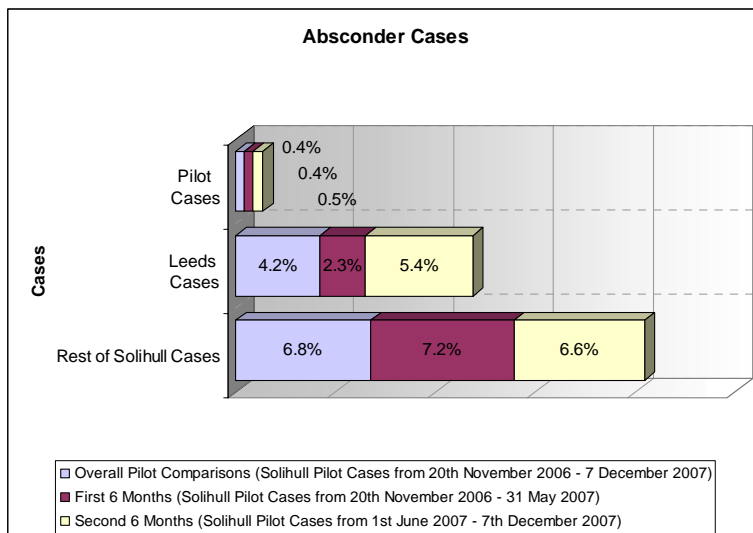
- **Closer Case Contact Management Resulting In Fewer Absconders**

346 The numbers involved are too small to draw a conclusion based solely on the statistics but again the statistical information that is available is supported by the anecdotal evidence.

347 Caseowners reported that they felt the overall close contact with the applicant and the legal representative helped in the respect of effecting a removal if the application was ultimately refused.

PMIT			
Absconder Cases	Pilot Cases	Rest of Solihull Cases	Leeds Cases
Overall Pilot Comparisons (Solihull Pilot Cases from 20th November 2006 - 7 December 2007)			
Total Intake	242	936	1315
First 6 Months (Solihull Pilot Cases from 20th November 2006 - 31 May 2007)			
Total Absconders	1	67	30
Second 6 Months (Solihull Pilot Cases from 1st June 2007 - 7th December 2007)			
Total Absconders	1	110	120

PMIT			
Absconder Cases	Pilot Cases	Rest of Solihull Cases	Leeds Cases
Overall Pilot Comparisons (Solihull Pilot Cases from 20th November 2006 - 7 December 2007)			
	0.4%	6.8%	4.2%
First 6 Months (Solihull Pilot Cases from 20th November 2006 - 31 May 2007)			
	0.4%	7.2%	2.3%
Second 6 Months (Solihull Pilot Cases from 1st June 2007 - 7th December 2007)			
	0.5%	6.6%	5.4%



348 Finding

It appears this element was met.

- **Improved Overall Quality Of Service Provided By The System**

349 Overall quality of service provided by the system

350 The anecdotal evidence was that the overall quality of service to the applicant was thought to be greatly enhanced. Caseowners and legal representatives both reported that the applicants benefited from the Solihull Pilot procedure. Overwhelmingly they reported that the applicants felt more engaged with their claim and that they seemed to have a better understanding of what was happening at each stage of their claim.

351 Report on the Evaluation Working Group:

“That the interactive process, building on the NAM Case Owner model, delivered better overall ‘client care’, with Case Owners and Legal Representatives all reporting positive client feedback and a strong impression that negative decisions were better received by the asylum claimants;”

352 Taken in the round the statistics would seem to support these impressions.

353 Finding

This element was met in the Solihull Pilot.

Objective

Caseowners And Legal Representatives To Commit Themselves To The Cultural Change Required

- 354 The anecdotal evidence was that the cultural change required had taken place largely but some Caseowners and legal representatives had not been able to embrace the change of culture needed. There were good examples given from some Caseowners and legal representatives of how the inquisitorial system of fact finding had benefited all parties including the applicant.
- 355 Some of the Caseowners and legal representatives reported a better working relationship and satisfaction of the mutual respect that had been achieved through the Solihull Pilot.
- 356 The Success of the User Group is evidence of the general level of commitment to the required cultural change.
- 357 There were complaints about the hectoring attitude of some legal representatives and of an unwillingness to engage in the process by some Caseowners but both of these were identified as being in the minority.
- 358 It was felt that many managers had not committed to the cultural change and that this undermined some Caseowners.
- 359 The majority of Caseowners and legal representatives felt it made for a better working relationship and they felt there was a better understanding of each others role which led to a mutual respect as professionals.
- 360 Report on the Evaluation Workshop:
“That the greater emphasis on interaction – on individual cases and via the ELAP User Group meetings and other non-case specific contacts – had led to the development of a culture of mutual professional respect and trust between Case Owners and Legal

Representatives that had not existed prior to the ELAP when relationships were characterised by mutual suspicion;”

361 *“That Case Owners and Legal Representatives both reported they had derived greater job satisfaction from working on the pilot (further evidenced by the decision to take forward, post-ELAP, elements of the pilot process in respect of a defined group of cases in the West Midlands) as both experienced a sense of exercising greater control over their work;”*

362 Finding

The objective was met in the main with some very positive feedback about developing mutual professional respect.

Conclusions

- 363 The findings indicate that the Solihull Pilot procedure was successful.
- 364 Where conclusions could be drawn from the statistics and supporting information, the Solihull Pilot met its Key Success Indicators when the Solihull Pilot procedure was followed.
- 365 The Solihull Pilot exceeded the Key Success Indicator for case conclusion targets (when applicants are either integrated or removed within six months).
- 366 The potential for large savings on NASS support, AIT and LSC costs have been identified in relation to more sustainable decisions and a consequent reduction of allowed appeals. More detailed statistical retrieval would need to be undertaken to quantify savings on a like by like comparator.
- 367 It was not possible to draw comparative conclusions between the Solihull Pilot and Leeds about the cost implications because of deficiencies in the statistical information available and control group limitations.
- 368 The sophisticated system of data collecting, detailed reporting and closer liaison designed by the LSC for the Solihull Pilot is a greatly improved system for statistical analysis and monitoring.
- 369 There was unanimous agreement on the importance of having a witness statement and all relevant evidence in front of the decision maker before a decision.
- 370 There was a marked difference between the first and second six months when the Solihull Pilot was properly operational.
- 371 There were some problems identified during the Solihull Pilot in effecting the practical implementation of parts of the Solihull Pilot procedure.
- 372 When the Solihull Pilot procedure was followed there were noticeable benefits for all

parties involved.

373 There needs to be adherence to the timelines detailed below to allow all elements of the procedure to be implemented.

374 The following recommendations are made in the light of the above conclusions:

Recommendations

- 375 The Solihull Pilot procedure and timelines contained in this report should become the normal procedure adopted for the decision making element of an asylum claim.
- 376 Solihull should be the first region to implement the procedure which must be followed by all parties.
- 377 The procedure and timelines that are detailed below at pages 93-96 must be followed.
- 378 A full life cycle costing analysis should be conducted by UKBA in preparation for a business case to roll out the Solihull Pilot procedure to all regions.
- 379 A more structured statistical analysis is required to calculate potential savings based on a like by like comparator.
- 380 This analysis should utilise the more detailed, sophisticated reporting template designed by the LSC for EAP providers.
- 381 The LSC should introduce the same funding basis for LH, as that introduced for the EAP providers in the Solihull Pilot. The funding should be subject to a robust monitoring system.
- 382 The UKBA and LSC should develop a Service Level Agreement to allow the mutual sharing of relevant statistical information between the two parties, ensuring that such a relationship complies with both parties' data protection requirements.
- 383 There must be effective monitoring of the practical implementation of the new procedure by UKBA managers, EAP provider managers and the LSC.
- 384 The LSC should introduce the reporting template designed for the detailed statistical analysis underpinning any new contracts with providers. Funding will be subject to a robust monitoring system linked to Key Performance Indicators (KPIs).

- 385 The LSC should introduce the same quality review criteria as that applied in the Solihull Pilot as the norm, to include a detailed quality analysis of advice and/or action at each key stage which will be incorporated into KPIs
- 386 All new contracts should state explicitly that the quality standards expected will underpin the contract. Contract compliance will be subject to robust monitoring through the reporting template in conjunction with a quality review based on these criteria.
- 387 The LSC template and the quality review criteria will be the basis for strict contract compliance for representation for each client at all stages of the claim. Failure to comply with any KPI will constitute a breach of contract and will result in loss of payment from the LSC for the whole or part of that case.
- 388 UKBA should allocate a dedicated manager to oversee the implementation and to ensure the new procedure is fully implemented.
- 389 Attendance at the User Groups, training and briefing sessions should attract CPD points for the legal representatives and should be treated as working hours for Caseowners and managers as an integral part of their working duties.
- 390 An Implementation Group should be established, the make up of which should include representatives from UKBA including Caseowners, LSC, EAP Providers and One Stop Service Providers. The key functions of this group would be to monitor the implementation of the new procedure and to raise and try and resolve any practical problems in the implementation of the new procedure.
- 391 Following a further six month period of the Solihull Pilot procedure being established in Solihull, UKBA working in liaison with the LSC will plan a steady and phased introduction of this procedure to the other regions.

The Procedure And Timelines

- 392
- That a good quality detailed witness statement is always produced to be with UKBA no later than three days before the substantive interview.
- 393
- A pre-interview discussion must take place following receipt of the witness statement and no later than the day before the interview.
- 394
- The pro forma discussion must take place and a copy placed on Caseowner and legal representatives' files. The pro forma does not require a signature, it is a record of the discussion and not legally binding
- 395
- Managers must allow and ensure this interview is entered into work diaries by the Caseowners.
- 396
- At regular intervals in an interview following each section of an interview the Caseowner will ask the legal representative if they have noted anything that needs further clarification. All exchanges will be recorded on the interview record.
- 397
- There should be a functioning first instance complaints procedure to take matters of dispute or lack of a professional approach on either side without such cases necessarily being escalated to the formal complaints procedure.
- 398
- That immediately following all interviews the Caseowner invites the legal representative to ask the following questions:
 1. If they have any concerns with the evidence given at interview in an attempt to try and clarify any outstanding issues?
 2. If there are any other matters where the legal representative can be of assistance?
 3. If there is any other evidence that would be useful?
 4. Discuss what case law applies if applicable.
 5. If written representations would be of assistance at this stage?

- 399 • That a record must be made of this exchange and a copy placed on the Caseowners and legal representatives' files.
- 400 • At the end of the interview the Caseowner and the legal representative put an agreed 15 minute period in their work diaries in order that a post-interview discussion can take place.
- 401 • At the Post-Interview discussion, the Caseowner should indicate if they are minded to grant or refuse the case. Any concerns should be raised and an agreement should be reached on whether further written representations or evidence would be of assistance.
- 402 • A record of the discussion must be on the Caseowners' and legal representatives' files.
- 403 • Written representations will always be submitted by a specified date where it has been agreed with a Caseowner that this would be helpful. The written representations will be case and issue specific.
- 404 • There is a shared duty to identify relevant evidence.
- 405 • All relevant evidence should be in front of the decision maker before the decision.
- 406 • The legal representative must take all efforts to ensure the timeliness of acquiring evidence identified.
- 407 • Realistic timelines should be agreed and adhered to.
- 408 • Managers must ensure that the end to end case management is implemented. The only exception being where it is operationally impossible.
- 409 • Caseowners should do their own representation at the AIT.

- 410
 - EAP providers must adhere to the principle of seamless case ownership and have single file/case ownership. The only exception being where this is operationally impossible.

- 411
 - UKBA and EAP provider managers must be required to performance manage the full and correct procedure. This will include ensuring the Caseowners and legal representatives allocate time for the component parts of the procedure to take place.

- 412
 - Attendance at the User Groups attracts CPD points for the legal representatives. Attendance at the user groups are treated as working hours for Caseowners and managers and are an integral part of their working duties.

- 413
 - All Caseowners and mangers must undergo specific training on the application of the procedure.

- 414
 - Legal representatives must attend briefings on the application of the procedure.

- 415 Normal Timelines (flexibility criteria not applicable).

- 416 Day 0 Applicant claims asylum

- 417 Day 1 NAM clock starts when applicant arrives in dispersal area

- 418 Day 2/3 FRE/NASS/ One Stop Service Provider

- 419 Day3/4/5 First legal representatives appointment

- 420 Day 11 Witness statement submitted

- 421 Day 11- 13 Pre-interview pro forma discussion

- 422 Day 14 Interview

423 Day 15/17 Post-interview discussion

424 Day 22 Written representations submitted where applicable

Appendices

- 1 Performance Management & Information Team UKBA Solihull Pilot Report
- 2 Legal Services Commission Report on the Early Legal Advice Pilot in Solihull
- 3 Early Legal Advice Pilot – Report on the Evaluation Workshops
- 4 UNHCR Evaluation of the Solihull Early Legal Advice Pilot
- 5 Testing Implementation of Early & Interactive Legal Advice July 2006
- 6 The Asylum Support (Amendment) Regulations 2008

Acknowledgements


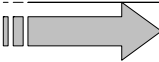
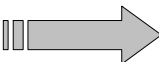


Acknowledgement and thanks are given to the following for the helpful reports and documents used to inform this report listed in the Appendices above.

- 1 Performance Management & Information Team UKBA
- 2 LSC Immigration Policy Team and the LSC Quality Reviewer
- 3 Maurice Wren Director Asylum Aid
- 4 UNHCR
- 5 Evan Ruth Past Deputy Director UKBA's Central Quality Team
- 6 All members of the Evaluation Group
- 7 All members of the Project Board







Solihull Pilot Report

APPENDIX 1

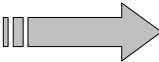
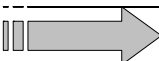
Headline Summary Figures

1	Overall Pilot Comparison Figures	
2	Conclusion Rates Graph	
3	Decision Breakdown Graph	
4	Interviews Conducted Graph	
5	Appeals Lodged / Allowed Graph	

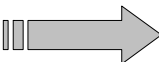

Nationality Breakdown

6	Top Nationality Breakdown Figures	
7	Full Nationality Breakdown Figures	
8	Pilot Nationality Breakdown Graph	
9	Rest of Solihull Nationality Breakdown Graph	
10	Leeds Nationality Breakdown Graph	
11	Breakdown of Red Nationalities Graph	



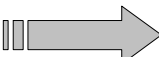
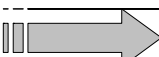


Timeliness Analysis

12	Conclusion Timeliness Figures	
13	Appeals Heard Timeliness Figures	






Gender Analysis

14	Gender Analysis - Males Only Figures	
15	Gender Analysis - Females Only Figures	

RAG Analysis

16	Red Nationalities Only	
17	Amber Nationalities Only	
18	Green Nationalities Only	
19	RAG Conclusion Rate Comparison Graph	
20	RAG Grant Rate Comparison Graph	
21	RAG Allowed Appeal Rate Comparison Graph	

6 Month Breakdown Analysis

22	First 6 Months Cases Analysis	
23	Second 6 Months Cases Analysis	
24	Conclusion Rates Analysis Graph	
25	Grant Rate Analysis Graph	
26	Allowed Appeal Rate Analysis Graph	

Quarterly Breakdown Analysis

27	First Quarter Cases Analysis	
28	Second Quarter Cases Analysis	
29	Third Quarter Cases Analysis	
30	Fourth Quarter Cases Analysis	

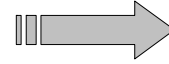
31

Conclusion Rates Analysis Graph



32

Grant Rates Analysis Graph



Period: **07/12/2007**

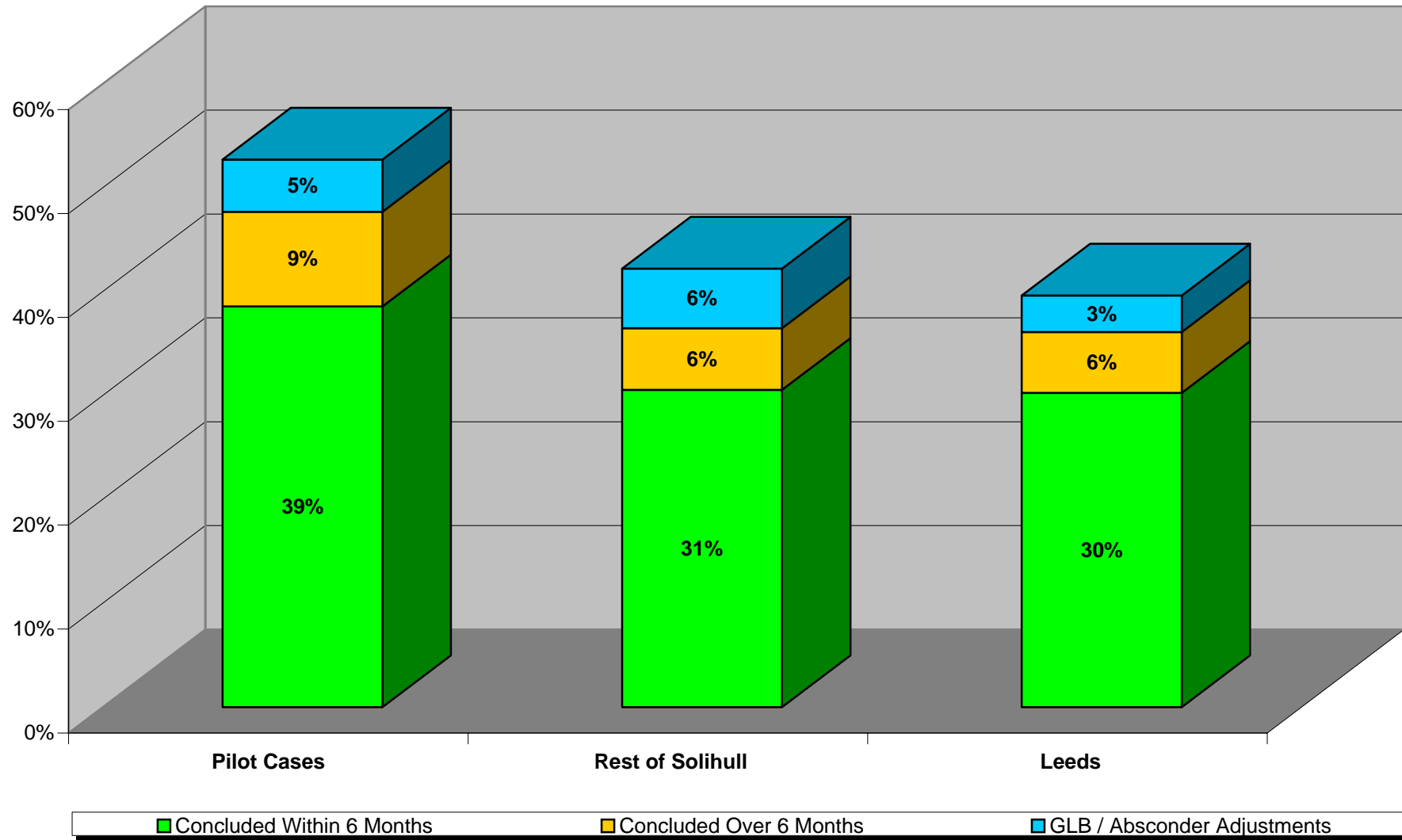
Solihull Pilot Cases from 20th November 2006



		Pilot Cases	Rest of Solihull Cases	Leeds Cases	Pilot vs. Rest of Solihull	Pilot vs. Leeds
INTAKE	Total Intake	451	2613	3550		
	Minors	8	509	242		
CASE RESOLUTION	Concluded within 6 Months	174 39%	798 31%	1074 30%	8%	8%
	Grant at Decision	147 84%	644 81%	774 72%	4%	12%
	Allowed Appeal	15 9%	59 7%	185 17%	1%	-9%
	Removal	9 5%	49 6%	55 5%	-1%	0%
	Other	3 2%	46 6%	60 6%	-4%	-4%
	Concluded Outside 6 Months	41 9%	99 4%	136 4%	5%	5%
ADJUSTMENTS	Absconder Cases	2 0%	177 7%	150 4%	-6%	-4%
	GLB Cases	50 11%	236 9%	218 6%	2%	5%
	Adjusted 6 Month Conclusion Rate	44%	36%	34%	7%	10%
	Differential	5%	6%	3%	5%	5%
DECISIONS SERVED	Decisions Served	417 92%	2025 77%	2972 84%	15%	9%
	Within 30 Days	45 11%	393 19%	952 32%	-9%	-21%
	31 - 60 Days	73 18%	337 17%	573 19%	1%	-2%
	Over 60 Days	302 72%	1300 64%	1458 49%	8%	23%
DECISION SERVICE OUTCOMES	Refusal	254 61%	1314 65%	2155 73%	-4%	-12%
	Grant	163 39%	703 35%	804 27%	4%	12%
	Grant DL	5 1%	273 13%	76 3%	-12%	-1%
	Grant HP	4 1%	7 0%	22 1%	1%	0%
	Other Grant	154 37%	423 21%	706 24%	16%	13%
	Other Outcome		8 0%	13 0%	0%	0%
INTERVIEWS	Total Interviews Conducted (as % of Intake)	411 91%	1853 71%	2736 77%	20%	14%
APPEALS LODGED	Total Appeals Lodged (as % of Refusals)	237 93%	943 72%	1529 71%	22%	22%
APPEALS HEARD	Total Appeals Heard (as % of Appeals Lodged)	226 95%	858 91%	1413 92%	4%	3%
APPEAL OUTCOMES	Allowed Appeals (as % of Appeals Heard)	39 17%	157 18%	306 22%	-1%	-4%
REMOVALS	Total Removals (as % of Refusals)	26 10%	131 10%	144 7%	0%	4%
	Total Removals (as % of Intake)	26 6%	131 5%	144 4%	1%	2%
	Enforced	19 73%	94 72%	77 53%	1%	20%
	Voluntary	7 27%	37 28%	67 47%	-1%	-20%

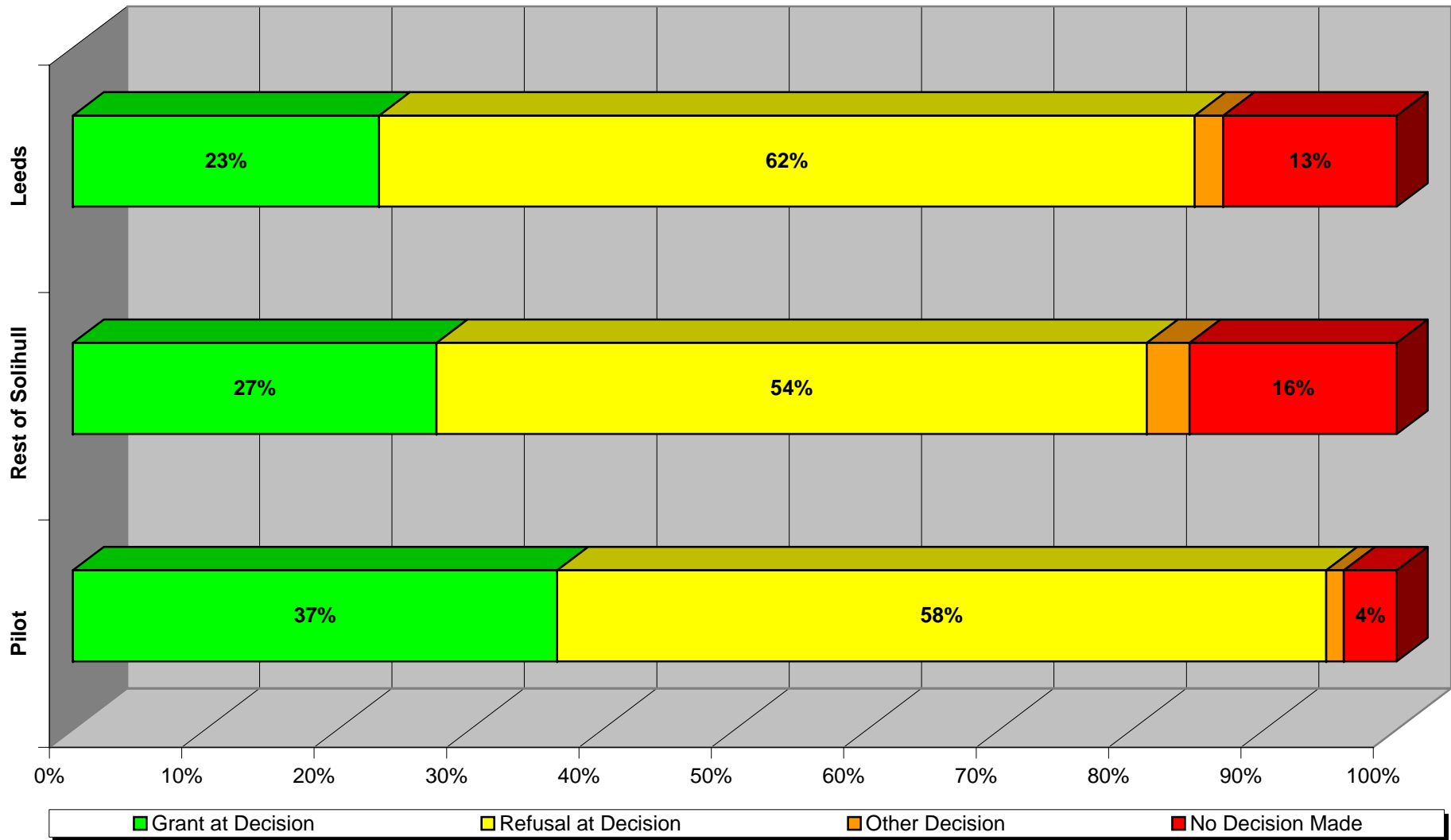


Case Conclusion Rates (as a % of total cases)



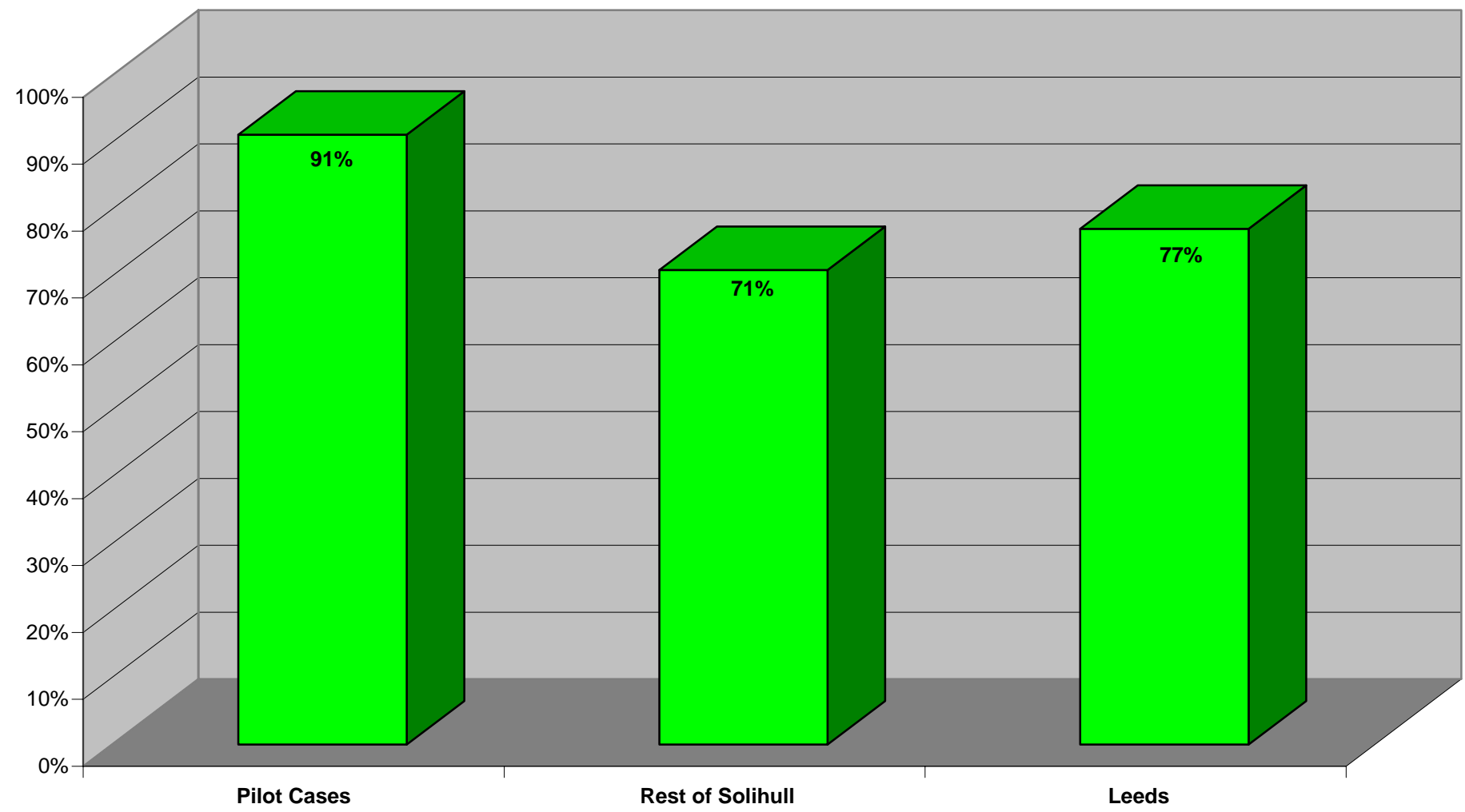


Decision Breakdown (as a % of total cases)



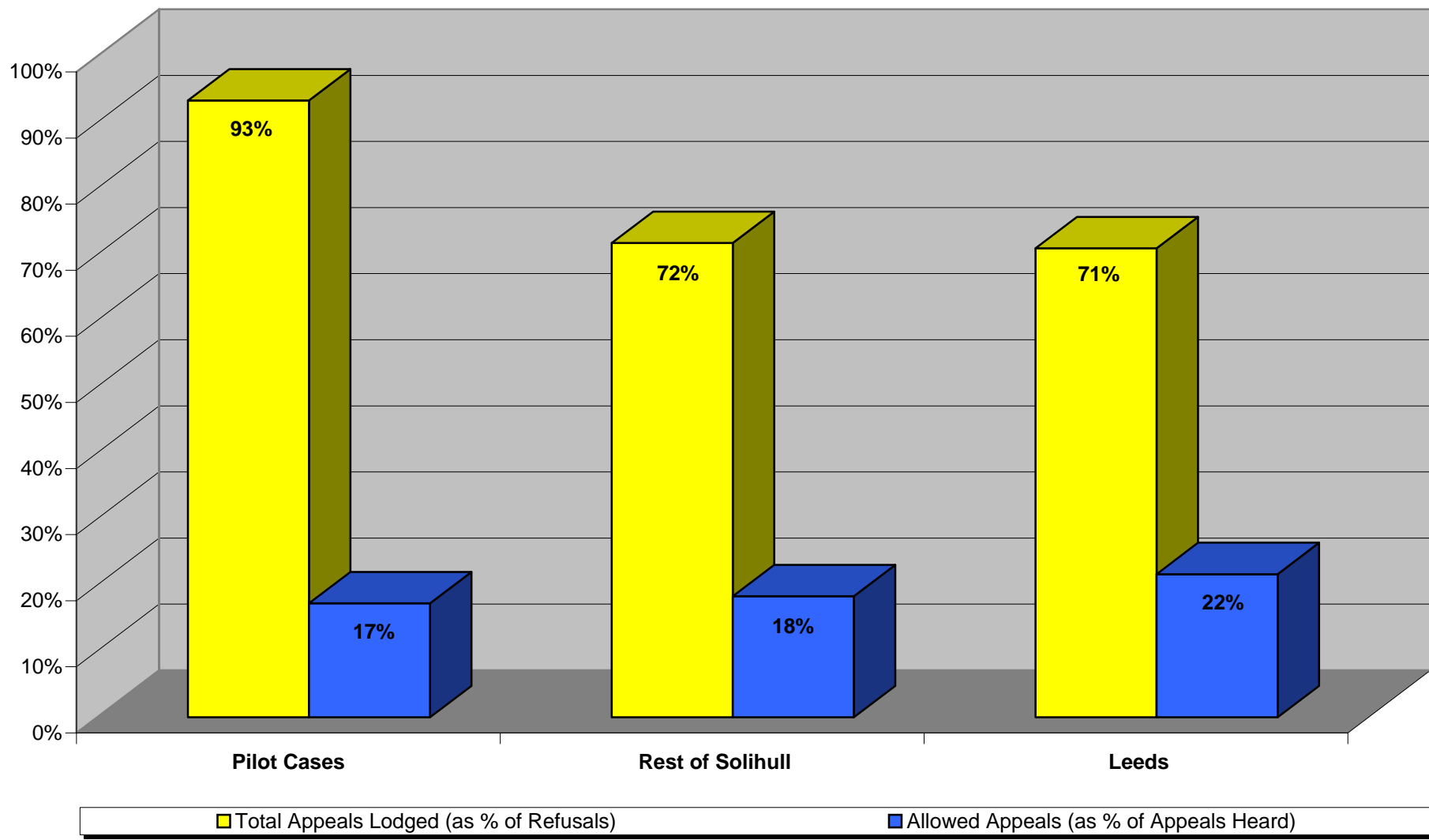


% Interviews Conducted
(as a % of total cases)





Appeals Lodged vs. Appeals Allowed (Appeals Lodged as a % of Refusals / Allowed Appeals as a % of Appeals Heard)





Nationality		Pilot Cases	%	Rest of Solihull Cases	%	Leeds Cases	%
1	Zimbabwe	100	22%	524	20%	314	9%
2	Iran (Islamic Republic of)	75	17%	228	9%	497	14%
3	Iraq	49	11%	236	9%	410	12%
4	Eritrea	49	11%	154	6%	372	10%
5	Afghanistan	32	7%	339	13%	254	7%
6	Somalia	21	5%	123	5%	225	6%
7	Pakistan	15	3%	75	3%	113	3%
8	Sudan	13	3%	40	2%	65	2%
9	Congo Democratic Republic	13	3%	28	1%	74	2%
10	Kuwait	7	2%	12	0%	24	1%
	Others	77	17%	854	33%	1202	34%
	Total	451		2613		3550	

Note:

The top 10 Nationalities are based on the number of Pilot cases by nationality. The top 10 nationalities for the rest of Solihull and Leeds will likely differ however for comparative purposes it is simpler to just look at these nationalities



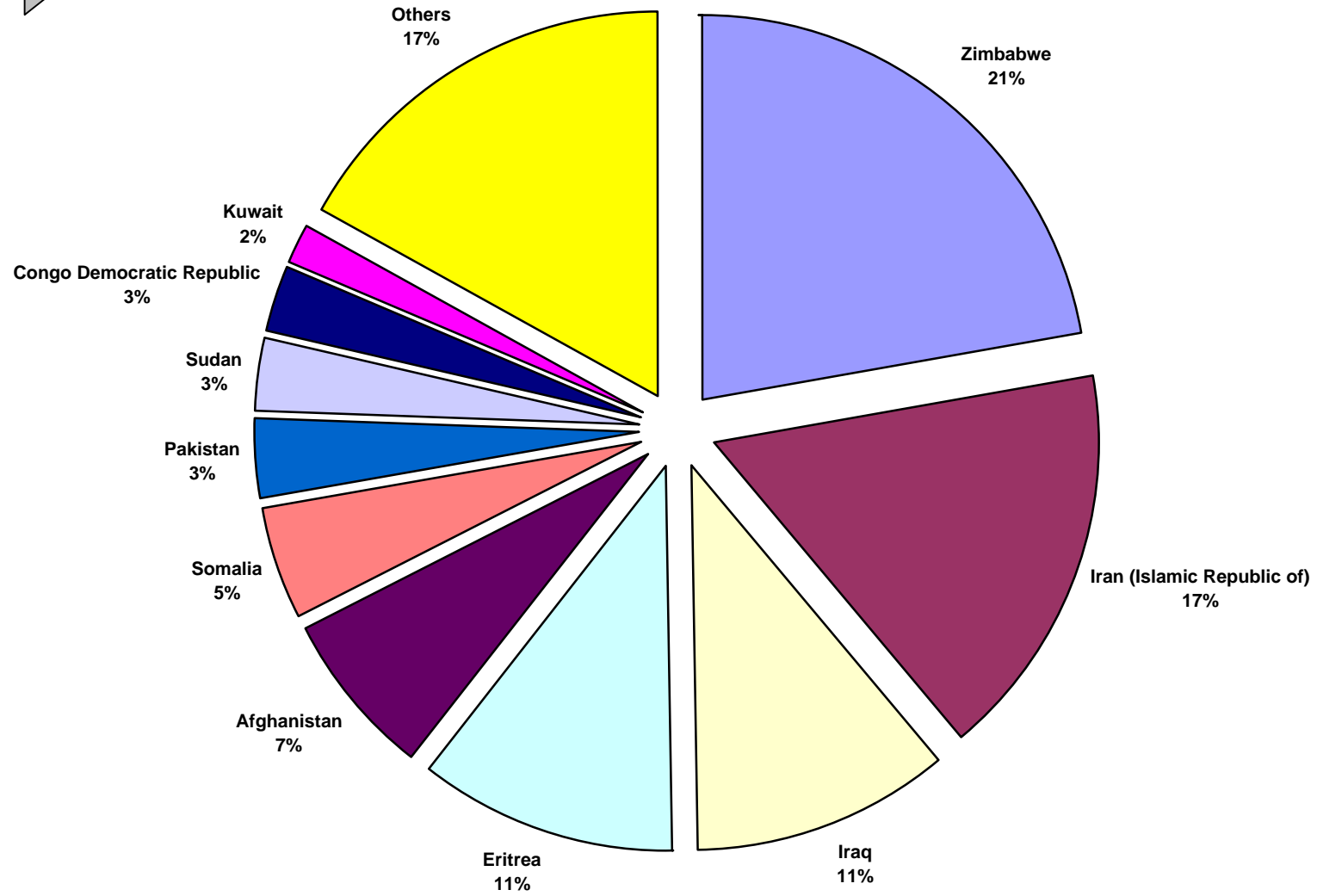
Pilot Cases		
Zimbabwe	100	22%
Iran (Islamic Republic of)	75	17%
Eritrea	49	11%
Iraq	49	11%
Afghanistan	32	7%
Somalia	21	5%
Pakistan	15	3%
Congo Democratic Republic	13	3%
Sudan	13	3%
Palestinian Authority	8	2%
Kuwait	7	2%
China	6	1%
Democratic People's Republic of Korea	6	1%
Nigeria	6	1%
Libya	4	1%
Myanmar	4	1%
Bangladesh	3	1%
Cameroon	3	1%
Guinea	3	1%
Kenya	3	1%
Sri Lanka	3	1%
Syria Arab Republic	3	1%
Cote D'Ivoire (Ivory Coast)	2	0%
Democratic Republic of the Congo	2	0%
Refugee - Other	2	0%
Russian Federation	2	0%
South Africa	2	0%
Turkey	2	0%
Belarus	1	0%
Cuba	1	0%
Federal Republic of Yugoslavia	1	0%
Gambia	1	0%
Georgia	1	0%
Guatemala	1	0%
Israel	1	0%
Liberia	1	0%
Malawi	1	0%
Sierra Leone	1	0%
Trinidad & Tobago	1	0%
Uganda	1	0%
United States of America	1	0%
Total	451	100%

Rest of Solihull Cases		
Zimbabwe	531	20%
Afghanistan	310	12%
Iran (Islamic Republic of)	253	10%
Iraq	238	9%
Eritrea	177	7%
China	139	5%
Somalia	119	5%
Sri Lanka	86	3%
Pakistan	78	3%
Nigeria	60	2%
Palestinian Authority	53	2%
Sudan	49	2%
India	45	2%
Bangladesh	38	1%
China (Peoples Republic of China)	35	1%
Congo Democratic Republic	31	1%
Democratic People's Republic of Korea	19	1%
Jamaica	19	1%
Kuwait	19	1%
South Africa	19	1%
Cameroon	18	1%
Kenya	16	1%
Turkey	16	1%
Myanmar	15	1%
Gambia	13	0%
Guinea	12	0%
Vietnam	11	0%
Angola	10	0%
Bosnia & Herzegovina	10	0%
Libya	10	0%
Uganda	10	0%
Ethiopia	9	0%
Malawi	9	0%
Albania	8	0%
Cote D'Ivoire (Ivory Coast)	8	0%
Liberia	8	0%
Algeria	7	0%
Russian Federation	6	0%
Democratic Republic of the Congo	5	0%
Georgia	5	0%
Ghana	5	0%
Israel	5	0%
Togo	5	0%
Egypt	4	0%
Moldova, Republic of	4	0%
Syria Arab Republic	4	0%
Yemen	4	0%
Burundi	3	0%
Congo	3	0%
Kosovo	3	0%
Lebanon	3	0%
Mongolia	3	0%
Refugee - Other	3	0%
Sierra Leone	3	0%
Malaysia	2	0%
Mali	2	0%
Niger	2	0%
Rwanda	2	0%
United Rep of Tanzania	2	0%
United States of America	2	0%
Zambia	2	0%
Armenia	1	0%
Australia	1	0%
Azerbaijan	1	0%
Belarus	1	0%
Benin	1	0%
Botswana	1	0%
Brazil	1	0%
Cuba	1	0%
Djibouti	1	0%
Federal Republic of Yugoslavia	1	0%
Guatemala	1	0%
Guinea-Bissau	1	0%
Hong Kong Special Administrative Region of China	1	0%
Jordan	1	0%
Lesotho	1	0%
Mauritius	1	0%
Morocco	1	0%
Namibia	1	0%
Nepal	1	0%
South Korea (Rep of Korea)	1	0%
St Vincent & the Grenadines	1	0%
Trinidad & Tobago	1	0%
Ukraine	1	0%
Total	2613	100%

Leeds Cases		
Iran (Islamic Republic of)	497	14%
Iraq	410	12%
Eritrea	372	10%
China	361	10%
Zimbabwe	314	9%
Afghanistan	254	7%
Somalia	225	6%
Pakistan	113	3%
Democratic People's Republic of Korea	96	3%
Congo Democratic Republic	74	2%
India	74	2%
Palestinian Authority	68	2%
Sudan	65	2%
Nigeria	48	1%
Bangladesh	43	1%
Myanmar	37	1%
Cameroon	34	1%
China (Peoples Republic of China)	34	1%
Syria Arab Republic	33	1%
Sri Lanka	28	1%
Guinea	24	1%
Kuwait	24	1%
Algeria	22	1%
Ethiopia	19	1%
Cote D'Ivoire (Ivory Coast)	18	1%
Kenya	16	0%
South Africa	16	0%
Angola	14	0%
Gambia	11	0%
Turkey	10	0%
Uganda	10	0%
Malawi	9	0%
Russian Federation	9	0%
Congo	8	0%
Yemen	8	0%
Democratic Republic of the Congo	7	0%
Egypt	7	0%
Ghana	7	0%
Belarus	6	0%
Lebanon	6	0%
Libya	6	0%
Refugee - Other	6	0%
Sierra Leone	6	0%
Vietnam	6	0%
Albania	5	0%
Georgia	5	0%
Armenia	4	0%
Azerbaijan	4	0%
Burundi	4	0%
Israel	4	0%
Jamaica	4	0%
Liberia	4	0%
Macedonia (Former Yugoslav Republic of)	4	0%
Uzbekistan	4	0%
Bhutan	3	0%
Croatia	3	0%
Senegal	3	0%
South Korea (Rep of Korea)	3	0%
Ukraine	3	0%
Jordan	2	0%
Kosovo	2	0%
Malaysia	2	0%
Moldova, Republic of	2	0%
Nepal	2	0%
Togo	2	0%
Tunisia	2	0%
United Rep of Tanzania	2	0%
Unspecified Nationality	2	0%
Western Sahara	2	0%
Bosnia & Herzegovina	1	0%
Burkina Faso	1	0%
Central African Republic	1	0%
Colombia	1	0%
Cuba	1	0%
Kazakhstan	1	0%
Mali	1	0%
Mauritania	1	0%
Mongolia	1	0%
Mozambique	1	0%
Peru	1	0%
Poland	1	0%
Refugee - Article 1 of the 1951 Convention	1	0%
Republic of Serbia	1	0%
Singapore	1	0%
St Kitts & Nevis	1	0%
Turkmenistan	1	0%
Zambia	1	0%
Total	3550	100%

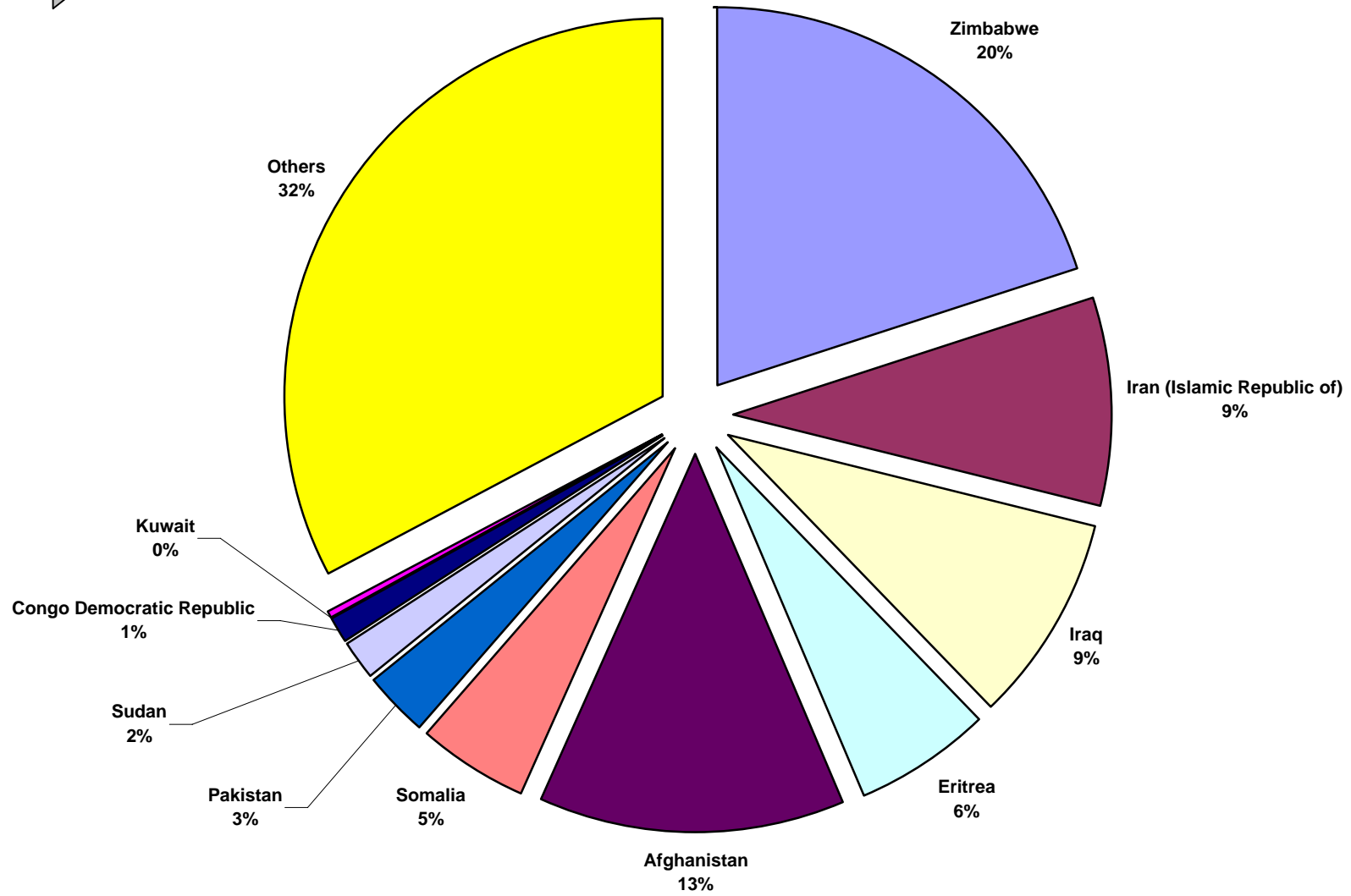


Solihull Pilot Nationality Breakdown



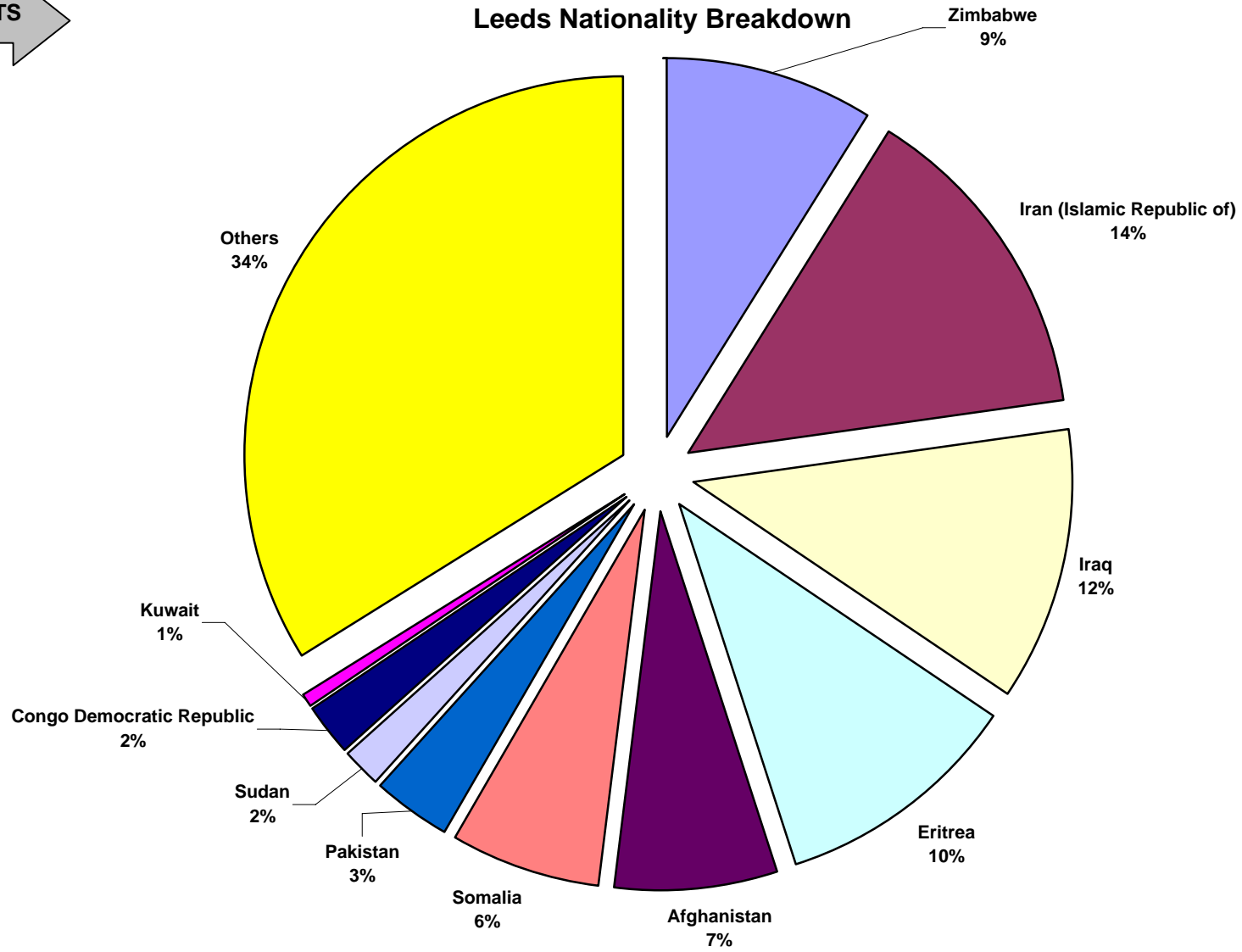


Rest of Solihull Nationality Breakdown



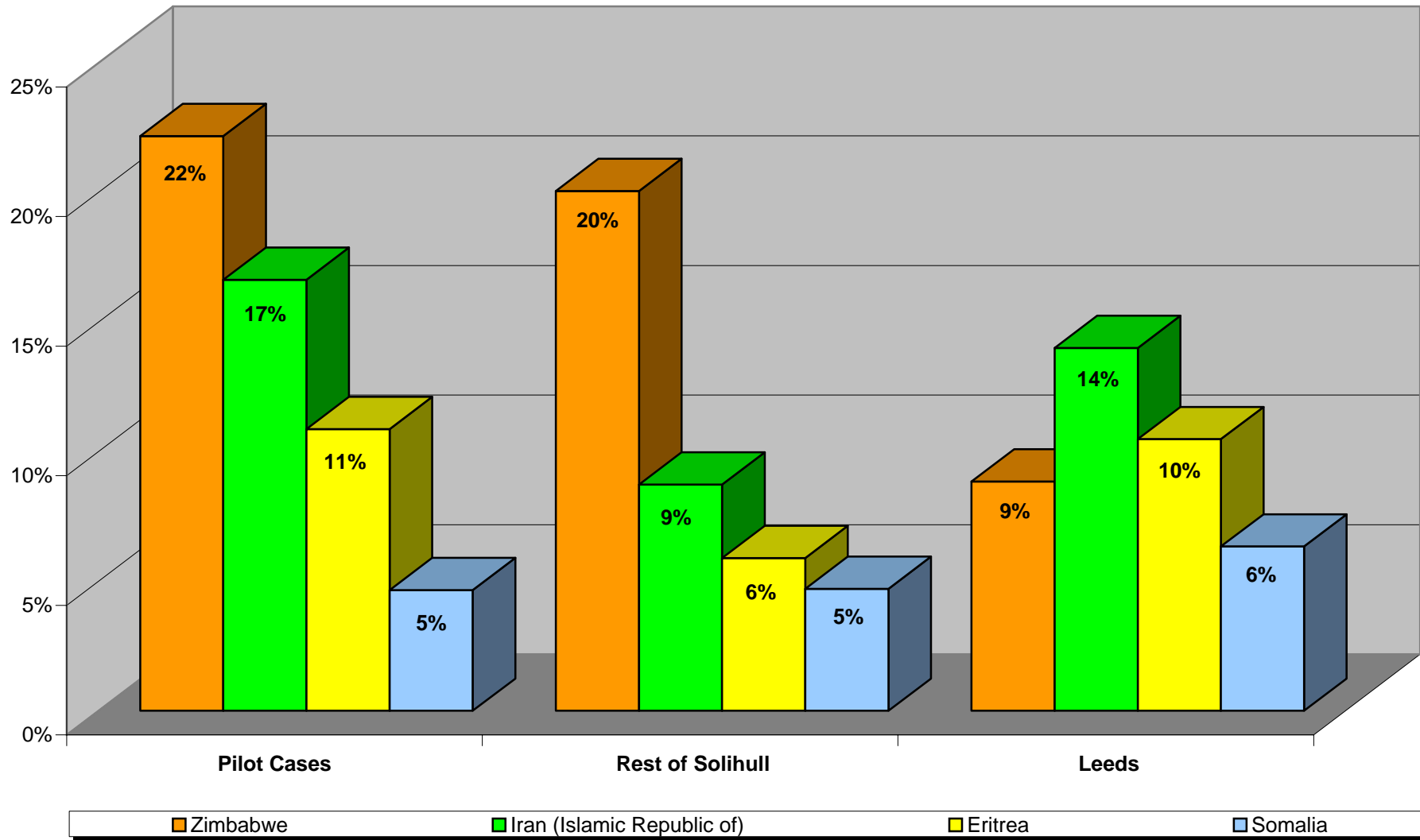


Leeds Nationality Breakdown





Red Nationality Breakdown (as a % of overall cases)



Conclusion Timeliness

Difference in Days from Application to Case Conclusion



	Pilot	Rest of Solihull	Leeds	Pilot vs. Solihull	Pilot vs. Leeds
Cases	451	2613	3550		
Concluded	215 48%	953 36%	1282 36%	11%	12%
Within 6 Months	174 39%	798 31%	1074 30%	8%	8%
Over 6 Months	41 9%	155 6%	208 6%	3%	3%
AVERAGE DAYS	143	141	139	1	4
Grants at Decision	164	706	810		
Within 6 Months	147 90%	644 91%	774 96%	-2%	-6%
Over 6 Months	17 10%	62 9%	36 4%	2%	6%
AVERAGE DAYS	119	125	112	-6	7
Allowed Appeal	31	105	262		
Within 6 Months	15 48%	59 56%	185 71%	-8%	-22%
Over 6 Months	16 52%	46 44%	77 29%	8%	22%
AVERAGE DAYS	237	211	181	26	56
Removal	15	86	121		
Within 6 Months	9 60%	49 57%	55 45%	3%	15%
Over 6 Months	6 40%	37 43%	66 55%	-3%	-15%
AVERAGE DAYS	188	196	202	-7	-14

Appeal Timeliness

Differences in Days from Appeal Lodged to Appeal Outcome



	Pilot	Rest of Solihull	Leeds	Pilot vs. Solihull	Pilot vs. Leeds
Appeals Heard	226	858	1413		
Within 30 Days	21 9%	104 12%	136 10%	-3%	0%
31 - 60 Days	151 67%	522 61%	992 70%	6%	-3%
61 - 90 Days	35 15%	145 17%	185 13%	-1%	2%
91 - 182 Days	16 7%	77 9%	88 6%	-2%	1%
183+ Days	3 1%	10 1%	12 1%	0%	0%
AVERAGE DAYS	51	53	51	-2	0
Appeals Heard - Allowed	39	196	306		
Within 30 Days	2 5%	15 8%	11 4%	-3%	2%
31 - 60 Days	25 64%	108 55%	215 70%	9%	-6%
61 - 90 Days	4 10%	37 19%	46 15%	-9%	-5%
91 - 182 Days	8 21%	31 16%	31 10%	5%	10%
183+ Days		5 3%	3 1%		
AVERAGE DAYS	62	61	56	0	6
Appeals Heard - Not Allowed	187	888	1107		
Within 30 Days	19 10%	110 12%	125 11%	-2%	-1%
31 - 60 Days	126 67%	565 64%	777 70%	4%	-3%
61 - 90 Days	31 17%	143 16%	139 13%	0%	4%
91 - 182 Days	8 4%	62 7%	57 5%	-3%	-1%
183+ Days	3 2%	8 1%	9 1%	1%	1%
AVERAGE DAYS	49	51	49	-2	0

Pilot Comparison - Only Male Applicants

Period: **07/12/2007**

Solihull Pilot Cases from 20th November 2006



		Pilot Cases	Rest of Solihull Cases	Leeds Cases	Pilot vs. Rest of Solihull	Pilot vs. Leeds
INTAKE	Total Intake	289	1758	2511		
CASE RESOLUTION	Concluded within 6 Months	105 36%	539 31%	689 27%	6%	9%
	Grant at Decision	88 84%	441 82%	488 71%	2%	13%
	Allowed Appeal	9 9%	38 7%	119 17%	2%	-9%
	Removal	8 8%	38 7%	45 7%	1%	1%
	Other	22 8%	22 4%	37 5%	-4%	-5%
	Concluded Outside 6 Months	22 8%	85 5%	102 4%	3%	4%
ADJUSTMENTS	Absconder Cases	2 1%	141 8%	99 4%	-7%	4%
	GLB Cases	25 9%	100 6%	116 5%	3%	1%
	Adjusted 6 Month Conclusion Rate Differential	40% 4%	36% 5%	30% 3%	5% -1%	10% 1%
DECISIONS SERVED	Decisions Served	265 92%	1349 77%	2075 83%	15%	9%
	Within 30 Days	33 12%	272 20%	677 33%	-8%	-20%
	31 - 60 Days	45 17%	209 15%	391 19%	1%	-2%
	Over 60 Days	190 72%	870 64%	1015 49%	7%	23%
DECISION SERVICE OUTCOMES	Refusal	169 64%	863 64%	1557 75%	0%	-11%
	Grant	96 36%	485 36%	509 25%	0%	12%
	Grant DL	3 1%	244 18%	66 3%	-17%	-2%
	Grant HP	1 0%	2 0%	16 1%	0%	0%
	Other Grant	92 35%	239 18%	427 21%	17%	14%
	Other Outcome		1 0%		9 0%	0%
INTERVIEWS	Total Interviews Conducted (as % of Intake)	263 91%	1215 69%	1930 77%	22%	14%
APPEALS LODGED	Total Appeals Lodged (as % of Refusals)	156 92%	590 68%	1096 70%	24%	22%
APPEALS HEARD	Total Appeals Heard (as % of Appeals Lodged)	150 96%	536 91%	1019 93%	5%	3%
APPEAL OUTCOMES	Allowed Appeals (as % of Appeals Heard)	20 13%	101 19%	197 19%	-6%	-6%
REMOVALS	Total Removals (as % of Intake)	18 6%	97 6%	115 5%	1%	2%
	Enforced	13 72%	71 73%	60 52%	-1%	20%
	Voluntary	5 28%	26 27%	55 48%	1%	-20%

Pilot Comparison - Only Female Applicants

Period: **07/12/2007**

Solihull Pilot Cases from 20th November 2006

CONTENTS

		Pilot Cases		Rest of Solihull Cases		Leeds Cases		Pilot vs. Rest of Solihull	Pilot vs. Leeds
INTAKE	Total Intake	162		848		1037			
CASE RESOLUTION	Concluded within 6 Months	69	43%	259	31%	385	37%	12%	5%
	Grant at Decision	59	86%	203	78%	286	74%	7%	11%
	Allowed Appeal	6	9%	21	8%	66	17%	1%	-8%
	Removal	1	1%	11	4%	10	3%	-3%	-1%
	Other	3	4%	24	9%	23	6%	-5%	-2%
	Concluded Outside 6 Months	19	12%	13	2%	34	3%	10%	8%
ADJUSTMENTS	Absconder Cases			36	4%	51	5%	-4%	-1%
	GLB Cases	25	15%	136	16%	101	10%	-1%	6%
	Adjusted 6 Month Conclusion Rate Differential		8%		8%		6%	12%	7%
DECISIONS SERVED	Decisions Served	152	94%	675	80%	896	86%	14%	7%
	Within 30 Days	12	8%	121	18%	275	31%	-10%	-23%
	31 - 60 Days	28	18%	128	19%	182	20%	-1%	-2%
	Over 60 Days	112	74%	429	64%	442	49%	10%	24%
DECISION SERVICE OUTCOMES	Refusal	85	56%	450	67%	597	67%	-11%	-11%
	Grant	67	44%	218	32%	295	33%	12%	11%
	Grant DL	2	1%	29	4%	10	1%	-3%	0%
	Grant HP	3	2%	5	1%	6	1%	1%	1%
	Other Grant	62	41%	184	27%	279	31%	14%	10%
	Other Outcome			7	1%	4	0%	-1%	0%
INTERVIEWS	Total Interviews Conducted (as % of Intake)	148	91%	636	75%	805	78%	16%	14%
APPEALS LODGED	Total Appeals Lodged (as % of Refusals)	81	95%	353	78%	432	72%	17%	23%
APPEALS HEARD	Total Appeals Heard (as % of Appeals Lodged)	76	94%	322	91%	393	91%	3%	3%
APPEAL OUTCOMES	Allowed Appeals (as % of Appeals Heard)	19	25%	56	17%	109	28%	8%	-3%
REMOVALS	Total Removals (as % of Intake)	8	5%	34	4%	29	3%	1%	2%
	Enforced	6	75%	23	68%	17	59%	7%	16%
	Voluntary	2	25%	11	32%	12	41%	-7%	-16%

Pilot Comparison - Only Red Nationalities

Period: **07/12/2007**

Solihull Pilot Cases from 20th November 2006



		Pilot Cases		Rest of Solihull Cases		Leeds Cases		Pilot vs. Rest of Solihull	Pilot vs. Leeds
INTAKE	Total Intake	245		1029		1408			
CASE RESOLUTION	Concluded within 6 Months	125	51%	378	37%	600	43%	14%	8%
	Grant at Decision	107	86%	330	87%	460	77%	-2%	9%
	Allowed Appeal	12	10%	29	8%	104	17%	2%	-8%
	Removal	4	3%	4	1%	10	2%	2%	2%
	Other	2	2%	15	4%	26	4%	-2%	-3%
	Concluded Outside 6 Months	17	7%	18	2%	51	4%	5%	3%
ADJUSTMENTS	Absconder Cases	1	0%	14	1%	5	0%	-1%	0%
	GLB Cases	50	20%	236	23%	218	15%	-3%	5%
	Adjusted 6 Month Conclusion Rate Differential	64%	13%	49%	12%	51%	8%	16%	13%
DECISIONS SERVED	Decisions Served	229	93%	838	81%	1210	86%	12%	8%
	Within 30 Days	29	13%	122	15%	321	27%	-2%	-14%
	31 - 60 Days	45	20%	160	19%	279	23%	1%	-3%
	Over 60 Days	158	69%	559	67%	616	51%	2%	18%
DECISION SERVICE OUTCOMES	Refusal	117	51%	481	57%	724	60%	-6%	-9%
	Grant	112	49%	356	42%	482	40%	6%	9%
	Grant DL	1	0%	50	6%	12	1%	-6%	-1%
	Grant HP			1	0%	10	1%	0%	-1%
	Other Grant	111	48%	305	36%	460	38%	12%	10%
	Other Outcome			1	0%	4	0%	0%	0%
INTERVIEWS	Total Interviews Conducted (as % of Intake)	221	90%	855	83%	1273	90%	7%	0%
APPEALS LODGED	Total Appeals Lodged (as % of Refusals)	111	95%	430	89%	678	94%	5%	1%
APPEALS HEARD	Total Appeals Heard (as % of Appeals Lodged)	103	93%	373	87%	617	91%	6%	2%
APPEAL OUTCOMES	Allowed Appeals (as % of Appeals Heard)	23	22%	77	21%	163	26%	2%	-4%
REMOVALS	Total Removals (as % of Intake)	12	5%	19	2%	24	2%	3%	3%
	Enforced	8	67%	13	68%	8	33%	-2%	33%
	Voluntary	4	33%	6	32%	16	67%	2%	-33%

Pilot Comparison - Only Amber Nationalities

Period: **07/12/2007**

Solihull Pilot Cases from 20th November 2006



		Pilot Cases	Rest of Solihull Cases	Leeds Cases	Pilot vs. Rest of Solihull	Pilot vs. Leeds
INTAKE	Total Intake	170	1302	1816		
CASE RESOLUTION	Concluded within 6 Months	39 23%	345 26%	389 21%	-4%	2%
	Grant at Decision	32 82%	272 79%	268 69%	3%	13%
	Allowed Appeal	3 8%	25 7%	64 16%	0%	-9%
	Removal	3 8%	26 8%	29 7%	0%	0%
	Other	1 3%	22 6%	28 7%	-4%	-5%
	Concluded Outside 6 Months	19 11%	61 5%	68 4%	6%	7%
ADJUSTMENTS	Absconder Cases	1 1%	151 12%	143 8%	-11%	4%
	GLB Cases					
	Adjusted 6 Month Conclusion Rate	23%	30%	23%	-7%	0%
	Differential	0%	3%	2%	-3%	-2%
DECISIONS SERVED	Decisions Served	153 90%	1004 77%	1508 83%	13%	7%
	Within 30 Days	13 8%	227 23%	560 37%	-14%	-29%
	31 - 60 Days	26 17%	150 15%	250 17%	2%	0%
	Over 60 Days	114 75%	628 63%	702 47%	12%	28%
DECISION SERVICE OUTCOMES	Refusal	113 74%	697 69%	1224 81%	4%	-7%
	Grant	40 26%	300 30%	275 18%	-4%	8%
	Grant DL	3 2%	191 19%	58 4%	-17%	-2%
	Grant HP	4 3%	6 1%	10 1%	2%	2%
	Other Grant	33 22%	103 10%	207 14%	11%	8%
	Other Outcome		7 1%	9 1%		-1%
INTERVIEWS	Total Interviews Conducted (as % of Intake)	157 92%	812 62%	1195 66%	30%	27%
APPEALS LODGED	Total Appeals Lodged (as % of Refusals)	105 93%	405 58%	692 57%	35%	36%
APPEALS HEARD	Total Appeals Heard (as % of Appeals Lodged)	102 97%	383 95%	645 93%	3%	4%
APPEAL OUTCOMES	Allowed Appeals (as % of Appeals Heard)	13 13%	67 17%	114 18%	-5%	-5%
REMOVALS	Total Removals (as % of Intake)	10 6%	74 6%	66 4%	0%	2%
	Enforced	8 80%	50 68%	30 45%	12%	35%
	Voluntary	2 20%	24 32%	36 55%	-12%	-35%

Pilot Comparison - Only Green Nationalities

Period: **07/12/2007**

Solihull Pilot Cases from 20th November 2006

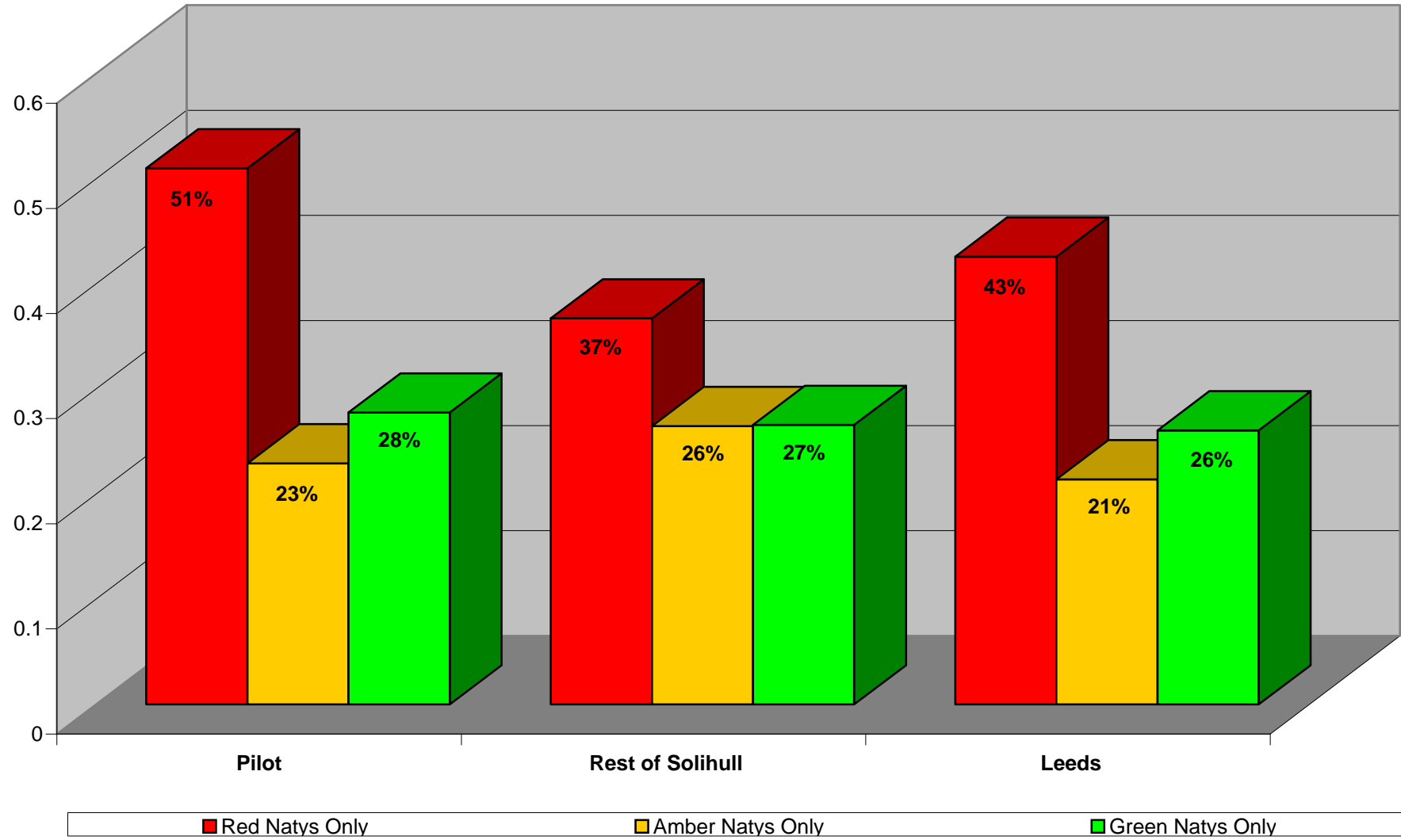
CONTENTS

		Pilot Cases	Rest of Solihull Cases	Leeds Cases	Pilot vs. Rest of Solihull	Pilot vs. Leeds
INTAKE	Total Intake	36	282	326		
CASE RESOLUTION	Concluded within 6 Months	10 28%	75 27%	85 26%	1%	2%
	Grant at Decision	8 80%	42 56%	46 54%	24%	26%
	Allowed Appeal		5 7%	17 20%	-7%	-20%
	Removal	2 20%	19 25%	16 19%	-5%	1%
	Other		9 12%	6 7%	-12%	-7%
	Concluded Outside 6 Months	5 14%	20 7%	17 5%	7%	9%
ADJUSTMENTS	Absconder Cases		12 4%	2 1%	-4%	4%
	GLB Cases					
	Adjusted 6 Month Conclusion Rate Differential	28%	28% 1%	26% 0%	-1%	2% 0%
DECISIONS SERVED	Decisions Served	35 97%	183 65%	254 78%	32%	19%
	Within 30 Days	3 9%	44 24%	71 28%	-15%	-19%
	31 - 60 Days	2 6%	27 15%	44 17%	-9%	-12%
	Over 60 Days	30 86%	113 62%	140 55%	24%	31%
DECISION SERVICE OUTCOMES	Refusal	24 69%	136 74%	207 81%	-6%	-13%
	Grant	11 31%	47 26%	47 19%	6%	13%
	Grant DL	1 3%	32 17%	6 2%	-15%	0%
	Grant HP			2 1%		-1%
	Other Grant	10 29%	15 8%	39 15%	20%	13%
	Other Outcome					
INTERVIEWS	Total Interviews Conducted (as % of Intake)	33 92%	186 66%	268 82%	26%	9%
APPEALS LODGED	Total Appeals Lodged (as % of Refusals)	21 88%	108 79%	159 77%	8%	11%
APPEALS HEARD	Total Appeals Heard (as % of Appeals Lodged)	21 100%	102 94%	151 95%	6%	5%
APPEAL OUTCOMES	Allowed Appeals (as % of Appeals Heard)	3 14%	13 13%	29 19%	2%	-5%
REMOVALS	Total Removals (as % of Intake)	4 11%	38 13%	54 17%	-2%	-5%
	Enforced	3 75%	31 82%	39 72%	-7%	3%
	Voluntary	1 25%	7 18%	15 28%	7%	-3%



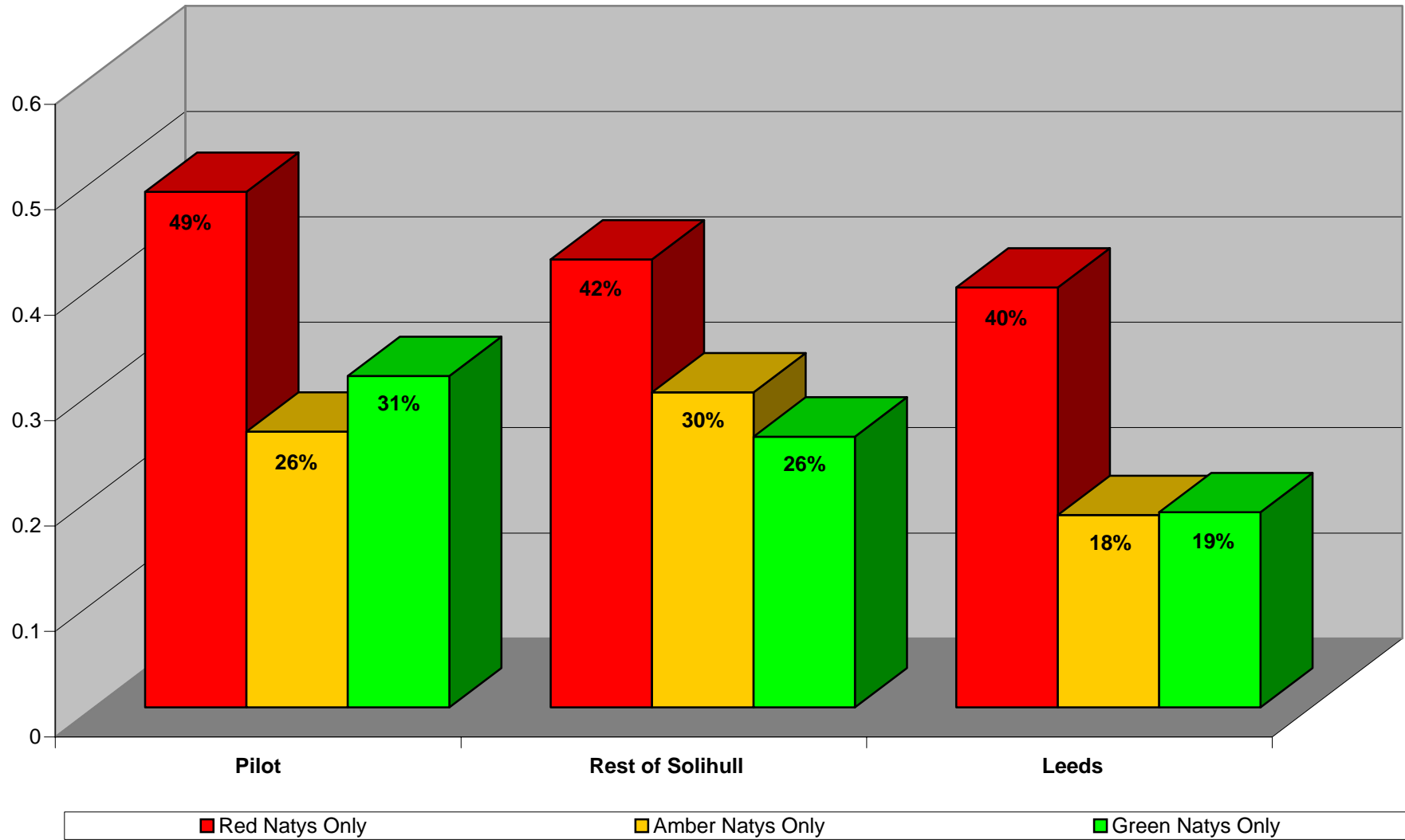
RAG Comparison - Conclusion Rates

(only applies to normal Conclusion Rate - not the Adjusted Rate as it takes account of nationality)



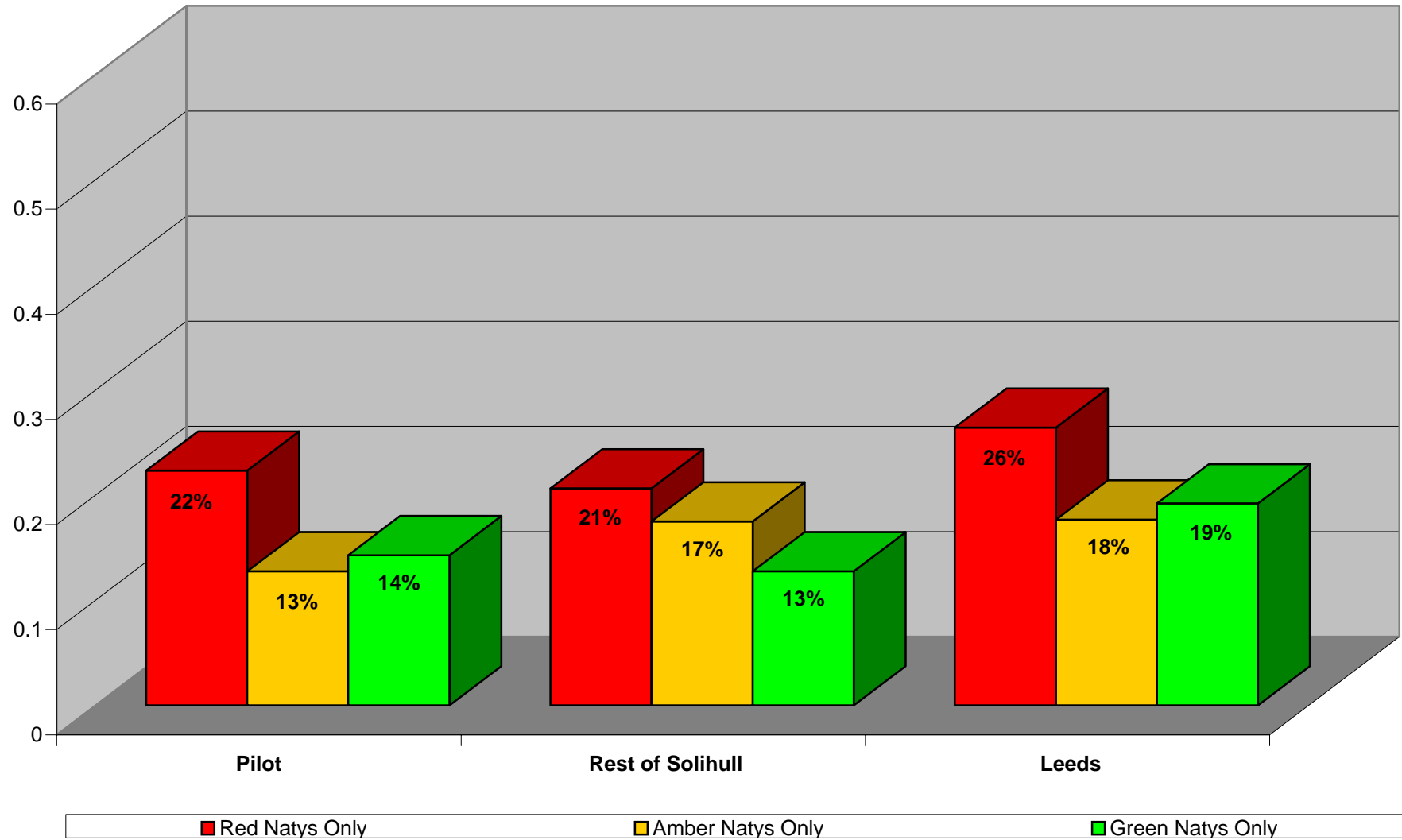


RAG Comparison - Grant at Decision Rates





RAG Comparison - Allowed Appeal Rates

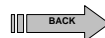


Overall Pilot Comparison - First 6 Months Only

20th November 2006 - 31st May 2007

Period: **31/05/2007**

Solihull Pilot Cases from 20th November 2006



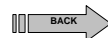
		Pilot Cases	Rest of Solihull Cases	Leeds Cases	Pilot vs. Rest of Solihull	Pilot vs. Leeds
INTAKE	Total Intake	242	936	1315		
	Minors	6	179	91		
CASE RESOLUTION	Concluded within 6 Months	68 28%	238 25%	402 31%	3%	-2%
	Grant at Decision	52 76%	186 78%	266 66%	-2%	10%
	Allowed Appeal	10 15%	27 11%	104 26%	3%	-11%
	Removal	4 6%	12 5%	15 4%	1%	2%
	Other	2 3%	13 5%	17 4%	-3%	-1%
	Concluded Outside 6 Months	37 15%	33 4%	46 3%	12%	12%
ADJUSTMENTS	Absconder Cases	1 0%	67 7%	30 2%	-7%	-2%
	GLB Cases	25 10%	74 8%	100 8%	2%	3%
	Adjusted 6 Month Conclusion Rate	31%	30%	34%	2%	-2%
	Differential	3%	5%	3%	3%	3%
DECISIONS SERVED	Decisions Served	228 94%	795 85%	1249 95%	9%	-1%
	Within 30 Days	36 16%	192 24%	570 46%	-8%	-30%
	31 - 60 Days	41 18%	123 15%	218 17%	3%	1%
	Over 60 Days	153 67%	483 61%	463 37%	6%	30%
DECISION SERVICE OUTCOMES	Refusal	162 71%	563 71%	955 76%	0%	-5%
	Grant	66 29%	232 29%	289 23%	0%	6%
	Grant DL	2 1%	92 12%	26 2%	-11%	-1%
	Grant HP	2 1%		11 1%	1%	0%
	Other Grant	62 27%	140 18%	252 20%	10%	7%
	Other Outcome			5 0%		0%
INTERVIEWS	Total Interviews Conducted (as % of Intake)	224 93%	689 74%	1091 83%	19%	10%
APPEALS LODGED	Total Appeals Lodged (as % of Refusals)	150 93%	417 74%	747 78%	19%	14%
APPEALS HEARD	Total Appeals Heard (as % of Appeals Lodged)	146 97%	402 96%	707 95%	1%	3%
APPEAL OUTCOMES	Allowed Appeals (as % of Appeals Heard)	31 21%	78 19%	165 23%	2%	-2%
REMOVALS	Total Removals (as % of Refusals)	15 9%	59 10%	58 6%	-1%	3%
	Total Removals (as % of Intake)	15 6%	59 6%	58 4%	0%	2%
	Enforced	11 73%	41 69%	32 55%	4%	18%
	Voluntary	4 27%	18 31%	26 45%	-4%	-18%

Overall Pilot Comparison - Last 6 Months Only

1st June 2007 - 07th December 2007

Period: **07/12/2007**

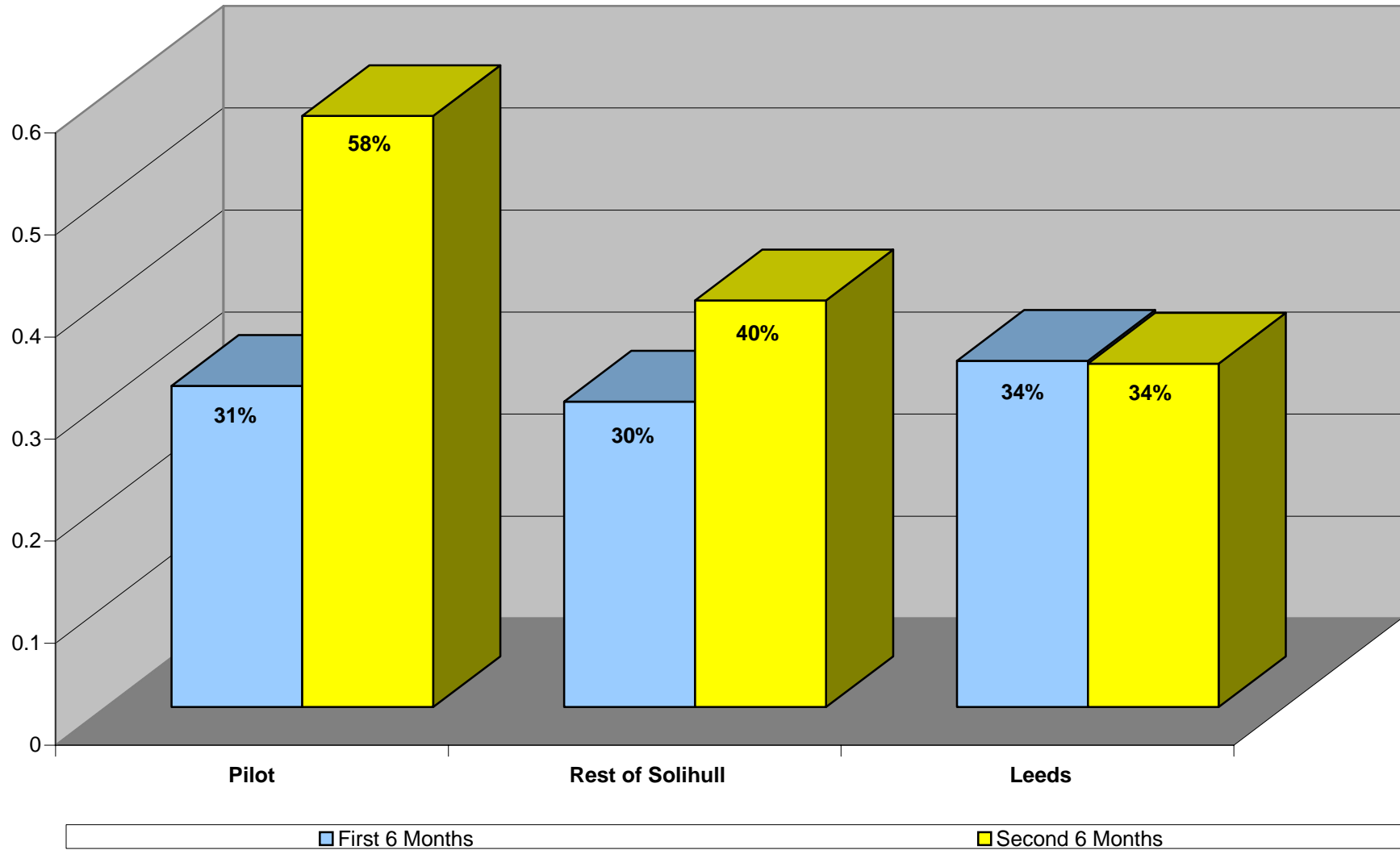
Solihull Pilot Cases from 01st June 2007



		Pilot Cases	Rest of Solihull Cases	Leeds Cases	Pilot vs. Rest of Solihull	Pilot vs. Leeds
INTAKE	Total Intake	209	1677	2235		
	Minors	2	330	151		
CASE RESOLUTION	Concluded within 6 Months	106 51%	560 33%	672 30%	17%	21%
	Grant at Decision	95 90%	458 82%	508 76%	8%	14%
	Allowed Appeal	5 5%	32 6%	81 12%	-1%	-7%
	Removal	5 5%	37 7%	40 6%	-2%	-1%
	Other	1 1%	33 6%	43 6%	-5%	-5%
	Concluded Outside 6 Months	4 2%	66 4%	90 4%	-2%	-2%
ADJUSTMENTS	Absconder Cases	1 0%	110 7%	120 5%	-6%	-5%
	GLB Cases	25 12%	162 10%	118 5%	2%	7%
	Adjusted 6 Month Conclusion Rate Differential	58% 7%	40% 6%	34% 4%	18% 7%	24% 7%
DECISIONS SERVED	Decisions Served	189 90%	1230 73%	1723 77%	17%	13%
	Within 30 Days	9 5%	201 16%	382 22%	-12%	-17%
	31 - 60 Days	32 17%	214 17%	355 21%	0%	-4%
	Over 60 Days	149 79%	817 66%	995 58%	12%	21%
DECISION SERVICE OUTCOMES	Refusal	92 49%	751 61%	1200 70%	-12%	-21%
	Grant	97 51%	471 38%	515 30%	13%	21%
	Grant DL	3 2%	181 15%	50 3%	-13%	-1%
	Grant HP	2 1%	7 1%	11 1%	0%	0%
	Other Grant	92 49%	283 23%	454 26%	26%	22%
	Other Outcome		8 1%	8 0%	-1%	0%
INTERVIEWS	Total Interviews Conducted (as % of Intake)	187 89%	1164 69%	1645 74%	20%	16%
APPEALS LODGED	Total Appeals Lodged (as % of Refusals)	87 95%	526 70%	782 65%	25%	29%
APPEALS HEARD	Total Appeals Heard (as % of Appeals Lodged)	80 92%	456 87%	706 90%	5%	2%
APPEAL OUTCOMES	Allowed Appeals (as % of Appeals Heard)	8 10%	79 17%	141 20%	-7%	-10%
REMOVALS	Total Removals (as % of Refusals)	11 12%	72 10%	86 7%	2%	5%
	Total Removals (as % of Intake)	11 5%	72 4%	86 4%	1%	1%
	Enforced	8 73%	53 74%	45 52%	-1%	20%
	Voluntary	3 27%	19 26%	41 48%	1%	-20%

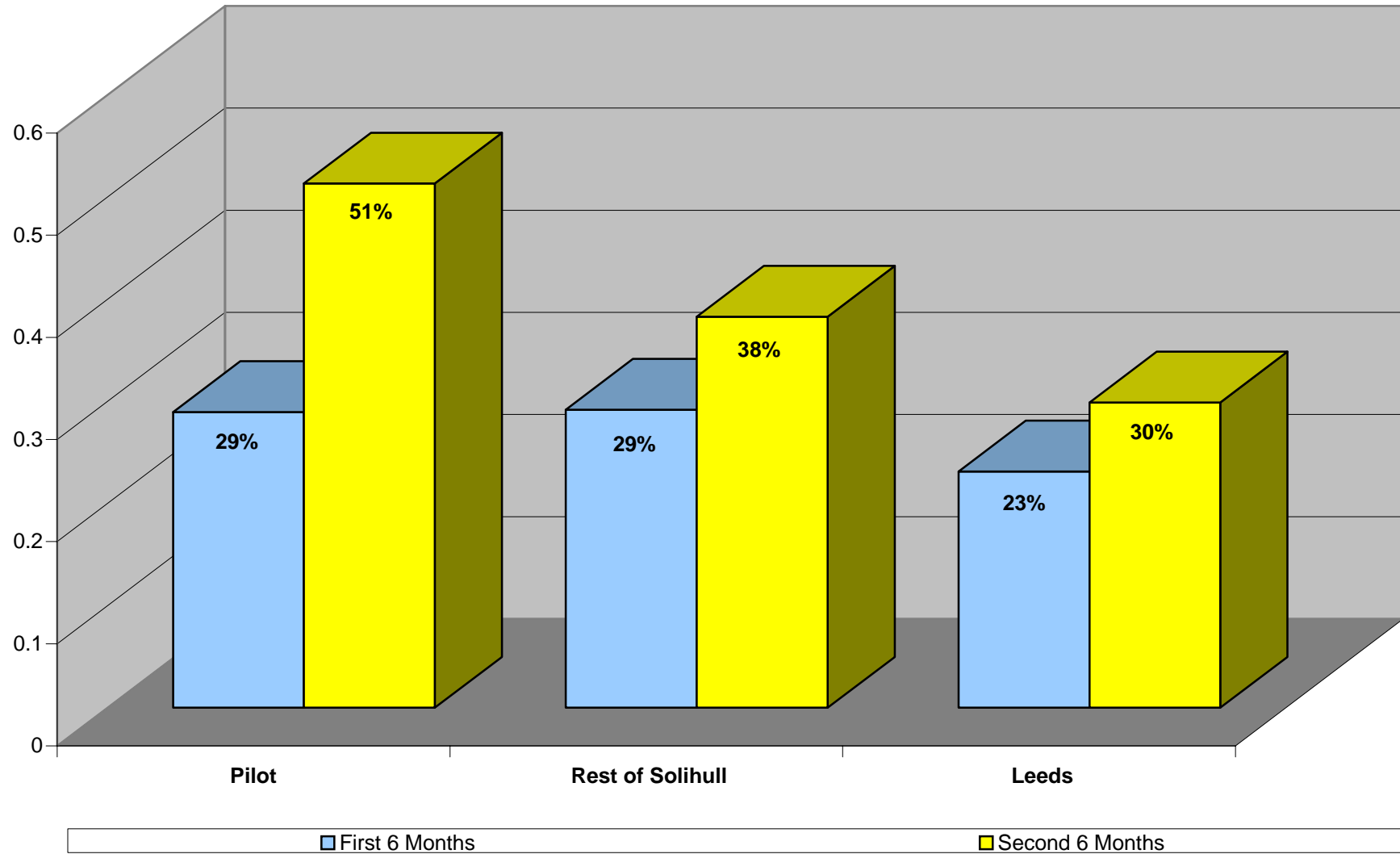


Timeliness Comparison - Adjusted Conclusion Rates 6 Monthly



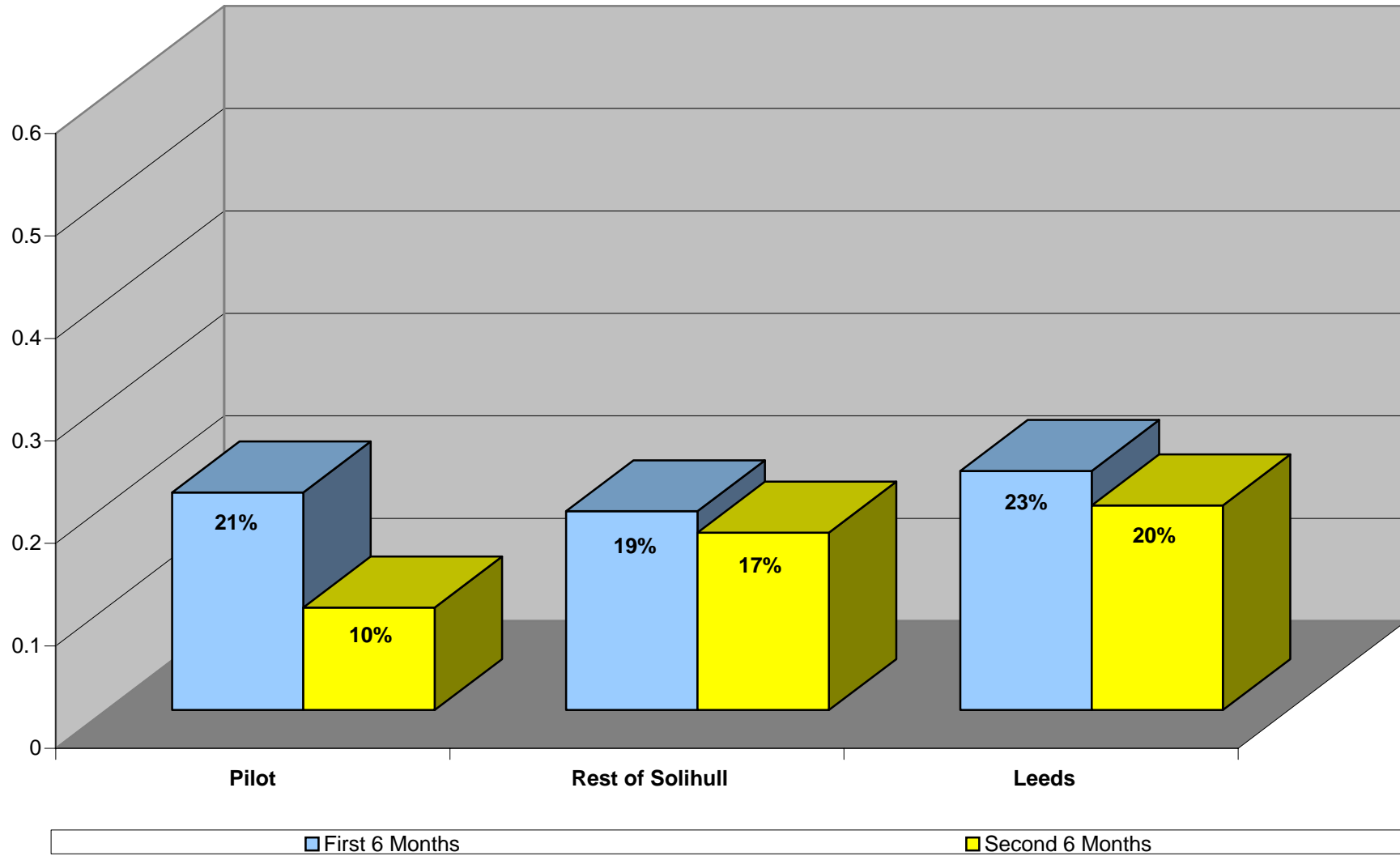


Timeliness Comparison - Grant at Decision Rates 6 Monthly





Timeliness Comparison - Allowed Appeal Rates 6 Monthly

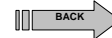


Overall Pilot Comparison - First Quarter Only

20th November 2006 - 28th February 2007

Period: **28/02/2007**

Solihull Pilot Cases from 20th November 2006



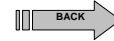
		Pilot Cases	Rest of Solihull Cases	Leeds Cases	Pilot vs. Rest of Solihull	Pilot vs. Leeds
INTAKE	Total Intake	130	293	428		
CASE RESOLUTION	Concluded within 6 Months	34 26%	64 22%	126 29%	4%	-3%
	Grant at Decision	25 74%	41 64%	80 63%	9%	10%
	Allowed Appeal	6 18%	11 17%	40 32%	0%	-14%
	Removal	3 9%	7 11%	3 2%	-2%	6%
	Other	5 8%	5 8%	3 2%	-8%	-2%
	Concluded Outside 6 Months	24 18%	4 1%	18 4%	17%	14%
ADJUSTMENTS	Absconder Cases	1 1%	11 4%	1 0%	-3%	1%
	GLB Cases	13 10%	32 11%	35 8%	-1%	2%
	Adjusted 6 Month Conclusion Rate Differential	29% 3%	26% 4%	32% 3%	4% 3%	-3% 3%
DECISIONS SERVED	Decisions Served	126 97%	253 86%	421 98%	11%	-1%
	Within 30 Days	18 14%	53 21%	201 48%	-7%	-33%
	31 - 60 Days	25 20%	42 17%	93 22%	3%	-2%
	Over 60 Days	84 67%	159 63%	128 30%	4%	36%
DECISION SERVICE OUTCOMES	Refusal	93 74%	199 79%	333 79%	-5%	-5%
	Grant	33 26%	54 21%	87 21%	5%	6%
	Grant DL		4 2%	2 0%	-2%	0%
	Grant HP	1 1%		4 1%	1%	0%
	Other Grant	32 25%	50 20%	81 19%	6%	6%
	Other Outcome			1 0%		0%
INTERVIEWS	Total Interviews Conducted (as % of Intake)	124 95%	239 82%	391 91%	14%	4%
APPEALS LODGED	Total Appeals Lodged (as % of Refusals)	84 90%	163 82%	302 91%	8%	0%
APPEALS HEARD	Total Appeals Heard (as % of Appeals Lodged)	80 95%	161 99%	296 98%	-4%	-3%
APPEAL OUTCOMES	Allowed Appeals (as % of Appeals Heard)	18 23%	30 19%	69 23%	4%	-1%
REMOVALS	Total Removals (as % of Refusals)	9 10%	21 11%	15 5%	-1%	5%
	Total Removals (as % of Intake)	9 7%	21 7%	15 4%	0%	3%
	Enforced	5 56%	16 76%	7 47%	-21%	9%
	Voluntary	4 44%	5 24%	8 53%	21%	-9%

Overall Pilot Comparison - Second Quarter Only

01st March 2007 - 31st May 2007

Period: **31/05/2007**

Solihull Pilot Cases from 20th November 2006



		Pilot Cases		Rest of Solihull Cases		Leeds Cases		Pilot vs. Rest of Solihull		Pilot vs. Leeds	
INTAKE	Total Intake	112		643		887					
CASE RESOLUTION	Concluded within 6 Months	34	30%	174	27%	276	31%	3%		-1%	
	Grant at Decision	27	79%	145	83%	186	67%	-4%		12%	
	Allowed Appeal	4	12%	16	9%	64	23%	3%		-11%	
	Removal	1	3%	5	3%	12	4%	0%		-1%	
	Other	2	6%	8	5%	14	5%	1%		1%	
	Concluded Outside 6 Months	13	12%	29	5%	28	3%	7%		8%	
ADJUSTMENTS	Absconder Cases			56	9%	29	3%	-9%		-3%	
	GLB Cases	12	11%	42	7%	65	7%	4%		3%	
	Adjusted 6 Month Conclusion Rate Differential	34%		32%		35%		2%		-1%	
		4%		5%		4%		4%		4%	
DECISIONS SERVED	Decisions Served	102	91%	542	84%	828	93%	7%		-2%	
	Within 30 Days	18	18%	139	26%	369	45%	-8%		-27%	
	31 - 60 Days	16	16%	81	15%	125	15%	1%		1%	
	Over 60 Days	69	68%	324	60%	335	40%	8%		27%	
DECISION SERVICE OUTCOMES	Refusal	69	68%	364	67%	622	75%	0%		-7%	
	Grant	33	32%	178	33%	202	24%	0%		8%	
	Grant DL	2	2%	88	16%	24	3%	-14%		-1%	
	Grant HP	1	1%			7	1%	1%		0%	
	Other Grant	30	29%	90	17%	171	21%	13%		9%	
	Other Outcome					4	0%			0%	
INTERVIEWS	Total Interviews Conducted (as % of Intake)	100	89%	450	70%	700	79%	19%		10%	
APPEALS LODGED	Total Appeals Lodged (as % of Refusals)	66	96%	254	70%	445	72%	26%		24%	
APPEALS HEARD	Total Appeals Heard (as % of Appeals Lodged)	66	100%	241	95%	411	92%	5%		8%	
APPEAL OUTCOMES	Allowed Appeals (as % of Appeals Heard)	13	20%	48	20%	96	23%	0%		-4%	
REMOVALS	Total Removals (as % of Refusals)	6	9%	38	10%	43	7%	-2%		2%	
	Total Removals (as % of Intake)	6	5%	38	6%	43	5%	-1%		1%	
	Enforced	6	100%	25	66%	25	58%	34%		42%	
	Voluntary			13	34%	18	42%	-34%		-42%	

Overall Pilot Comparison - Third Quarter Only

01st June 2007 - 31st August 2007

Period: **31/08/2007**

Solihull Pilot Cases from 20th November 2006



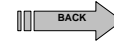
		Pilot Cases		Rest of Solihull Cases		Leeds Cases		Pilot vs. Rest of Solihull	Pilot vs. Leeds
INTAKE	Total Intake	88		695		954			
CASE RESOLUTION	Concluded within 6 Months	43	49%	242	35%	291	31%	14%	18%
	Grant at Decision	37	86%	188	78%	202	69%	8%	17%
	Allowed Appeal	3	7%	20	8%	52	18%	-1%	-11%
	Removal	3	7%	17	7%	15	5%	0%	2%
	Other			17	7%	22	8%	-7%	-8%
	Concluded Outside 6 Months			28	4%	41	4%	-4%	-4%
ADJUSTMENTS	Absconder Cases	1	1%	51	7%	69	7%	-6%	-6%
	GLB Cases	13	15%	55	8%	46	5%	7%	10%
	Adjusted 6 Month Conclusion Rate Differential	58%		41%		35%		17%	23%
		9%		6%		4%		9%	9%
DECISIONS SERVED	Decisions Served	85	97%	556	80%	837	88%	17%	9%
	Within 30 Days	7	8%	133	24%	248	30%	-16%	-21%
	31 - 60 Days	14	16%	99	18%	192	23%	-1%	-6%
	Over 60 Days	65	76%	325	58%	403	48%	18%	28%
DECISION SERVICE OUTCOMES	Refusal	48	56%	360	65%	624	75%	-8%	-18%
	Grant	37	44%	191	34%	211	25%	9%	18%
	Grant DL	1	1%	74	13%	15	2%	-12%	-1%
	Grant HP	1	1%	3	1%	7	1%	1%	0%
	Other Grant	35	41%	114	21%	189	23%	21%	19%
	Other Outcome			5	1%	2	0%	-1%	0%
INTERVIEWS	Total Interviews Conducted (as % of Intake)	80	91%	490	71%	715	75%	20%	16%
APPEALS LODGED	Total Appeals Lodged (as % of Refusals)	43	90%	243	68%	396	63%	22%	26%
APPEALS HEARD	Total Appeals Heard (as % of Appeals Lodged)	40	93%	234	96%	375	95%	-3%	-2%
APPEAL OUTCOMES	Allowed Appeals (as % of Appeals Heard)	4	10%	42	18%	81	22%	-8%	-12%
REMOVALS	Total Removals (as % of Refusals)	4	8%	37	10%	49	8%	-2%	0%
	Total Removals (as % of Intake)	4	5%	37	5%	49	5%	-1%	-1%
	Enforced	2	50%	27	73%	28	57%	-23%	-7%
	Voluntary	2	50%	10	27%	21	43%	23%	7%

Overall Pilot Comparison - Fourth Quarter Only

01st September 2007 - 07th December 2007

Period: **07/12/2007**

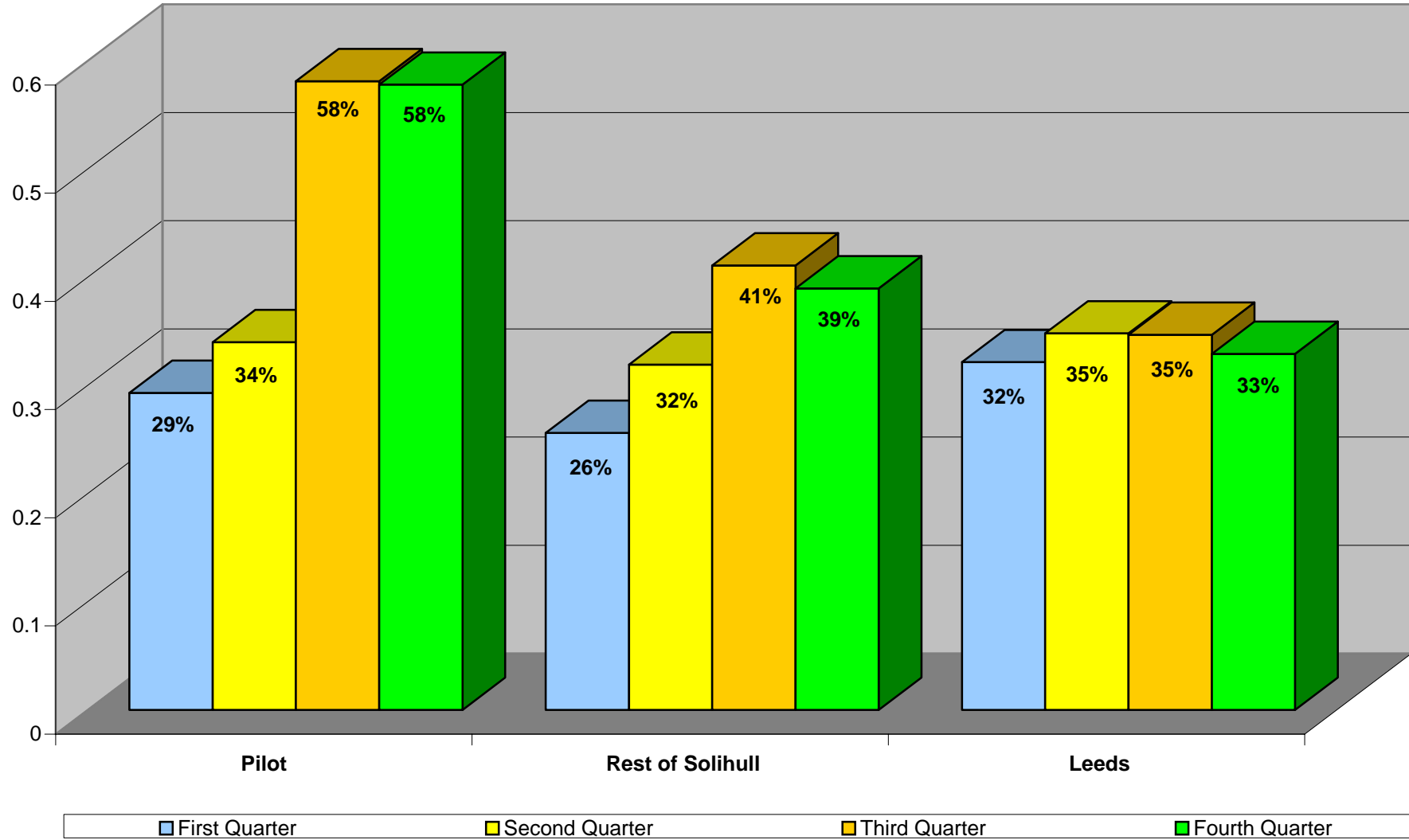
Solihull Pilot Cases from 20th November 2006



		Pilot Cases		Rest of Solihull Cases		Leeds Cases		Pilot vs. Rest of Solihull	Pilot vs. Leeds
INTAKE	Total Intake	121		982		1281			
CASE RESOLUTION	Concluded within 6 Months	63	52%	318	32%	381	30%	20%	22%
	Grant at Decision	58	92%	270	85%	306	80%	7%	12%
	Allowed Appeal	2	3%	12	4%	29	8%	-1%	-4%
	Removal	2	3%	20	6%	25	7%	-3%	-3%
	Other	1	2%	16	5%	21	6%	-3%	-4%
	Concluded Outside 6 Months	4	3%	38	4%	49	4%	-1%	-1%
ADJUSTMENTS	Absconder Cases			59	6%	51	4%	-6%	-4%
	GLB Cases	12	10%	107	11%	72	6%	-1%	4%
	Adjusted 6 Month Conclusion Rate Differential		58%		39%		33%	19%	25%
			6%		7%		3%	6%	6%
DECISIONS SERVED	Decisions Served	104	86%	674	69%	886	69%	17%	17%
	Within 30 Days	2	2%	68	10%	134	15%	-8%	-13%
	31 - 60 Days	18	17%	115	17%	163	18%	0%	-1%
	Over 60 Days	84	81%	492	73%	592	67%	8%	14%
DECISION SERVICE OUTCOMES	Refusal	44	42%	391	58%	576	65%	-16%	-23%
	Grant	60	58%	280	42%	304	34%	16%	23%
	Grant DL	2	2%	107	16%	35	4%	-14%	-2%
	Grant HP	1	1%	4	1%	4	0%	0%	1%
	Other Grant	57	55%	169	25%	265	30%	30%	25%
	Other Outcome			3	0%	6	1%	0%	-1%
INTERVIEWS	Total Interviews Conducted (as % of Intake)	107	88%	674	69%	930	73%	20%	16%
APPEALS LODGED	Total Appeals Lodged (as % of Refusals)	44	100%	283	72%	386	67%	28%	33%
APPEALS HEARD	Total Appeals Heard (as % of Appeals Lodged)	40	91%	222	78%	331	86%	12%	5%
APPEAL OUTCOMES	Allowed Appeals (as % of Appeals Heard)	4	10%	37	17%	60	18%	-7%	-8%
REMOVALS	Total Removals (as % of Refusals)	7	16%	35	9%	37	6%	7%	9%
	Total Removals (as % of Intake)	7	6%	35	4%	37	3%	2%	3%
	Enforced	6	86%	26	74%	17	46%	11%	40%
	Voluntary	1	14%	9	26%	20	54%	-11%	-40%

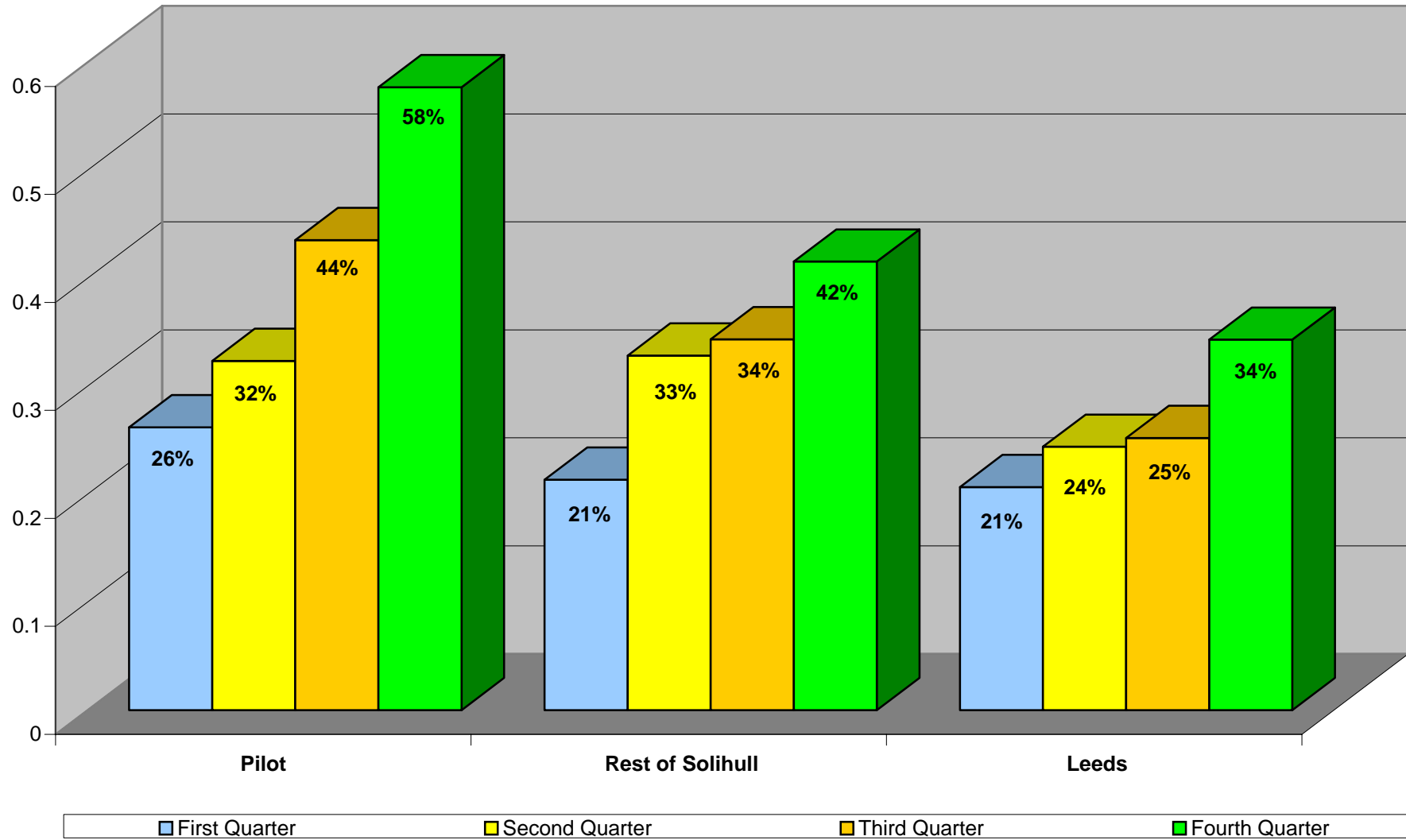


Timeliness Comparison - Adjusted Conclusion Rates Quarterly





Timeliness Comparison - Grant at Decision Rates Quarterly



APPENDIX 2: LSC REPORT ON THE EARLY LEGAL ADVICE PILOT IN SOLIHULL

LSC Report

Clarification of LSC Data

LSC file review

Annex 1 - Comparison of Average Costs

Annex 2 - Comparison of outcome and CLR rate

Annex 3 - Appeals comparison of outcomes and overall costs

Annex 4 - UK Borders Country Flags (costs, outcomes and CLR rate)

Annex 5 - UK Borders Country Flags (per quarter)

Annex 6 - UK Borders Country Flags (grant per quarter)

Annex 7 -Top 5 nationalities, outcome, costs and CLR rate

Annex 8 -Top 5 Nationalities, quarter split

Annex 9 - Point of claim, outcome, nationality, cost and CLR rate

Annex 10 - Location of claim proportion per quarter

Annex 11 - Outcomes per location per quarter

Annex 12 - CLR rate per quarter

Annex 13 - Gender, outcome, nationality, cost and CLR rate

Annex 14 - Provider comparison – 3 provider analysis with exclusion effect

Annex 15 - Total provider comparison

Annex 16 - Three provider comparison

Annex 17 - CLR grants by provider

Annex 18 – 21 CLR grant rate by nationality and quarter

INTRODUCTION TO THE LEGAL SERVICES COMMISSION

1. The Legal Services Commission (LSC) runs the legal aid scheme in England and Wales. Within the LSC, the Community Legal Service (CLS) helps people with civil legal problems such as family breakdown, Immigration, debt and housing. At present the CLS funds advice and representation through three key streams. The first is telephone advice; the second Legal Help advice and assistance (LH) and the third is through representation in proceedings before courts and tribunals, through Controlled Legal Representation (CLR).
2. These three levels of service are applied within 14 civil categories of law including:
 - a. Family
 - b. Immigration and asylum
 - c. Social welfare (community care, debt, employment, housing and welfare benefits); and
 - d. Mental health and other civil areas (actions against the police, clinical negligence, consumer, education, miscellaneous, personal injury, public law)
3. The CLS Fund Funding Priorities is a direction by the Lord Chancellor under section 6(1) of the Access to Justice Act 1999 concerning the priorities that the LSC should set for funding services as part of the CLS. It requires the LSC to give top priority to:
 - a. Special Children Act proceedings
 - b. Civil proceedings where the applicant is at real and immediate risk of loss of life or liberty
4. After this the LSC must also give the following categories higher priority than others:
 - a. Help with social welfare issues that will enable people to avoid or climb out of social exclusion, including help with housing proceedings, debt, employment rights and entitlement to social security benefits;
 - b. Domestic violence proceedings;
 - c. Proceedings concerning the welfare of children; and
 - d. Proceedings against public authorities alleging serious wrongdoing, abuse of position or power or significant breach of human rights.

5. The LSC gives effect to these priorities by setting more or less rigorous requirements in the Funding Code for these categories and by allocating resources to contracts for particular categories of cases.
6. In the Immigration category, in relation to asylum applications, the LSC funds specialist legal advice in relation to the application for protection which may be proceeding on Article 3 and/or Article 8 in conjunction with 1951 Convention Relating to the Status of Refugees and any consequential appeal, subject to the means and merits test. Legal Help is available for the initial application (and any subsequent asylum or Human Rights application). Controlled Legal Representation is available for representation before the Asylum and Immigration Tribunal.
7. The CLS Fund Funding Priorities requires the LSC to prioritise civil proceedings where the applicant is at real and immediate risk of loss of life or liberty. Asylum applications and appeals by implication carry the risk of detention (loss of liberty) and removal. The LSC therefore prioritise Asylum and Human Rights applications and Appeals.

EARLY ADVICE PILOT

8. In November 2006, an 'Early Advice' Pilot, jointly owned by the United Kingdom Border Agency (UKBA) and the Legal Services Commission, commenced in the West Midlands asylum region. This came to be known as the 'Solihull Pilot', the 'Early Legal Advice Pilot' or the Early Advice Pilot.
9. The aims and features of the pilot are set out in various scoping documents, prepared by UKBA with the LSC, in particular the proposition paper *Testing Implementation of Early & Interactive Legal Advice* (July 2006).
10. The pilot sought to "create an environment where all relevant evidence is correctly identified and placed into account before the [first instance] decision is made rather than coming to light fully only at the appeal stage."¹
11. In addition, an underlying shared duty to ascertain and evaluate all relevant facts, agreement on key issues at the initial stage, attendance at interactive interviews, which ostensibly should provide value for the LSC as purchasers and a shared interest between UKBA and Representatives in reaching a correct early decision.

¹ Testing Implementation of Early & Interactive Legal Advice – Evan Ruth (July 2006).

12. Through doing so the pilot intended to deliver a number of benefits, which are identified as the pilot's objectives²:

- a. Improve the quality of asylum decisions assessed
- b. Reduce the percentage of cases granted following appeal
- c. Achieve this with no rise (and if possible a fall) in legal aid costs
- d. Reduce overall support costs
- e. Reduce BIA interpreter costs (by reducing interview times)
- f. Reduce overall AIT unit costs per Asylum case
- g. Test whether Early Legal Advice can be rolled out nationally if successful

13. The LSC and UKBA identified the following success factors:

- a. Case-owners and Legal Representatives commit themselves to the 'cultural change'.
- b. Allowed appeals reduced compared to the Leeds control group
- c. A greater proportion of applicants granted at the decision stage compared to the control group in Leeds, where a greater proportion may be granted following appeal.
- d. No rise in the overall legal aid budget or savings in support and other costs offsets any rise in the initial legal aid cost. Overall average costs are reduced or are cost neutral.

THE LSC PROCUREMENT OF REPRESENTATIVES

14. The LSC held an open bid round for new exclusive contract schedules for providers to be involved in the pilot. The criteria for an award of a contract was as follows:

15. A requirement that bidders held a current Unified Contract in the category of Immigration. The LSC were only looking for involvement from existing providers.

16. A requirement that bidders held a current Specialist Quality Mark in the category of Immigration.

17. A requirement that bidders had at least one Level 2 accredited adviser (senior caseworker) in place in their organisation who was able to attend the Interactive

² At that time (2005/6) the LSC spent £37 million on the initial asylum process and £32 million in the appeal process. The expectation was that front-loading of legal advice and evidence gathering would mean an adjustment in the proportions spent at each stage but not an overall rise. This did not take into account savings in other areas such as the National Asylum Support Service (NASS) and the AIT. It was hoped that the increased cost of providing additional advice at the initial application stage, including attendance at the interview, would be offset by reduced expenditure on appeals for both the LSC and the AIT as fewer cases that satisfy the merits test for funding would proceed to that stage.

Interview. This is the higher-level advisor in the Immigration and Asylum Accreditation Scheme.

18. A requirement that bidders had not received an adverse LSC Contract Compliance rating.
19. A requirement that the bidders schedule office was located within a 30-mile radius of the interview venue at B91 3QJ. The LSC were looking only for local supply.
20. A requirement that the Level 2 accredited advisers in place in the organisation could provide 'seamless case ownership' of the whole process. The LSC envisaged having single file/case ownership under the pilot and as part of the procurement preferred those organisations that demonstrated they could provide seamless case ownership.
21. A requirement that the team of advisers put forward to provide this service constituted a stable, well-supervised, well-qualified and experienced team.
22. It was further envisaged that the pilot could potentially alter the way funded legal services are provided to all asylum seekers in England and Wales in the future and as successful bidders would be asked to work closely with the evaluation panel and other successful bidders during the term of the pilot a further set of questions were asked as part of the bid process.
23. Bidders were asked to give examples of how their organisation had positively impacted upon the national or regional debate about this group of clients.
24. Bidders were asked to explain how their participation in the pilot could assist the qualitative aspect of the evaluation.
25. Bidders were also asked to comment and give their consideration to the constituent parts of the proposal and how they would approach: the provision of legal advice post screening and prior to the interactive interview; funded evidence gathering; and attendance at the interactive interview.

AUTHORISATION UNDER SECTION 6(8) ACCESS TO JUSTICE ACT 1999

26. Legal representatives funded attendance at Asylum interviews was taken out of Legal Aid scope in 2004. In order to facilitate the pilot interviews had to be brought back into scope. By an authorisation under Section 6(8) Access to Justice Act 1999, the Lord Chancellor authorised the LSC to fund, from 1 August 2006, such services through Legal Help, provided in accordance with the provision of the General Civil Contract,

for the client's Home Office interview at Solihull, West Midlands. This authorisation was provided to facilitate the New Asylum Model Early Legal Advice Pilot at Solihull carried out by the LSC in conjunction with the New Asylum Model being implemented by the Home Office³.

THE LSC DATA COLLECTION AND ANALYSIS

27. In undertaking this pilot the LSC initiated a different reporting regime for EAP providers. The current and existing reporting mechanism would not have given the LSC the detailed data that was required for analysis.
28. The EAP total sample analysed is 451 cases ('the EAP sample'). The control group sample from Leeds ('the Leeds sample') consists of 416 cases. A date of 27 June 2008 ('the cut off date') was used to enable the analysis to commence. All results reported as at the cut off date on cases that were started on or before the 7 December 2007 ("the EAP end date") have been included in the EAP sample. The cut off date has resulted in appeal reported decisions being slightly lower than the 451 figure, above.
29. There are significant differences in the layout between the two sets of data analysed. The EAP sample is sophisticated in so far as the providers who were awarded contracts to undertake the work were required to provide detailed monthly reports to the LSC. The Leeds sample is less sophisticated in that as part of this analysis only existing reporting arrangements were utilised. The LSC existing reporting arrangements do not for example collate disbursement type data at Legal Help, such as a disbursement being a translation, an expert report or an interpreter.
30. In funding legal advice in Immigration and Asylum the LSC uses two key streams of funding: firstly, "*Legal Help*" in relation to advice at the initial stage; and secondly, "*Controlled Legal Representation*", for all appeal related advice from the point an appeal is lodged.
31. In addition there are two key streams of 'payments' under Legal Help, profit costs (the cost of the representatives time) and disbursements (payments to third parties in representing the applicant, e.g. interpreters and experts).

³ In April 2004, attendance at the interview was also removed from the scope of legal aid, as it was an area of expenditure identified as adding little value to the asylum process. At that time the role of the legal representative was merely to take notes of the interview and they were unable to intervene. In many cases the staff sent to attend the interview had no legal knowledge and did not take accurate verbatim notes. This change was part of a package of changes introduced to better target funding and improve quality of publicly funded legal services in this jurisdiction.

Comparison of average costs – Legal Help – Annex 1

32. A headline comparison of the average costs shows £1263.27 as the average cost of the EAP sample. The LSC conducted further analysis of the average figure breaking it down to its constituent parts and further into quarterly periods. This is detailed in Annex 1. Quarter 4 profit costs up to interview increased to £532.76 from the previous 3 quarters, this could be in line with representatives becoming more experienced with the process. However, quarter 4 costs of the interview have decreased to £265.99 from a high of £383.56 at quarter 1. This is significant as it shows that the interviews themselves may have become more streamlined and this may be evidence of behaviour change settling in from a quarter 1 where adversarial behaviour may have been prevalent to quarter 4 where inquisitorial behaviour became the norm.
33. Other comparison of average cost analysis of the EAP sample shows that the 'true average Legal Help' profit cost of an EAP case is £977.49, this figure covers those cases where all constituent parts of the scheme were utilised by the supplier. This figure would represent a truer reflection of the average profit cost to the LSC and would exclude cases where for instance an interview did not take place or an applicant absconded at any point obviating the need for other parts of the scheme to be undertaken.
34. Furthermore interpreter cost analysis was undertaken only with reference to those cases where an interpreter was used. This is to reflect a 'true average'. This shows that an average of £415.40 is utilised for interpreter disbursements (having being used in 319 of the EAP sample).
35. A similar approach was undertaken in analysing the true average cost of an expert report, this figure is £408.21.
36. Quarter 4 averages for the EAP sample is lower for all constituent parts except interpreters which have increased by £172.60 from quarter 1 to quarter 4. No other analysis or comment is made for this interpreter anomaly.
37. As a comparison the Leeds sample average total cost is £664.51. The Leeds sample does not have detailed disbursement or stage data due to LSC reporting deficiencies detailed above. However, a total disbursement average, incorporating both interpreter and experts is £189.62, this figure is not a true average as the average is split over those cases where an interpreter or expert was not required. The disbursement average figure for the Leeds sample split only over those cases where disbursements were claimed is £207.58.

Comparison of initial outcome and CLR rate – Annex 2

38. The number of cases where there is a decision in the EAP sample is 427 cases. These are cases, which on 'the cut off date' had reported an initial decision and consequently there is a CLR decision on those cases that did not have a positive outcome. The 'cut off date' as explained above has resulted in a slight reduction of the EAP sample for the purposes of the appeal assessment analysis.
39. In any event, this shows an overall grant of refugee status rate of 35% with an additional 2% being given discretionary leave or humanitarian protection. An overall 'positive outcome' was achieved in 37% of the EAP sample for the applicant.
40. There are also marked differences in the quarterly analysis. Quarter 4 shows an overall grant of refugee status in 48% of cases with an additional 3% being given discretionary leave or humanitarian protection. An overall 'positive outcome' was achieved in 51% of the EAP sample in quarter 4.
41. As a comparison, the Leeds sample shows an overall grant of refugee status rate of 20% with an additional 2% being given discretionary leave or humanitarian protection. An overall 'positive outcome' was achieved in 22% of the Leeds sample. This figure is reliable, as LSC Leeds providers have reported it and it has been cross-referenced with UKBA outcome data.
42. Controlled Legal Representation (CLR) is the funding term that the LSC uses for all appeal related advice from the point an appeal is lodged.
43. The EAP sample shows that 56% of UKBA refusals were granted CLR funding for an appeal.
44. As a comparison the Leeds sample is much less reliable. This shows that between 25% and 61% of UKBA refusals were granted CLR funding for an appeal. A further 40% to 75% were refused funding for an appeal. The deficiencies in general reporting are explained later in this report.

Appeals – comparison of outcomes and overall costs – Annex 3

45. A representative should pursue a funded appeal where the LSC merits test is met. The LSC merits test for public funding is set out in the Funding Code, which is approved by Parliament under section 8 of the Access to Justice Act 1999.

46. Additionally Articles 15(2) & (3) of EC Council Directive 2005/85/EC allows member states to have a merits test for legal representation in asylum cases.
47. The merits test for representation at the AIT has been in existence since representation at appeal and bail hearings was brought into the scope of legal aid in January 2000 in England and Wales. For funding to be granted the prospects of success have to be moderate or better which is defined as clearly over 50%. However, in asylum cases, if the prospects of success and merits of the case are borderline or unclear, then funding can still be granted if the case has wider public interest or is of overwhelming importance to the applicant. Where a case has a poor prospect of success, the fact that making or pursuing an application or representations will in itself prolong a client's right to remain in the UK will not be treated as a sufficient benefit to continue with public funding.
48. It has for some time been the LSC view that a 40% success rate is the minimum return that should be expected from any representative conducting a reasonable volume of appeals bearing in mind the merits test does not allow funding to be granted where the prospects of success are clearly less than 50%. Whilst there will certainly be a significant proportion of a provider's caseload where funding is granted for borderline cases, equally there will be a significant proportion where the prospect of success are good (i.e. clearly better than 50%). As the prospects of success for all cases where representation at the appeal is being funded under CLR have to be 50:50 or better, a 40% success rate is reasonable and should be achievable. A success rate at 40% allows a 10% tolerance, which should allow for any vagaries in decision making over a large enough caseload over a year.
49. As a proportion the EAP sample shows that 20% of the appeals funded by EAP providers were allowed by the AIT.
50. An additional 91 cases were pursued to an AIT appeal by a non-EAP provider or unrepresented. 12% of these were allowed and 81% were refused.
51. In comparison the Leeds sample shows an AIT allowed rate of 28% from a sample of 75 cases. This would accord with the principle of later conclusions as read next to the EAP sample showing a total EAP allowed rate of 20%. The analysis on Zimbabwe at paragraph 65 provides evidence of this.
52. The costs of the EAP sample for an AIT appeal are £1952.75 with an allowed appeal costing significantly more at £2184.89 and a dismissed appeal costing £1962.34.

53. The costs of the Leeds sample for an AIT appeal are £1892.67.
54. The total average cost of both streams of funding for the EAP sample where both streams of funding were utilised is £3124.38.
55. The total average cost of both streams of funding for the Leeds sample where both streams of funding were utilised is £2557.18.
56. As a headline summary the average cost of a Legal Help case under EAP is £934 as compared to £664.51 for a Leeds case. The average cost of an AIT appeal for an EAP case is £1952.75 as compared to a Leeds case, which is £1892.67.

UK Borders Country Flag analysis of costs and outcome – Annex 4

57. In analysing the data and to understand the underlying dynamics the LSC used the RAG country list from UKBA. Countries are split into: red; amber and; green, based on return and removal conditions. The data and analysis of provider behaviour tend to support this classification. There is no suggestion and nor should one be made that the RAG classification results in predisposed decision-making. The RAG classification is a statistical tool only and not one that is in the mind of the decision makers in Solihull or indeed the providers in pursuing applications or appeals.
58. The EAP sample shows that a red classified country is more likely to have a positive outcome than a green classified country 46% as opposed to 28%.
59. The EAP sample shows that a red classified country is twice as likely to have an LSC funded appeal than a green classified country 65% as opposed to 32%.
60. Equally from the EAP sample a red classified country is more likely to have a positive outcome at an AIT appeal than a green classified country, 22% as opposed to 14%.

UK Borders Country Flag proportions per quarter – Annex 5

61. The EAP sample shows a significant increase in red country classified cases in quarter 4 with 67% of the total intake at quarter 4 being from these countries. The EAP sample should be viewed with this in mind.

UK Borders Country Flag grant rate per quarter – Annex 6

62. The EAP sample shows a significantly high grant rate of asylum of red country cases of 59% in quarter 4.

Analysis of top 5 nationalities outcome, costs and CLR rate – Annex 7

63. In analysing the data from both samples a top-five nationality analysis has been undertaken. There are significant variations between both samples.
64. *Zimbabwe* – a positive outcome is achieved in 35% of cases in the EAP sample as opposed, to the Leeds sample, which sits at 18%. A funded appeal is granted in 63% of the refusals in the EAP sample as opposed to only 52% in the Leeds sample. However, at the AIT those cases where a funded appeal was pursued over half at 56% were allowed in the Leeds sample as opposed to 21% in the EAP sample. This may be indicative of the EAP process clearly identifying earlier those cases that should be allowed.
65. *Iran* - a positive outcome is achieved in 23% of cases in the EAP sample as opposed to the Leeds sample, which sits at 6%. A funded appeal is granted in 62% of the refusals in the EAP sample as opposed to only 36% in the Leeds sample.
66. *Eritrea* - a positive outcome is achieved in 90% of cases in the EAP sample as opposed to the Leeds sample, which sits at 83%. A funded appeal is granted in 100% of the refusals in both samples.
67. *Iraq* - a positive outcome is achieved in 23% of cases in the EAP sample as opposed to the Leeds sample, which sits at 2%. A funded appeal is granted in 64% of the refusals in the EAP sample as opposed to only 33% in the Leeds sample.

Point of claim (outcome, nationality, cost and CLR rate) – Annex 9, 10,11

68. The EAP sample has been split into the four quarters and then across the 3 potential points of claim, the Asylum Screening Unit, the Local Enforcement Office and Port claims. There are no great variations except it would appear that the cost of representing a port origin claim is higher in all quarters.

Gender outcome – Annex 13

69. There is no great variation in expenditure on either gender. However, a female case is more likely to be appealed to the AIT, 61% as opposed to 56%.

Provider Comparison data – Annex 14 to 16

70. In addition to the broader analysis above specific analysis was undertaken on all the providers principally to analyse costs. This is detailed at Annex 14 to 16. Providers are indicated as A – N. In analysing the data the LSC highlighted the behaviour of three providers, listed in the data as Provider D, I and N.

Three Provider Comparisons – EAP BEHAVIOUR – Annex 14

71. The three provider analysis shows significant variations in outcomes, costs and behaviour.

72. **Provider D** – They undertook 17% of the EAP sample and achieved a positive outcome in 50% of the cases they undertook. The average cost of achieving this outcome was £2445.44. CLR was granted in 40% of their refusals and 21% of these, were allowed by the AIT at an average cost to the LSC of £2699.42. They required an interpreter in 90% of the cases. The quarter 4 initial positive outcome rate achieved is 72% see annex 15.

73. **Provider I** – They undertook 18% of the EAP sample and achieved a positive outcome in 30% of the cases they undertook. The average cost of achieving this outcome was £928.95. CLR was granted in 34% of their refusals and 5% of these, were allowed by the AIT at an average cost to the LSC of £847.91. They required an interpreter in 72% of the cases. The quarter 4 initial positive outcome rate achieved is 41% see annex 15.

74. **Provider N** – They undertook 25% of the EAP sample and achieved a positive outcome in 30% of the cases they undertook. The average cost of achieving this outcome was £896.94. CLR was granted in 78% of their refusals and 14% of these, were allowed by the AIT at an average cost to the LSC of £844.92. They required an interpreter in 69% of the cases. The quarter 4 initial positive outcome rate achieved is 40% see annex 15.

Excluding D or N type behaviour – Annex 15 to 16

75. In analysing the EAP sample data it is apparent that the underlying aim of the pilot to reduce funded appeals is influenced by two providers in the EAP sample. Annex 15 details the effect on the EAP results if provider N were excluded.

76. If Provider N were excluded, namely, if the LSC identified specific behaviour traits that it would not want to buy then the AIT allowed rate would increase from 20% to 23% with the CLR lodge rate dropping from 56% to 47%. The CLR lodge rate for provider N is 78%. This is significantly high as compared to any other provider. However, this should be read in line with the high proportion of red country intake for provider N and the particular profile of cases that Provider 'N' undertook, namely a broader spread.
77. If Provider D were excluded then there would be variations in cost at all stages. However, the initial allowed rate would drop significantly from 35% to 31%.

Three Provider Comparisons – NON-EAP BEHAVIOUR – Annex 16

78. Legal Help costs, CLR grants, CLR lodge rate were analysed from the 3 providers in the period October 2006 to March 2007 – excluding EAP cases. A Report has been obtained for the period Apr 2007 to Sep 2007 for these 6 months statistics and has been fed into this summary. This is an indicative snapshot only and is not meant to be conclusive.
79. The CLR success rate includes outcome at Review and Reconsideration (RAR) and AIT success rate are taken from their reported rates for the period October 2007 to March 2008. There is a separate AIT success rate based on the providers' reported outcomes for those CLR cases reported in the period October 2006 to March 2007
80. **Provider D** - What is apparent is, that the providers CLR lodge rate sits at 58% for non-EAP cases as compared to 41% for EAP cases. This may be indicative of a closer adherence to pilot principles. Their success rate as compared to EAP cases is significantly reduced from 50% under EAP to 17% under non-EAP conditions.

Provider N - Their AIT success rate for the period October 2006 - March 2007 is 14% (if we assume that all matters proceeding to RAR also were dismissals). What is apparent here is, that, the CLR lodge rate sits at 65% for non-EAP cases as compared to 78% for EAP cases and the all refusals also proceed to RAR.

BACKGROUND TO THE LSC 40% AIT SUCCESS RATE MEASURE AND ITS POTENTIAL EFFECT ON 'BEHAVIOUR'

81. In April 2004 the devolved power to grant Controlled Legal Representation (CLR) was removed from almost all providers and the National Immigration and Asylum Team was established by the LSC to deal with applications for funding. The power was

removed from providers as significant concerns at that time were raised that public funding was being granted for cases that did not satisfy the merits test.

82. In July 2004 following consultation, we published criteria that if satisfied would make providers eligible for devolved powers.
83. One of the criterion which needed to be satisfied in order to be granted devolved powers was to have a success rate at appeal of 40% or better. The LSC had a Corporate Target agreed with the Department of Constitutional Affairs to increase the success rate at appeal in asylum to 40% by April 2006.
84. In October 2006 the General Civil Contract (which governed the LSC relationship with providers) was amended to include the 40% success rate as a Performance Indicator (in April 2007 it was termed a Key Performance Indicator [KPI]).
85. In October 2007 the LSC re-instated the devolved power to grant CLR to all providers.
86. The LSC believes that the success rate is a reasonable minimum benchmark in performance for a merits test that should not provide funding where the prospects of success are clearly below 50%.
87. The KPI is measured using completed matter claims from providers. Stage claim codes are not used to calculate the KPI. A stage claim from a provider may be made up to the end of the Immigration Judge hearing where the provider is continuing onto Review and Reconsideration.
88. The LSC therefore measures as a success or failure the 'eventual' outcome reported by a provider whether that matter stopped at the Immigration Judge hearing or continued on to a Review and Reconsideration.
89. This may be indicative of provider behaviour in continuing a matter despite a higher merits test at the RARA stage.

CLR LODGE RATE

90. At the start of the pilot, taking a snapshot of the financial picture (2005/6) the LSC spent £37 million on the initial asylum process and £32 million in the appeal process. The expectation from the pilot was that front-loading of legal advice and evidence gathering would mean an adjustment in the proportions spent at each stage but not

an overall rise. This did not take into account savings in other areas such as the National Asylum Support Service and the AIT. It was hoped that the increased cost of providing additional advice at the initial application stage, including attendance at the interview, would be offset by reduced expenditure on appeals for both the LSC and the AIT as fewer cases that satisfy the merits test for funding would proceed to that stage.

91. This, it was envisaged would be achieved through a clearer application by the provider of the current CLR merits test. This clearly has not happened with some of the providers. The average CLR lodge rate sits at 55% (see annex 14) with some providers sitting at 74% from a significant sample.
92. The LSC needs to determine the causes of this behaviour and manage this through future contracting.

REVIEW AND RECONSIDERATION ANALYSIS

93. A brief analysis was undertaken on the number of cases progressing to RAR as originating from the EAP sample. The summary is split into two categories:

EAP - those cases where an EAP provider initially granted CLR for the AIT stage

Non- EAP - where CLR was originally refused.

We do not have confirmation from EAP providers as to how many cases they continued to be instructed in but from analysing the non-pilot data there are definite patterns that suggest that certain providers may be more likely to continue to RAR than others.

The data suggests that there is a) a greater likelihood of a dismissal being appealed if CLR was originally granted by an EAP provider and b) a greater chance of reconsideration being ordered (2-3 times more likely).

94. The Non-EAP cases are less likely to have been represented at appeal and any application for review is probably the client submitted an inadequate appeal himself and unlikely to identify an actual error in law which would justify progressing.

THE LSC FILE REVIEW

95. The LSC undertook an assessment specific to the EAP sample. This was designed to highlight the quality of advice given in the context of: the information gained from the applicant; the advice given based on that information and the steps taken following that advice.
96. Compliance with these questions indicates that the advisor is meeting the basic threshold level of competence in terms of progression of the applicant's case. The LSC reviewer, exercising her judgment, applied the following ratings to each of the 'compliance' questions highlighted below:
- a. Excellence (1)
 - b. Competence Plus (2)
 - c. Threshold Competence (3)
 - d. Below Competence (4)
 - e. Failure in Performance (5)
97. The framework questions:
- a. An explanation of the asylum process was given to the applicant
 - b. The advisor took a witness statement from the applicant
 - c. The statement identified the issue(s) and reason(s) for the applicant leaving his country
 - d. The statement provided a Refugee or Human Rights convention reason for the applicant claiming asylum
 - e. Written confirmation of the legal advice was given to applicant and weaknesses and strengths of the case were identified and explained to the applicant.
 - f. The statement was submitted to case-owner prior to the substantive asylum interview
 - g. A pre-interview discussion on the claim took place between the advisor and case-owner
 - h. The pre-interview discussion clarified the issues and identified material facts.
 - i. The applicant was prepared by the advisor in relation to his asylum interview, the process, purpose and procedure was explained
 - j. The advisor attended the Asylum Interview.
 - k. The advisor assisted in the Asylum Interview by asking questions and clarifying issues (where appropriate).

- l. The advisor assisted in the Asylum Interview by making submissions or requested additional time to make written submissions and then written submissions were submitted (where appropriate)
- m. The submissions whether oral or written advanced the applicants case in its best possible light
- n. The UKBA decision was explained to the applicant
- o. Any grounds of appeal have been discussed with the applicant
- p. The LSC merits test was applied correctly
- q. If CLR refused then CW4 procedure was explained to the applicant

Davinder Sidhu

Solicitor RST

September 11, 2008

CLARIFICATION OF LSC DATA

Leeds as a control group and the data limitations

The UKBA Leeds sample includes all claims raised within the pilot period, totalling 3550. This would include cases where the client did not require a Community Legal Service legal advisor and those cases, which had legal advisors outside of Leeds.

The LSC Leeds sample (the LSC reported data) initially stood at 1112 cases reported by LSC providers in the period November 2006 to September 2007. LSC providers were selected as those providers who were based in Leeds.

Having excluded those cases in which invalid or contradictory combinations of codes were used (in reporting outcomes to LSC), to leave claims which appear to relate to substantive Legal Help asylum claims, the Home Office reference numbers of the clients detailed in the UKBA Leeds sample were then sought from the LSC sample, bringing back a total of 416 cases, which were confirmed as:

- a. Having been opened in the Pilot period,
- b. By members of the LSC control group (the Leeds providers) and
- c. Having submitted a substantive Legal Help claim.

Several factors led to the substantial difference in numbers of claims raised with the UKBA in the pilot period, and the number of these cases reported by the Leeds control group in the defined period:

- a. Firstly, LSC providers have a 3-month window from the end of a stage of a case in which to report the costs and outcome for that matter. This may mean that a substantial number of cases, which were opened in the latter half of the pilot period, were not actually reported to the LSC until after December 2007.
- b. In addition to (1) whereas EAP providers continued to report cases to the LSC after the end of the pilot, up to June 2008, the Leeds reporting period only ran until September 2007 due to the general changes in reporting mechanisms in October 2007 (the introduction of a new payment regime called Asylum Graduated Fee).
- c. Over 10% of the original 1112 cases reported by the Leeds control group used the Unique Client Number A0000000 (a default identifier), however due to difficulty in then using the clients' reported names to locate these cases within the UKBA sample, these cases were excluded from the LSC sample. A provider will use A0000000 when billing a case where he does not the Home Office reference number.

Unlike the EAP sample, which resulted from more detailed reporting, closer liaison and communication between providers and the LSC to confirm details of the claims, the Leeds sample was taken purely from providers own reporting of claims using codes and reporting mechanisms designed for the LSC's normal account managing processes. The LSC is aware of particular issues concerning incorrect billing and incorrect interpretation of codes guidance by a number of providers in the Leeds control group, this is believed to have had a disproportionate affect on the final Leeds sample data.

Issues with the Final LSC Leeds data

In addition to the above, given what would appear to be misinterpretation of published guidance there were several problems which should be borne in mind when attempting to draw any inferences from the Leeds sample:

- a. 242 of the 416 cases in the final sample (58%) come from one provider – our backend analysis identifies this as Provider Q, therefore their individual practices, and reporting etc will have a substantial impact on any summary figures.
- b. 110 of the 416 cases were reported as outcome unknown and therefore CLR not applied for. Data obtained from the UKBA confirms that 95 of the 110 however did have an appeal lodged. 2 of the 110 cases were granted DL/HP at initial decision. 57 of the 110 were cases undertaken by Provider Q during the application stage.
- c. Given (2), the Leeds CLR rate of 25% should be viewed with caution, as 108 of the 303 cases refused (37%) have an outcome reported by the provider as unknown and also therefore indicating that CLR was not applied for.

The number of refused cases, which have been reported by providers as 'outcome unknown', and therefore CLR not applied for, may not be necessarily due to incorrect billing, however, the size of the figure suggests that an issue has had a significant impact on the figures.

Leeds CLR rate

As discussed above, the Leeds CLR rate should be viewed with some caution. Given the number of claims, which relate to cases that were refused by the UKBA, but for which the provider has reported the outcome as unknown and CLR as not applied for, the actual CLR rate may lay between two figures:

- a. If the CLR rate is taken as a percentage of the total refusals, then the rate would be 25%, however this would be drastically affected by the 108 refused cases which have been reported as outcome unknown and therefore as CLR not applied for, should this reporting be inaccurate.

- b. If the CLR rate is calculated as a percentage of those cases in which a CLR decision was made (192 claims) then the rate may be 39%
- c. The least likely of the scenarios may be that if the 108 claims were all incorrectly reported, and CLR had in fact been granted in all of those cases then the actual rate may be as high as 61%

Given that provider Q undertook such a large proportion of cases, with just over 50% of the 'outcome unknown' cases having been reported by that provider, there is substantial scope for one provider's behaviour or reporting practices to have a significant impact on the figures.

EAP Providers' Non-EAP case data

The analysis of the EAP Providers' non-EAP cases was undertaken following the identification of the shortcomings of the Leeds data that had been obtained.

The data provided in this annex includes:

- 1) Legal Help costs and outcomes obtained from cases reported in the period October 2006 to March 2007
- 2) CLR Grant rate obtained from the Legal Help claims in (1) using only those cases where a refusal has been reported as having been made by the UKBA
- 3) AIT outcomes and costs obtained from CLR claims reported in the same period

Before reviewing that data at annex 16 it should be noted that:

- a. These are cases reported by the EAP providers during the period October 2006 to March 2007 therefore it can only provide a snapshot of outcomes and behaviour in that particular period.
- b. AIT costs were obtained from CLR claims made in the period October 2006 to March 2007 and are unlikely to relate to the same cases for which Legal Help data was obtained in this period. Given the likely length of the appeal process and the 3-month window for providers to report such claims following the appeal, it is unlikely that both the Legal Help and CLR aspect of a case will have both been reported in many instances during this 6-month period.
- c. AIT outcomes are estimated as assuming that 'IO⁴' stage claims indicate a negative outcome after an Immigration Judge hearing. Therefore actual AIT success rate may be higher. A proportion of the 'IO' stage claims will relate to onward appeals made by

⁴ An 'IO' stage claim will be billed by a provider where an AIT case is proceeding after an Immigration Judge has delivered a determination.

the UKBA but these would be in the minority. Again, as in (b) these CLR claims are unlikely relate to the Legal Help cases reported in the same period.

- d. Total Average costs - cases inc both Legal Help & CLR - This incorporates the average Legal Help costs for cases reported in the period October 2006 to March 2007 and the average CLR costs the same period.
- e. The cases reviewed were arrived at having excluded those cases in which invalid or contradictory combinations of codes were used, to leave claims which appear to relate to substantive Legal Help asylum claims

The CLR Rate for each of the three providers has been calculated solely as a percentage of those cases that have been reported by the providers as indicating a negative decision from the Home Office. For instance, of the 23 claims that were reported by provider D and which appeared to be substantive Legal Help claims:

- 4 were reported indicating a positive outcome for the client,
- 7 were reported with an outcome that was neither positive or negative (i.e. Outcome unknown) and therefore have been treated as “neutral”
- 12 were reported as having been refused,
- Of these 12 the provider reported that 7 were granted CLR.
- Therefore the CLR rate has been calculated as being 58% as 7 of the 12 refusals progressed to CLR funding

The explanation for the fact that Provider “I” for instance has a CLR rate of 0% but a 9% AIT allowed rate is that the CLR rate is based on the Legal Help cases reported in October 2006 to March 2007 where as the AIT allowed rate is based on the CLR claims reported in the same period – as explained in point 2 above, these two claims are unlikely to relate to the same cases but these figures have been included as an additional comparator with the EAP Pilot and Leeds Control groups.

There are 4 different average costs figures given in the summary found in **Annex 16**:

- a. **Total Av LH Costs (£)** – this is the average Legal Help cost across all 451 cases, and across each provider’s total within that sample.
- b. **Total Av CLR Costs (£)** – this is the average CLR cost for the AIT appeal, across the 127 EAP cases for which this data was obtained.
- c. **Total Av costs - case inc both LH & CLR (£)** – this is the average total case cost for those 127 EAP cases for which data was obtained for both Legal Help and CLR costs

- d. **Overall Average Costs (£)** – this is the total average case cost across all 451 Pilot cases. Where the CLR cost was unknown, the average CLR cost across the pilot has been used to help calculate the estimate average case cost.

Whilst some of the Non-EAP data does not compare equally in terms of number of claim with the EAP pilot data, in many instances there are sufficient numbers that some indications of provider behaviour can be highlighted.

Annex 2

EAP outcomes - The percentage of cases allowed (whether including DL/HP or not) is calculated as a proportion of the total number of cases rather than the total number of decisions – if taken as a percentage of decisions, then the allowed rate would rise from 37% to 39% (including DL/HP).

Annexes 4 - 13 – comparing the EAP and Leeds CLR rates

There are three reported CLR rates for each of the analyses of Country Flag, Nationality, Point of Claim and Gender:

- a. The quarterly and pilot total CLR rate – this is detailed in the column headed **CLR grants (% of refusals)**.
- b. The CLR rate for the pilot as a whole – this is 56% and is repeatedly stated throughout each annex for comparison with the quarterly breakdowns and the Leeds rates.
- c. The Leeds sample CLR rate – this is in the Leeds column, headed **CLR grants (% of refusals)**. This varies between each part of the annex and is a summary for the pilot period e.g. Annex 4, the Leeds CLR rate for Red countries is 47%, for Amber 29% and Green 42%. The figures quoted are based on the CLR rate, as a proportion of the cases where a CLR decision was made, therefore does not take into account the proportion of cases where CLR was not considered as the outcome was reported as unknown.

This figure should therefore be viewed with a degree of caution – for instance in the above example if the CLR rate were calculated as a proportion of the total cases refused, then the Leeds CLR rate would be Red – 31%, Amber 17% and Green 31%.

John Facey

Legal Services Commission

September 11, 2008

THE LSC QUALITY REVIEW

1. The Early Advice Pilot has been intended to create an environment where all relevant evidence in asylum cases is correctly identified and considered before a decision is made, rather than the information coming to light only at appeal stage.
2. It was intended that all legal representatives and Case Owners (Home Office), would work together to ensure that the key issues in a case were identified before the clients asylum interview. This information would be documented in a Pro Forma document, which would be agreed between the parties.
3. A detailed file analysis has been undertaken to highlight the quality of advice in EAP cases. A sample of approximately 55 files has been selected from 12 pilot providers for the purpose of this review. I have considered each case individually against the compliance criteria detailed at point 95 above, and will use this as a framework for my findings.
4. I make no specific reference to individual providers or clients by name, but have concentrated on drawing general findings highlighted by specific examples and some reference to a client's country of origin.
5. The review has concentrated upon five performance ratings, which have been awarded according to the level of the quality of the advisors work; reference will be made to these ratings throughout the report. The report is concentrated on the main areas of compliance, which this review sought to highlight.

Providing an explanation of the asylum process, and confirmation of clients written instructions

6. It was identified that this was one of the weakest areas of compliance in providers generally. This was quite surprising given that it is such a basic feature of any asylum file. Whilst it is accepted that many clients would not be able to appreciate the complexity or understand the language of detailed instruction and advice, many providers simply did not confirm the asylum process to their clients in written form.
7. It was noted that one provider who did provide clients with an explanation of the asylum process did so by way of a standard written advice sheet in the client's native language.

8. Some providers did follow a pro forma asylum advice checklist when meeting with their clients but it is hard to establish from documents of this nature whether the client has been specifically advised on elements of the process as no client specific notes are made. This was by far the lowest scoring criterion with the majority of providers scoring a rating of 5, failure in performance, as no record of advice appeared on the file.
9. Some providers did provide their clients with a general asylum procedure letter, but regrettably none elaborated on the EAP process, this of course demonstrated standardisation. I noted many references to males when the clients were in fact females and vice versa. One provider's standardisation was so apparent that they even wrongly noted the client's nationality in their letters to the client. In reviewing this provider's file I noted that all cases reviewed were refused by the Home Office. It is not a requirement that all advice is specifically tailored to a client and it is also appreciated that in a busy practice it is not practical to rewrite a letter to each client.
10. The same findings were also made when reviewing provider's performance in confirming their client's instructions in writing, with many providers scoring only an average of 3 to 5.
11. Many providers chose to confirm the most basic elements of their clients instructions, namely the country of origin and that they wished to claim asylum. Some chose to adopt the client's statement as the written confirmation of instructions.
12. It was noted that one provider's departmental supervisor would carry out a file review and would identify the need to send a written confirmation of instructions and advice letter, which although after the fact still demonstrated compliance with the criteria.
13. In comparison one provider, out of the twelve reviewed, consistently provided detailed written confirmation of the client's instructions and an explanation of the asylum process. They attained an average score of 1 in this area. However I did note that the files reviewed for this provider were of an identical format.
14. The fact that the majority of providers again did not provide written confirmation of instructions did surprise me given that it is such a basic feature that you would expect to see on any file.

Identifying strengths and weaknesses of the Asylum claim

15. Another very poor area with many providers simply not addressing the strengths or weakness of a client's case, the average rating score here was 4-5. The LSC immigration EAP specification clearly states that the advisor should apply the sufficient benefit test and assess the client's status. After doing this, the advisor would be in a very good position to make even a basis assessment of the strengths and weaknesses of the client's case.
16. However some advisors may not feel it possible to make such an assessment until after they have taken the clients detailed witness statement and then discussed the pro forma with the Home Office Case Owner. I noted that on many of the files where an assessment of the strengths and weakness had been made this was not done until the client's case had been refused and the advisor was preparing for an appeal.
17. I would suggest that identifying the strengths and weaknesses at the outset of a client's case is an essential element of case preparation as it establishes what the advisor needs to concentrate on to present the client's case in the best possible light. For example establishing what objective evidence is necessary to further the case, or what documents if any, the client needs to obtain. It also allows the advisor to make an assessment of whether expert evidence is necessary.
18. One provider did go so far as to mention strengths and weaknesses in their initial attendance note but this was merely a mention of the words and no real assessment was made. This of course demonstrated standardisation, without any real consideration of the strengths and weaknesses of the case.
19. It was also noted that only one provider did go so far as to identify the strengths and weaknesses in the client's case and then explain it to the client. Surprisingly I only identified one provider in this sample who actually explained this to their client. However, in their attendance note one provider, whose client was from Zimbabwe, proceeded to advise their client of the strengths and weaknesses of case law in Sri Lanka. This again demonstrates standardisation.
20. It was noted that whilst some providers would confirm the clients written instructions they would not go so far as identifying the strengths or weakness of the case to the client. I saw no evidence on any file that this had actually been gone through in any detail with any client.

21. However given the very limited time limits in EAP cases it may well be that advisors are too busy concentrating on taking the clients instructions and finalising their statements that they simply do not have enough time to properly address this feature of the client's case. It was noted that many advisors are simply not considering this aspect of their client's case.

Statement of client's case

22. On the whole this was the best feature of the EAP files. I noted that of the providers reviewed all produced good quality detailed statements, with some firms preparing statements of excellent quality. Most providers scored an average rating of 1- 3.

23. As an observation it was noted that where an advisor had properly prepared a statement and paid close attention to detail, dates places events etc. The Home Office would simply agree these matters in the Pro Forma if one had been agreed. In turn this cut down the amount of questions that would be asked in an interview and allowed the Home Office Case Owner to concentrate on clarifying those issues in dispute or those which were not easily ascertainable from the statement.

24. One provider's statements were not of the quality that one would expect but generally statements were very well produced.

25. I would go so far to comment that these files evidence the fact that well produced statements submitted prior to a substantive interview and before a decision is made enhance the client's chances of a favourable result. If prepared properly the statement also gives the Home Office Case owners an opportunity to appraise themselves in advance of the substantive interview. It was also noted that where an advisor had prepared a detailed statement and where a pro forma had been agreed the time taken to interview the client was considerably less than where the advisor had just prepared a basic statement.

26. Statements that had been well prepared were also in some cases used for the purposes of detailing the client's case to such organisations as the Medical Foundation, or for a detailed background to the case for other experts such as medical practitioners or country experts. Again the way in which statements were produced is imperative as it allows the expert to obtain a full picture of the client's circumstances and background. The time taken to produce a statement varied from provider to provider but generally the minimum time taken was about 2 hours and the maximum observed was approximately 8 hours.

27. Having read a large number of files it is apparent that advisors are aware of the importance attached to the client's statement. It was noted that many advisors would take their client's instructions and then the client would be called again on further occasions to finalise their statements.
28. In all cases advisors did identify the main issue and reason for their clients leaving their country of origin. Generally it was observed that the statement did provide a refugee or Human Rights convention reason for the client claiming asylum. Whilst the exact articles or wording of a convention reason were not used it was apparent from the statement what it was the client was claiming whether under HR article or asylum convention reason.
29. In EAP cases the advisor has ten days from the date that the applicant is screened within which to submit a witness statement and any supporting evidence. This is a very tight framework, but it was noted that most advisors did strive to comply with these guidelines. In any event most did provide the Home Office case owner with their client's statement prior to the client's substantive interview, with some faxing the statement on the actual interview day.
30. The rating achieved for the submission of statements varied from 1-5 with some advisors submitting their client's statements well in advance of the interview. In rating this area a rating of 3 would be awarded even where the statement had been submitted on the day and where the interview had subsequently been cancelled for that day. However I would comment that whilst the timeframe for the submission of witness statements is tight advisors did demonstrate that they were able to complete statements in a limited time.
31. I would conclude that in some cases it was evident that the advisor had not even taken the time to read the clients screening interview and gone on to prepare the clients statement, which then contained contradictions. This was noted on the files of more than one provider. It is apparent that the fact that the statement has to be submitted within ten days is putting some pressure on advisors; however it is also evident that some in the minority are just putting in their client's statement to meet the EAP deadline.

Pro Forma Discussions with the Home Office

32. From reading this sample of files I am of the opinion that the pro forma is an extremely important stage in the EAP process, as it allows the Home Office and the

advisor an opportunity to narrow the issues in dispute and agree matters. This in turn leads to a more focused asylum interview.

33. The benefit of this process was demonstrated on the files that I reviewed. It was interesting to note that some providers routinely contacted the Home Office either by the medium of email or by telephone to agree or set up a time to go through the pro forma. These cases inevitably had shorter interview times. Also if conducted prior to the interview it reduced the chances of the interview being cancelled for such reasons as dialect and interpreter issues.
34. In one case I observed that the advisor tried to obtain medical evidence pre interview, but was advised by the medical foundation that this could take up to 4 months to obtain. The advisor then went on to explain to the Home Office Case Owner that the client had mental health issues. The case was discussed in detail by way of the pro forma and eventually the Home Office granted the client full refugee status without conducting an interview and without the benefit of a medical report. The time period within which this case was turned around was approximately 8 weeks.
35. In some cases it should be accepted that it is not practical to narrow the issues by way of a pro forma prior to the substantive interview if the advisor has not had the opportunity to do such where for example the interview takes place immediately after the statement has been submitted. In such cases it was noted that some case owners would either discuss the pro forma with the advisor prior to the substantive interview i.e. on the day or after the interview had actually been conducted.
36. It is good practice to try and agree matters in advance of the client's interview, as it then allows the advisor to concentrate on preparing the client for those areas of their case that remain in dispute with the Home Office.
37. Further it is not always the same advisor who sees the client in the office that will attend the substantive interview with the client hence the person who attends the interview needs to be in a position to be able to agree such matters with the Home Office case owner.
38. I also noted that in a number of cases where the advisor attempted to schedule a pro forma discussion with the Home Office case owner, it was not always possible, for example due to the case owner's illness, holiday leave or simply due to the fact that the case owner had left and a replacement could not be found to agree the pro forma. This was noted on a large number of files.

39. Whilst many files did contain the pro forma form on file with the case owners and advisors signatures on them others simply had blank forms leading me to the conclusion that the pro forma had not been completed.
40. The rating for this criteria, varied from 1-5 with some providers routinely attempting and carrying out pre interview discussions and some providers not addressing the pro forma at all pre substantive interview. From the reading of these files it is clear that there is a benefit in discussing the client's case with the Home Office case owner pre interview.

Preparation for the substantive Asylum Interview

41. This is by far is the most crucial interview that the client will have and therefore it is imperative that they are prepared and advised so that they are aware of what to expect. Clients are generally very anxious about their interview. Whilst it is not an advisors role to rehearse the client for their interview some detail of the case should be discussed with the client.
42. It was noted that the majority of advisors had used a standardised attendance note stating that they had prepared the client for the interview and discussed the procedure, process and purpose with them. Very few files evidenced individualised attendance notes with client specific information.
43. Whilst again there is nothing wrong with standard attendance notes it is hard to assess what precisely the client has been prepared on. It was also noted that some providers routinely advised their client as to what to expect at the actual interview itself whilst they were waiting to be called in by the Home office for the substantive interview.
44. Again the rating for this criteria, varied from 1-5 with some advisors routinely preparing the client and others simply advising the client as to when and where their interview was to take place.
45. It is always a good idea to go through the client's statement with them prior to an interview as it ensures that they understand what has been recorded in their statement, and it assists with the client's credibility.
46. Given that the majority of applicants do not speak or read English they are not able to fully familiarise themselves with their statements unless it has been translated into a language that they understand.

47. One provider reviewed in this sample, routinely went through the client's statement with them prior to the substantive interview.

48. Generally it would not take more than an hour to prepare a client for a substantive interview.

Attendance at interview by advisor

49. This was an area in which all providers either achieved a 1 or 2 rating. All providers did send a representative to attend the substantive interview or they attended the interview themselves.

50. On one file I noted that the provider did not attend the interview due to the fact that they did not receive the interview letter in time, and hence the client was unrepresented, otherwise It was noted that all providers sent an advisor to assist the client at the interview. Providers would also send their own interpreter when necessary to accompany their advisor and client to the interview.

51. It was also noted that advisors would take full notes of the interview despite the fact that a taped copy of the interview was provided by the Home Office case owner. One provider routinely went through the interview tapes with the client post interview.

Advisor assisted in the asylum interview by asking questions and clarifying issues/ by making written or oral submissions

52. There was some variance in the way that advisors behaved in the substantive interview. In many cases I noted that the advisor did not have to clarify any issues or even have to ask questions due to the fact that a detailed statement had been submitted and a pro forma agreed so hence all the major issues had been clarified.

53. Where as in some interviews the Case owner themselves had asked the client for all relevant information so that it was not even necessary for the advisor to ask any questions.

54. I did note that on some files advisors routinely would ask one or two questions. However, I would state that this is a hard area in which to comment on quality of advice due to the fact that every interview and client is different.

55. On a few files it was not possible to comment on whether the advisor had asked questions within the interview as the interview record was not present on the file.
56. On files where the advisor had asked questions it related to simple matters such as clarifying dates that the client had maybe confused in their statement. I did not see any files in which the advisor had to clarify a larger issue. The interview record provides for the representative to add anything after the interview if they feel necessary.
57. I noted that it was at this stage that the advisor would mention such things for example that they would be submitting further evidence or an experts report.
58. It would also be at this stage that the advisor would be given the opportunity to make any oral submissions in support of the client's case. I did not see however, any evidence of the submission of oral submissions at the substantive asylum interviews on any of the files that I reviewed in this sample.
59. It has always been my opinion that there is a benefit in accompanying a client to their asylum interview; it has been viewed by many as a mere hand holding exercise, with little or no value being added by the presence of an advisor. The EAP process is designed to have an interactive asylum interview. This means that the interview will be limited and potentially shorter given that the case owner will have prepared for the interview in advance.
60. Providers scored between 1- 5 in this area. A rating of 5 was also awarded where no interview record appeared on file, as I was unable to ascertain whether the advisor had added any benefit to the substantive interview.
61. The process states that the Home Office case owner will control the interview and allow the advisor to participate in the interview with the view that they jointly ensure that all factual issues are covered before the end of the interview, as this represents the last opportunity for the client to put forward his case.
62. With this in mind it would be assumed that representatives would be keen to assist their client in the substantive interview. However I noted that in many cases the advisor remained silent during the interview.
63. The submission of written submissions was a far more common feature of these files than of the advisors making oral submissions at the substantive interview.

64. Many providers chose to prepare and submit representations prior to the substantive interview and some chose to send in representations post interview. Given the features of the EAP process I would suggest that the submission of written submissions prior to the substantive interview would be better practice.
65. One provider in particular prepared and submitted detailed submissions routinely prior to the attendance at the interview. Submissions consisted of a combination of case law and country information, with particular attention to the main issues in the client's case. I felt that the preparation of these representations were very beneficial to the case. As an observation it was noted that all cases in the files reviewed for this provider were granted refugee status post interview. It also showed that the provider was simply not churning out standardised documents but concentrating on putting forward the material facts of their client's case.
66. The quality however of these written submissions varied from provider to provider. One provider routinely produced a standardised country of information document and forwarded this to the Home Office prior to the substantive interview. Generally however most advisors were aware of the benefit of the submission of individually tailored representations.
67. Three providers in the sample did not evidence any written or oral submissions whatsoever.
68. The rating for this area varied between 1-5 with the majority of providers scoring an average of 2.

The UKBA decision explained to client

69. The majority of providers scored well in this area scoring an average rating of 2. I found it hard to comment substantially on the quality of the advice given, as all providers tended to use a pro forma standardised document in which they simply listed the advice that they had given the client in relation to the grant for example of refugee status. Various other matters were covered by these attendances, such as travel documents, medical, educational services and rights to benefits etc.
70. Some providers noted a few client specific details on the attendance note but in general these attendances were standardised.
71. Where the client's case had been refused, I was also surprised to note a general lack of any client specific information on the attendance notes.

72. I noted that one provider in particular had a high number of refusals within the sample of files reviewed. This provider did not make any detailed notes regarding the clients UKBA decision, and I noted with some disappointment that there was no record of the discussion of any grounds of appeal with the client.
73. The majority of files however within this EAP sample were grants of refugee status.

LSC Merits Test

74. Within this sample there were some refusal cases. I noted that the LSC merits test was not being properly applied, as per the contract specification. Providers in this area scored an average rating of between 3 and 5. The specification states that CLR should not be granted where the prospects of success are poor.
75. I noted that providers were not applying the test accurately with very little information being completed on the CLR form itself. I was somewhat surprised that even now providers were incorrectly granting CLR to cases with little or no merit. Worryingly I noted that in a few cases after submitting an appeal the advisor would remove themselves from the record or once the clients appeal had been refused.
76. I noted only on two files of the refused cases reviewed that the advisor had properly considered and granted CLR within the ambits of the specification. In both these cases the case progressed to an appeal and the appeals were granted.
77. In one case the client's application was refused due to the fact that the Home Office disputed nationality, the provider assessed the client's case as borderline prospects of success for the purposes of CLR. The provider submitted an appeal. At the CMRH the Home Office continued to dispute nationality. The provider then went on to obtain expert evidence, however in doing so they ignored other material facts regarding the case, unfortunately these factors were the main issues in the clients application and hence the appeal was refused.
78. Hindsight is a great thing but whilst I have reviewed this file after the fact, I would not have thought that this was a case within which to grant CLR given the low level activities of the claimant. The provider was probably correct in assuming this was a borderline matter but in my opinion it definitely fell in the poor category of success rate, and hence it was refused.

79. I do not think that the provider properly considered the merits test as they did not cover all aspects of the test and merely concentrated on the clients disputed nationality, which in itself was not enough to be granted refugee status.
80. I felt they were probably overly cautious in granting this client CLR as disputed nationality alone is not a basis for an appeal, the client still had to show that he had suffered persecution as a result. The client and the provider were unable to evidence this and hence the appeal failed.
81. On another file from this same provider a client's application was refused and an appeal submitted. Whilst the grounds of appeal and the decision had been explained and discussed with the client, there was very little evidence to show that the LSC merits test had been properly considered. On the CLR form the details had been partially completed. The specification states that the grant and reason for grant should be recorded on the file. There was no evidence of proper consideration of the test anywhere else on the file.
82. Advisors need to be able to justify their reasons for granting funding in CLR cases and even more so in borderline cases. There was no recorded evidence on file to lead me to believe that this was an appropriate case within which to grant CLR.
83. On one file in particular there was no evidence of a CLR merits test on file despite the fact that I reviewed all parts of the providers file. Whilst the CLR form was present on the file it did not contain any details. Initially the provider granted CLR and this was evidenced by the supervisor's signature and grant on the CLR form. However I noted that CLR was refused once the appeal forms had been submitted. This was very surprising given that the appeal was discussed with the client before being sent to the Home Office. I also noted that the client was not advised in regards to the CW4 form.
84. In another case, I observed that the file was completely standardised with references to the client as a female when the client was in fact male. The client had not suffered any persecution in his country he feared perceived threats that he claims were made after his departure from his country. Despite having no evidence to substantiate any persecution or threats the provider went on to grant the client CLR. Again I do not think that this was an appropriate case within which CLR should have granted and had the provider submitted this to the LSC for approval I am sure it would have been refused. The specification provides that if CLR is refused then the client should be advised on the CW4 process.

85. In the sample of files reviewed I noted that only two advisors had explained the CW4 form to their client and completed the said form. Again this was an area in which providers scored badly attaining an average of a 4-5 rating.

Cancellation of Home Office interviews

86. In the course of my review, I noted that the cancellation of the substantive Home Office asylum interview was extremely common, with almost all interviews being rescheduled at least once.

87. The reasons for the cancellations varied, but on the whole I noted that the Home Office case owners initiated the cancellations. The reasons given varied from the case owners being sick, on holiday, or having left the Home Office's employ.

88. In one case I noted that the Home Office, all for various reasons, had cancelled a client's interview on six separate occasions. I also noted that the Home Office cancelled interviews due to a lack of an interpreter or due to the fact that the interpreter did not speak the same dialect as the client.

89. I saw maybe a couple of cases in the sample reviewed of an interview being cancelled at the advisors request, and this case was in fact a request to exercise the flexibility criteria. In another case the advisor was not level 2 accredited and therefore could not attend the asylum interview unaccompanied. The advisor then contacted the Home Office to rearrange the interview to allow for her supervisor to attend the substantive interview with her.

90. In summary all advisors made every attempt to attend their client's interview on the date set by the Home Office even in examples where the interview had only been rescheduled the day before. I found that the fact that Home Office case owners now corresponded with advisors by email to be highly useful especially when it came to rearranging substantive interviews.

91. Advisors made themselves available to attend the substantive interview with their client. I noted that in the majority of cases the same level 2 advisors advised the client pre and post asylum interview.

Experts Reports

92. From my review I would state that generally the main expert reports commissioned were medical reports, some had been requested from the Medical Foundation and

others from the client's GP or health authority. Overall the weight attached to Medical Foundation reports is regarded very highly by the Home Office, so much so that in one case the advisor simply told the case owner that the client had been offered an appointment with the medical foundation and post interview the client was granted full refugee status even before the report had been prepared and sent to The Home Office.

93. The advisor in this case had acted proactively and had attempted to try and obtain all necessary documentation prior to the substantive interview, however given the EAP process timetable it would not have been possible to collate all evidence within the time framework provided for. However what this does demonstrate is that pro-active work pre decision is definitely of benefit to the client.
94. In one case I was shocked to read that the client had been raped yet despite the client's substantive interview not taking place till 6 months later the advisor took no steps to commission a medical or psychological report. It was only at the substantive interview that the advisor stated, when asked, by the case owner whether they wished to add anything, did they state that they would be forwarding a medical report to the Home Office in support of the clients case.
95. This case was refused by the Home Office but then granted, on appeal by an immigration judge, by which stage the provider had obtained medical reports supporting their client's assertion that she had been raped.
96. Generally speaking expert's reports were obtained in some files and the weight that they added to the client's case was beneficial. What I would say is that the pro forma is a very useful tool in EAP cases because if the advisor can agree for example the material fact that a client has been raped or has mental health issues, as was demonstrated in two cases that I reviewed, then there is probably no need to go to the expense of obtaining a report in all cases.

Interpreter's hourly rates

97. From my review of these file I noted that the average hourly rate for an interpreter in the Birmingham area was £20. There were no additional rates for a specialist language or any additional fees for travelling from a distance.
98. The most I saw was £30 an hour, and it was noted that many providers used the same interpretation agency.

99. I did not see any evidence of excessive charging by interpreters on this sample of files.

CONCLUSIONS

Overall I felt that the quality of advice on the files that I reviewed to be of a good standard with two providers consistently achieving ratings of 1-2 excellence and competence plus. Needless to say these were also providers whose clients were granted full refugee status.

However in fairness, the majority of files reviewed in this sample were granted full status. Quality was of a good standard but I thought that the areas in which providers were let down were by their over use of standardised documents, and files which followed a factory process where all files read the same albeit for the clients name and nationality.

I found the EAP process to be less intimidating and more involved for advisors on a whole. The process is designed to be interactive and I felt from my review that the files definitely demonstrated that, advisors seemed to build up a rapport with case owners and there was a lot more in the way of discussion between the parties which of course is a benefit to the client.

One area however that I felt that advisors needed more guidance on is the area of CLR. On the whole I do not think that even now providers are applying the merits test in the correct way and simply granting CLR to continue with the client's case even though merits are poor.

Whilst the time framework for an EAP case is slightly more constricting for advisors, on the whole, files demonstrated that providers are very capable of meeting the deadlines whilst still maintaining a good quality level of advice and service for their clients.

Kiran Verma

Solicitor LRO

11 September 2008

Comparison of average costs

Annex 1

LSC Consolidated Summary		Q1	Q2	Q3	Q4	EAP Total	Leeds
Average Profit Costs	Intake reported	128	112	88	123	451	416
	Profit costs upto Interview	£471.07	£503.28	£490.77	£532.76	£498.83	
	% of cases below average costs	70%	70%	62%	63%	63%	
	Profit costs for Interview	£383.56	£351.63	£310.28	£265.99	£331.16	
	% of cases below average costs	63%	59%	63%	55%	59%	
	Profit costs for post Interview	£145.19	£134.07	£172.07	£139.86	£146.44	
	% of cases below average costs	72%	67%	75%	78%	72%	
	TOTAL Average Legal Help PC	£978.34	£957.68	£936.76	£864.32	£934.00	£474.89
	% of cases below average costs	66%	63%	65%	63%	65%	53%
"True" EAP cases	<i>Number that had a claim for each aspect</i>	122	100	80	103	405	
	TOTAL Average Legal Help PC	£1,000.53	£989.89	£985.54	£939.68	£977.49	
	% of cases below average costs	66%	62%	63%	65%	64%	
Average Disbursements	<i>Number that had a claim for Interpreter's costs</i>	98	77	55	89	319	
	Interpreter costs	£310.58	£462.07	£427.17	£483.18	£415.40	
	% of cases below average costs	65%	69%	67%	71%	70%	
	<i>Number that had a claim for Expert's Costs</i>	7	11	6	8	32	
	Expert costs	£591.43	£331.26	£389.24	£340.00	£408.21	
	% of cases below average costs	43%	55%	50%	38%	53%	
	Leeds - Average Disbursements Costs						
TOTAL Average Legal Help Costs	£1,251.48	£1,328.64	£1,225.86	£1,242.78	£1,263.27	£664.51	

Comparison of outcome and CLR rate

Annex 2

LSC Consolidated Summary		Q1	Q2	Q3	Q4	EAP Total	Leeds
INITIAL APPLICATION OUTCOMES	TOTAL NUMBER OF DECISIONS	127	103	86	112	428	396
	Allowed (inc DL/HP)	33	33	37	63	166	93
	<i>Percentage allowed %</i>	26%	29%	42%	51%	37%	22%
	Other Allowed	32	30	35	59	156	85
	<i>Percentage allowed %</i>	25%	27%	40%	48%	35%	20%
	DL or HP	1	3	2	4	10	8
	Refused	94	70	49	49	262	303
	<i>Percentage refused %</i>	73%	63%	56%	40%	58%	73%
	Pending / Other (inc. withdrawn/abandoned)	1	9	2	12	23	20
CLR RATE	Total Granted by EAP provider / Leeds provider	57	31	24	34	146	75
	<i>Percentage Granted % (as proportion of UKBA refusals)</i>	61%	44%	49%	69%	56%	25-61%
	<i>Percentage Granted % (as proportion of all decisions)</i>	45%	30%	28%	30%	34%	19%
	Total Refused	36	39	27	16	118	120
	<i>Percentage Refused % (as proportion of UKBA refusals)</i>	38%	56%	55%	33%	45%	40-75%
	<i>Percentage Refused % (as proportion of all decisions)</i>	74%	68%	57%	44%	61%	77%
	Unknown	0	0	0	1	1	108

Appeals - comparison of outcomes and overall costs

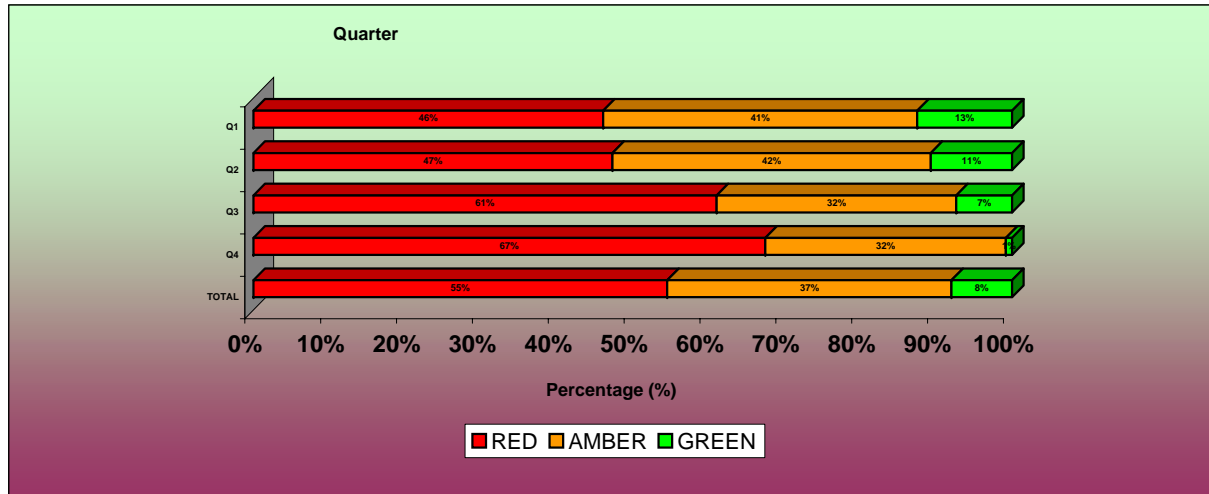
Annex 3

		Q1	Q2	Q3	Q4	EAP Total	Leeds
AIT DECISIONS	Total Number of appeals to the AIT						
	Number of appeals brought by EAP providers	57	31	24	34	146	75
	<i>EAP appeals as proportion of total appeals</i>	66%	46%	55%	76%	60%	
	EAP/Leeds allowed	15	4	4	4	27	19
	<i>as a proportion of total decisions (EAP - 51,30,22,26,129, Leeds 67)</i>	29%	13%	18%	15%	20%	28%
	Non-EAP allowed	3	9	0	0	12	
	<i>as a proportion of total decisions (Non-EAP - 26, 31, 18, 12, 87)</i>	12%	29%	0%	0%	12%	
	EAP / Leeds Refused	36	26	18	22	102	49
	<i>as a proportion of total decisions (EAP - 51,30,22,26,129, Leeds 67)</i>	71%	87%	82%	85%	77%	73%
	Non-EAP refused	23	22	18	12	75	
<i>as a proportion of total decisions (Non-EAP - 26, 31, 18, 12, 87)</i>	88%	71%	100%	100%	76%		
Pending/Other	5	0	2	5	12		
COSTS	Average EAP/Leeds appeal Cost	£1,876.58	£2,045.36	£1,895.43	£2,059.37	£1,952.75	£1,892.67
	Average EAP/Leeds appeal Cost - allowed	£1,773.23	£2,438.84	£1,957.68	£3,456.59	£2,184.89	
	Average EAP/Leeds appeal Cost - dismissed	£2,001.16	£2,014.85	£1,880.92	£1,882.17	£1,962.34	
	TOTAL AVERAGE COSTS FOR LH AND CLR FOR CASES	£3,055.56	£3,342.11	£2,897.52	£3,210.64	£3,124.38	£2,557.18
SCHEME COSTS	Average Profit Costs for Legal Help	£978.34	£957.68	£936.76	£864.32	£934.00	£664.51
	Average Costs for CLR (AIT appeal)	£1,876.58	£2,045.36	£1,895.43	£2,059.37	£1,952.75	£1,892.67

UK Borders Country Flags (Proportion per Quarter)

Annex 5

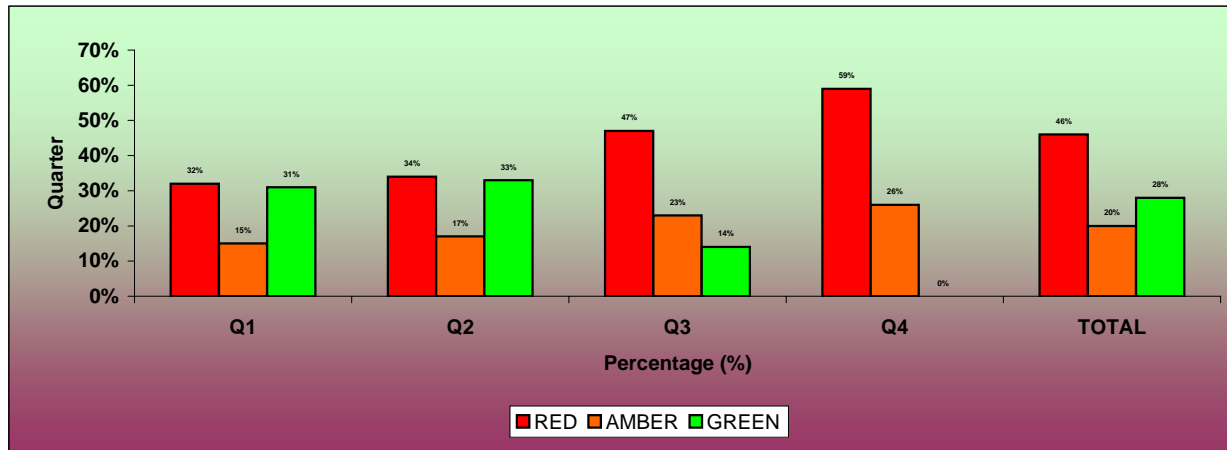
	RED	AMBER	GREEN
Q1	46%	41%	13%
Q2	47%	42%	11%
Q3	61%	32%	7%
Q4	67%	32%	1%
TOTAL	55%	37%	8%



UK Borders Country Flags (Grant rate per Quarter)

Annex 6

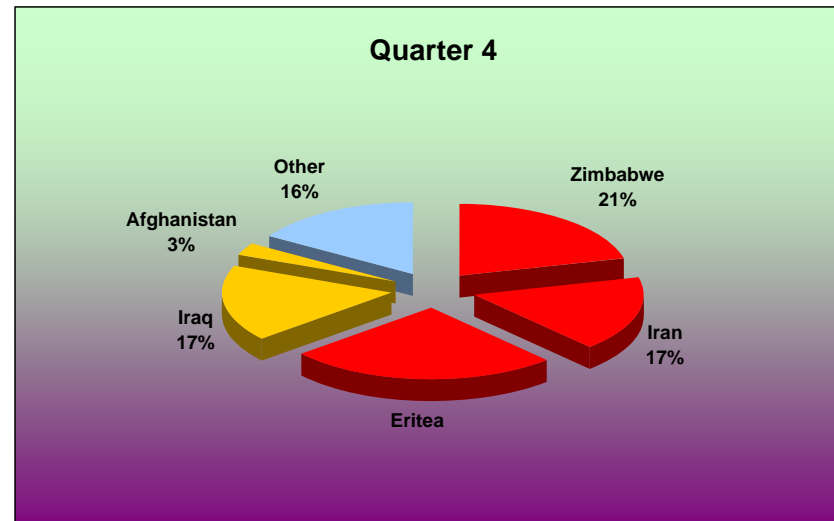
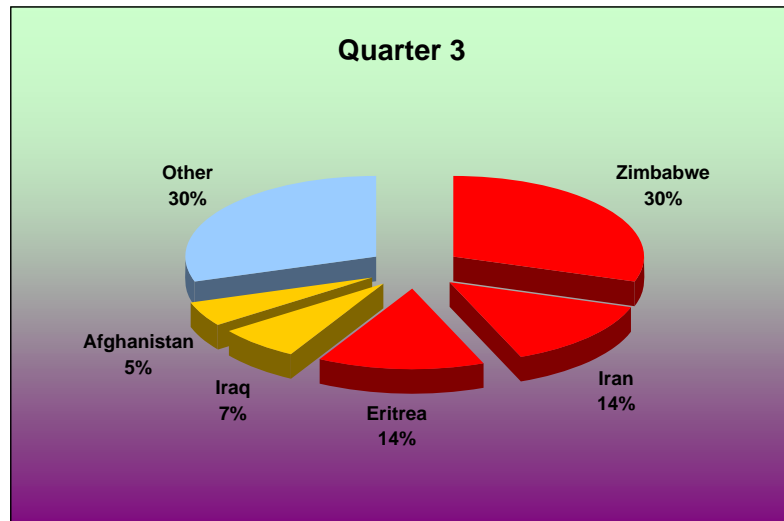
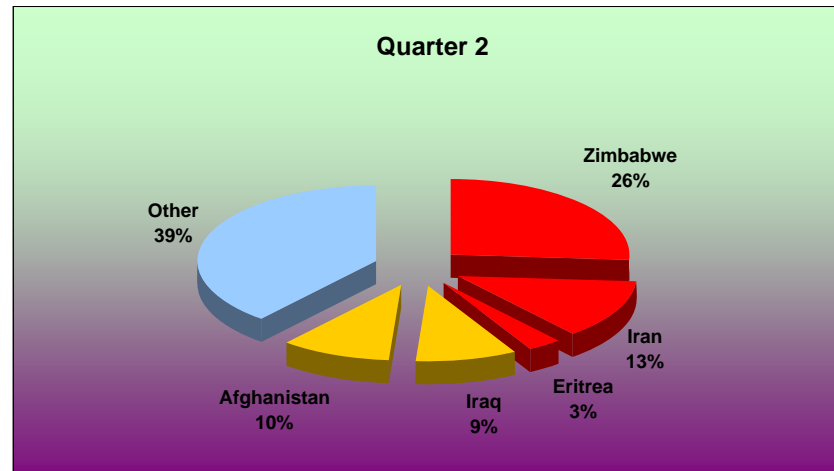
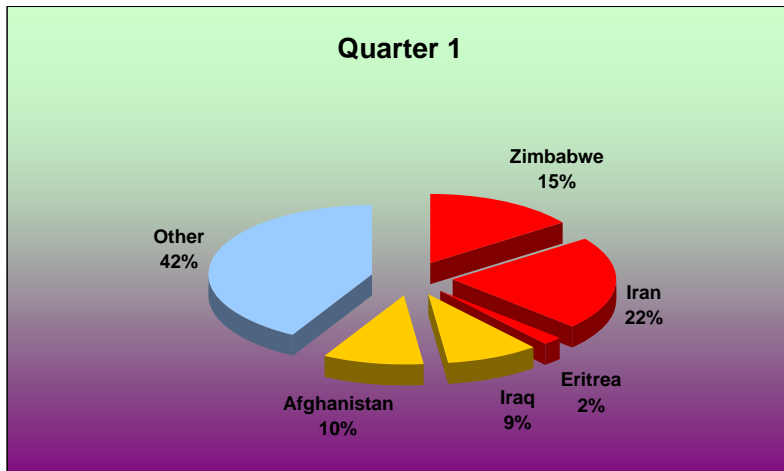
	RED	AMBER	GREEN
Q1	32%	15%	31%
Q2	34%	17%	33%
Q3	47%	23%	14%
Q4	59%	26%	0%
TOTAL	46%	20%	28%



Top 5 Nationalities within the pilot - Quarterly split

Annex 8

COUNTRY	Q1	Q2	Q3	Q4	TOTAL
Zimbabwe	15	26	30	21	22
Iran	22	13	14	17	17
Eritrea	2	3	14	26	11
Iraq	9	9	7	17	11
Afghanistan	10	10	5	3	7
Other	42	39	30	16	32



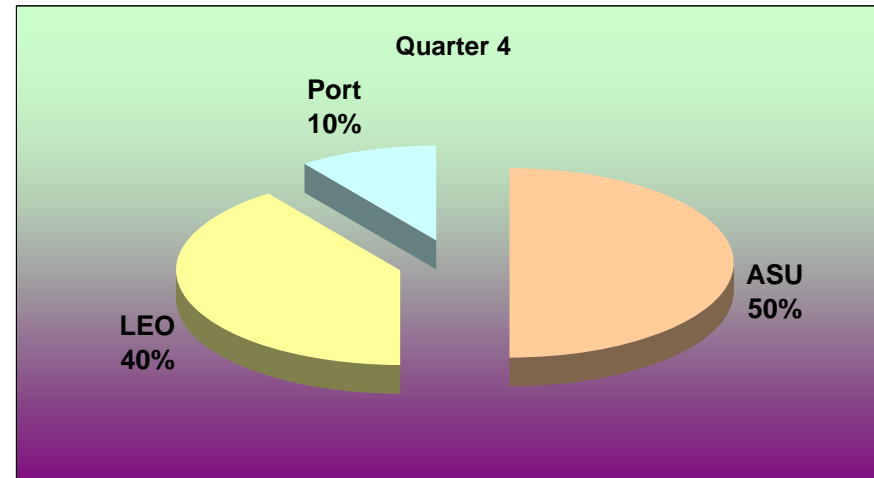
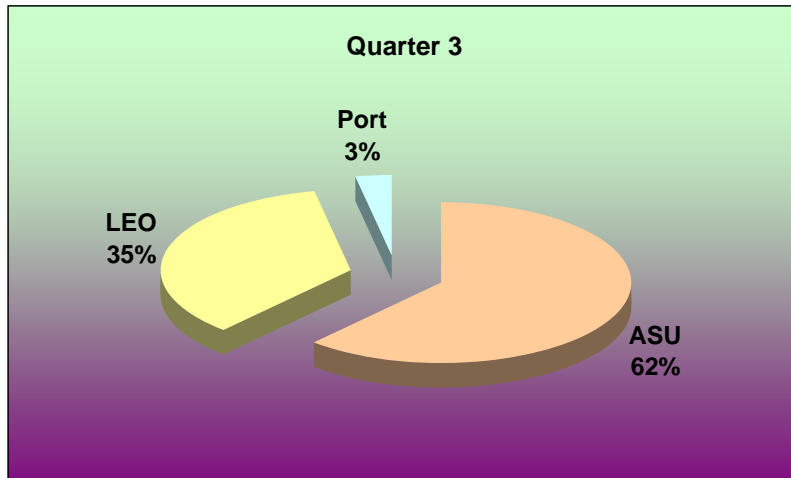
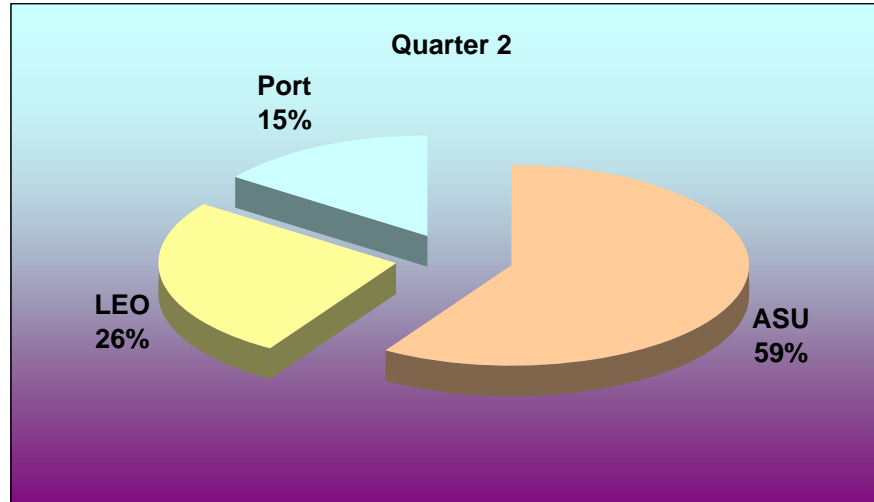
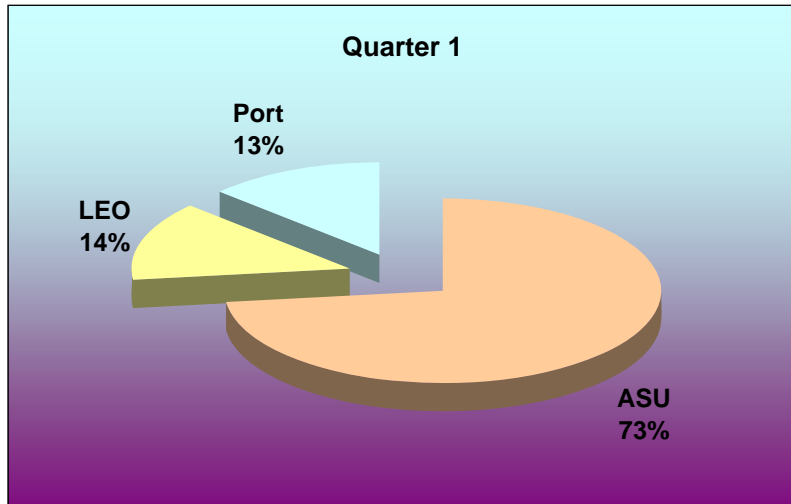
Point of claim (outcome, nationality, cost & CLR rate)

Annex 9

Point of Claim	Freq	Percentage of cases		Outcome	Solihull						EAP Average	CLR grants (% of refusals)	EAP CLR grants	Leeds		AIT OUTCOMES	
					Q1	Q2	Q3	Q4	TOTAL	Outcomes				CLR grants (% of refusals)	EAP	Leeds	
ASU	276	Q1	73%	INTAKE / AIT decisions	94	66	54	62	276	35%	65%	56%	281	36%	81	44	
		Q2	59%	Allowed	27	19	17	32	96		45%		67		17	14	
		Q3	61%	Percentage allowed %	29%	29%	31%	52%	35%		52%		24%		21%	32%	
		Q4	50%	Refused	65	38	33	25	159		72%		200		64	30	
		TOTAL	61%	Av Profit Costs	£925.72	£887.98	£966.77	£840.90	£905.67	£934.00	59%		£484.88		£1,803.07		
				% of Red Countries	44%	59%	57%	66%	55%	55%			48%				
				% of Amber Countries	46%	33%	31%	34%	37%	37%			43%				
				% of Green Countries	11%	8%	11%	0%	8%	8%			9%				
				Male	64%	55%	50%	58%	58%				72%				
				Female	36%	45%	50%	42%	42%				28%				
				Av Claim Length (Days)	108	106	105	102	105				67				
LEO	127	Q1	14%	INTAKE / AIT decisions	18	29	31	49	127	35%	50%	56%	76	31%	29	11	
		Q2	26%	Allowed	2	3	16	24	45		46%		10		5	0	
		Q3	35%	Percentage allowed %	11%	10%	52%	49%	35%		40%		13%		17%	0%	
		Q4	40%	Refused	16	24	15	17	72		71%		58		24	11	
		TOTAL	28%	Av Profit Costs	£1,067.49	£1,020.13	£872.22	£887.33	£939.50	£934.00	51%		£464.14		£2,146.69		
				% of Red Countries	67%	21%	55%	67%	54%	55%			42%				
				% of Amber Countries	17%	62%	42%	31%	39%	37%			49%				
				% of Green Countries	17%	17%	3%	2%	8%	8%			9%				
				Male	94%	86%	84%	80%	84%				92%				
				Female	6%	14%	16%	20%	16%				8%				
				Av Claim Length (Days)	153	119	101	139	128				69				
PORT	48	Q1	13%	INTAKE / AIT decisions	16	17	3	12	48	35%	54%	56%	59	55%	11	13	
		Q2	15%	Allowed	3	8	2	3	16		38%		8		4	5	
		Q3	3%	Percentage allowed %	19%	47%	67%	25%	33%		100%		14%		36%	38%	
		Q4	10%	Refused	13	8	1	7	29		57%		45		7	8	
		TOTAL	11%	Av Profit Costs	£1,187.18	£1,121.73	£1,063.52	£891.36	£1,082.32	£934.00	52%		£441.17		£2,642.62		
				% of Red Countries	38%	47%	100%	75%	54%	55%			44%				
				% of Amber Countries	44%	41%	0%	25%	35%	37%			47%				
				% of Green Countries	19%	12%	0%	0%	19%	8%			8%				
				Male	44%	59%	33%	42%	48%				81%				
				Female	56%	41%	67%	58%	52%				19%				
				Av Claim Length (Days)	84	97	77	84	86				82				

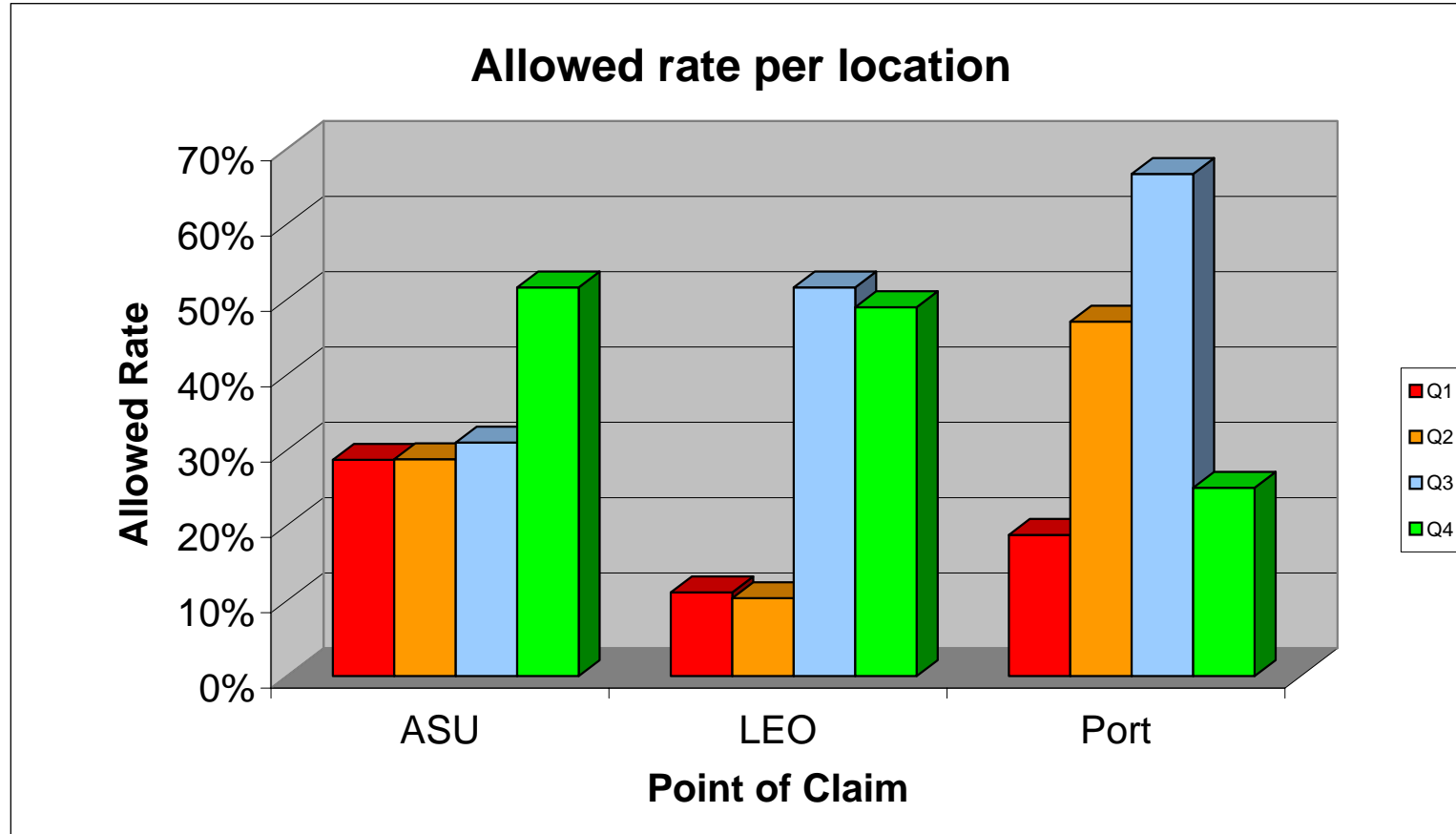
Location of claims - Proportions per quarter

Location	Q1	Q2	Q3	Q4	Total
ASU	73	59	61	50	61
LEO	14	26	35	40	28
Port	13	15	3	10	11



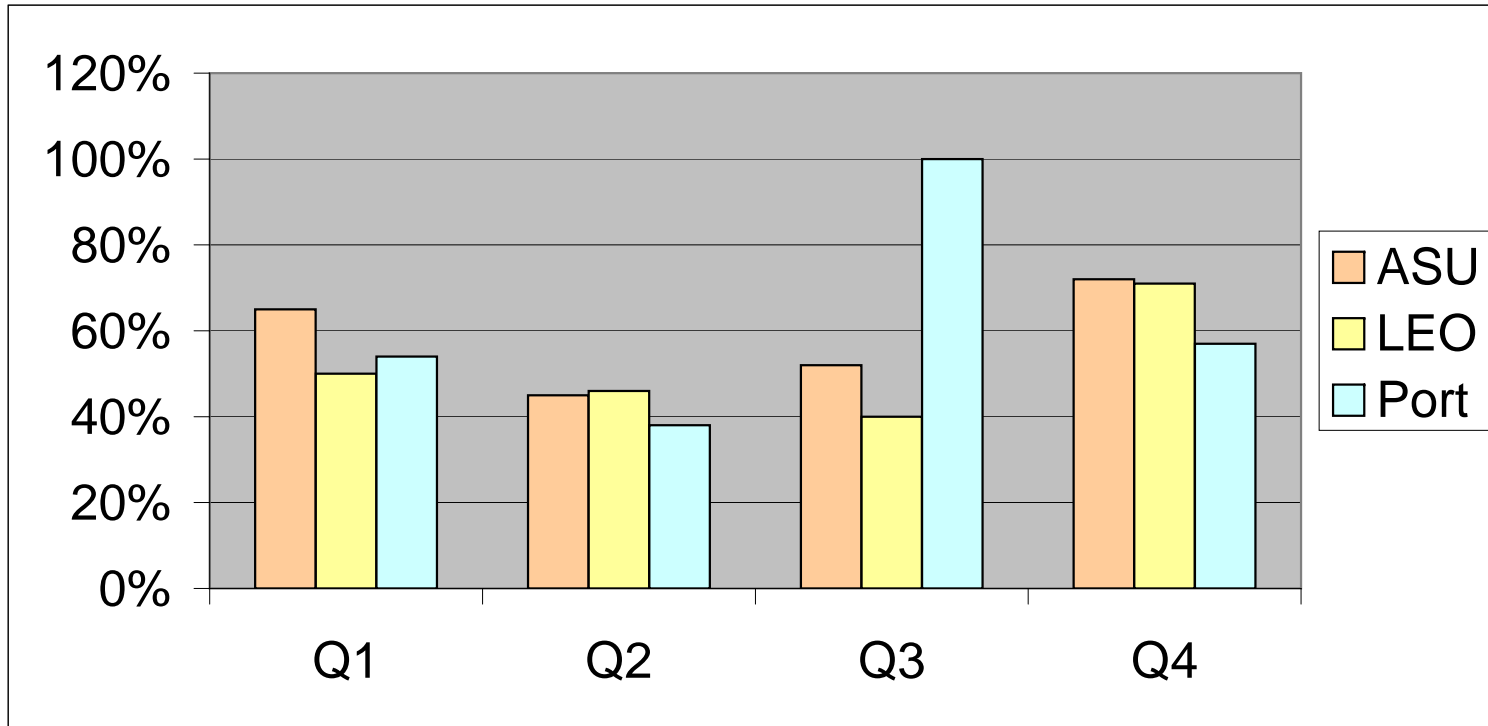
Outcomes per location per Quarter

	Q1	Q2	Q3	Q4
ASU	29%	29%	31%	52%
LEO	11%	10%	52%	49%
Port	19%	47%	67%	25%



CLR Grant rate per Quarter

	Q1	Q2	Q3	Q4
ASU	65%	45%	52%	72%
LEO	50%	46%	40%	71%
Port	54%	38%	100%	57%



**ANNEX 14
PROVIDER COMPARISON**

	EAP	A	B	C	D	E	F	G	H	I	J	K	L	M	N	
Intake	451	22	27	12	78	20	18	13	32	81	20	1	1	12	114	
Proportion	100%	5%	6%	3%	17%	4%	4%	3%	7%	18%	4%	0%	0%	3%	25%	
Av costs	Pre Interview	£498.83	£345.57	£230.72	£303.63	£860.24	£373.31	£818.26	£330.02	£476.89	£375.12	£644.63	£0.00	£433.33	£451.07	£390.84
	Interview	£331.16	£297.46	£253.38	£364.24	£391.84	£254.39	£376.58	£268.39	£248.93	£268.39	£576.20	£0.00	£236.21	£344.00	£265.72
	Post Interview	£146.44	£52.17	£52.59	£25.67	£251.81	£66.13	£180.02	£101.90	£210.89	£125.29	£187.31	£0.00	£12.30	£164.96	£93.27
	Profit Costs	£934.00	£695.20	£536.70	£693.54	£1,503.89	£693.84	£1,374.86	£700.31	£936.71	£768.80	£1,408.14	£0.00	£681.84	£960.03	£749.83
	Interpreters	£415.40	£299.37	£206.92	£318.72	£989.50	£472.80	£541.19	£125.50	£200.21	£148.41	£328.94	£0.00	£0.00	£263.42	£143.60
	Allowed	35%	23%	19%	42%	50%	40%	61%	31%	34%	30%	30%	Pending	100%	33%	30%
	CLR Rate	55%	25%	66%	17%	40%	18%	66%	78%	67%	34%	64%	N/A	N/A	63%	74%
	Red	55%	45%	59%	66%	58%	55%	72%	46%	63%	49%	65%	100%	100%	42%	50%
	Amber	37%	50%	37%	17%	36%	30%	17%	31%	31%	46%	30%	0%	0%	50%	40%
	Green	8%	5%	4%	17%	6%	15%	11%	23%	6%	5%	5%	0%	0%	8%	10%
AIT allowed	21%	25%	20%	0%	21%	50%	25%	29%	30%	5%	33%	N/A	N/A	40%	14%	
AIT costs	£1,426.15	£1,132.43	£761.49	£441.37	£2,669.42	£405.28	£4,106.39	£920.13	£716.99	£847.91	£3,152.80	N/A	N/A	£414.32	£844.92	

ANNEX 15

Provider comparison - Providers with highest proportion of cases in EAP sample

		EAP	D	I	N	EAP Exc D	EAP Exc N
	Intake	451	78	81	114	373	337
	<i>Proportion</i>	100%	17%	18%	25%	83%	75%
AV costs	Pre Interview (£)	£498.83	£860.24	£375.12	£390.84	£409.92	£520.60
	<i>% where claimed</i>	95%	100%	100%	99%	98%	99%
	Interview (£)	£331.16	£391.84	£268.39	£265.72	£292.22	£324.24
	<i>% where claimed</i>	91%	96%	88%	95%	93%	93%
	Post Interview (£)	£146.44	£251.81	£125.29	£93.27	£112.68	£151.45
	<i>% where claimed</i>	92%	95%	88%	96%	94%	93%
	Profit Costs (£)	£934.00	£1,503.89	£768.80	£749.83	£814.82	£996.30
	Interpreters (£)	£415.40	£989.50	£148.41	£143.60	£262.82	£484.74
	<i>% where claimed</i>	71%	90%	72%	69%	69%	74%
	Total Av costs (£)	£1,267.23	£2,445.44	£928.95	£896.94	£1,016.06	£1,387.19
	Allowed	35%	50%	30%	30%	31%	36%
	CLR Rate	56%	41%	35%	78%	57%	47%
RAG flag	Proportion of Red countries	55%	58%	49%	50%	54%	56%
	Proportion of Amber countries	37%	36%	46%	40%	38%	39%
	Proportion of Green countries	8%	6%	5%	10%	8%	5%
	AIT allowed	20%	21%	5%	14%	20%	23%
	AIT costs (£)	£2,006.09	£2,734.25	£1,443.07	£1,727.22	£1,855.92	£2,089.90
Costs summary	Total Av LH Costs (£)	£1,267.23	£2,445.44	£928.95	£896.94	£1,016.06	£1,387.19
	Total Av CLR Costs (£)	£1,952.75	£2,734.25	£1,443.07	£1,727.22	£1,855.92	£2,089.90
	Total Av costs - case inc both LH & CLR (£)	£3,124.38	£4,922.12	£2,390.52	£2,521.96	£2,901.65	£3,428.62
	Overall Average Costs (£)	£1,888.77	£2,936.20	£1,267.45	£1,684.71	£1,662.90	£1,932.92
Quarter 4	Quarter 4 intake	27%	32%	27%	26%	79%	76%
	Allowed Quarter 4	48%	72%	41%	40%	41%	51%
	CLR Rate Quarter 4	63%	50%	36%	100%	67%	52%
	Proportion of Red countries Quarter 4	67%	69%	59%	77%	67%	65%

ANNEX 16

Provider comparison - including all EAP sample cases and Non-EAP cases (reported in period Oct 06 to Mar 07)

	All EAP providers		Provider D		Provider I		Provider N	
	EAP	Non- EAP	EAP	NON EAP	EAP	NON EAP	EAP	NON EAP
Intake	451	773	78	23	81	51	114	105
Profit Costs (£)	£934.00	£377.60	£1,503.89	£889.31	£768.80	£381.77	£749.83	£360.67
Interpreters (£) / Disbursements	£415.40	£220.34	£989.50	£620.43	£148.41	£94.64	£143.60	£113.73
% where claimed	71%	46%	90%	96%	72%	92%	69%	53%
Allowed	35%	21%	50%	17%	30%	45%	30%	14%
CLR Rate	56%	68%	41%	58%	35%	0%	78%	65%
AIT allowed	21%	20%	21%	0%	5%	9%	14%	14%
AIT costs (£)	£2,006.09	£1,230.48	£2,734.25	£1,686.15	£1,443.07	£1,021.74	£1,727.22	£906.52
Total Av LH Costs (£)	£1,267.23	£479.04	£2,445.44	£1,482.76	£928.95	£469.00	£896.94	£420.25
Total Av CLR Costs (£)	£2,006.09	£1,230.48	£2,734.25	£1,686.15	£1,443.07	£1,021.74	£1,727.22	£906.52
Total Av costs - case inc both LH & CLR (£)	£3,124.38	£1,709.52	£4,922.12	£3,168.91	£2,390.52	£1,490.74	£2,521.96	£1,326.77
Overall Average Costs (£)	£1,888.77		£2,936.20		£1,267.45		£1,684.71	
Proportion of cases proceeding to RARA	77%	62%	70%	20%	89%	93%	72%	100%

Annex 17
CLR Grants by Provider

		A	B	C	D	E	F	G	H	I	J	K	L	M	N	TOTAL	Total Exc N	Total Exc D	
Red	78	CLR Grants Made	1	8	1	8	1	3	5	8	8	4	0	0	2	29	78	49	70
		% of Red CLR Grants	1%	10%	1%	10%	1%	4%	6%	10%	10%	5%	0%	0%	3%	37%	100%	63%	90%
		Red CLR Grant Rate	17%	80%	33%	57%	20%	100%	83%	73%	36%	57%	N/A	N/A	100%	88%	64%	55%	65%
		Av CLR Prof Costs	£706.85	£415.88	£676.87	£1,352.23	Unknown	£1,987.45	£707.60	£695.40	£874.43	£2,952.00	N/A	N/A	£518.28	£943.61	£1,045.54	£1,102.71	£1,001.72
		Av CLR Disbursements	N/A	£118.32	£441.37	£853.01	Unknown	£2,087.71	£9.46	£105.78	£124.07	£710.06	N/A	N/A	£342.45	£165.64	£365.36	£474.30	£287.78
		Av CLR Counsel Costs	N/A	£363.04	N/A	N/A	Unknown	£1,130.24	£413.26	£532.76	£311.33	N/A	N/A	N/A	£398.17	£296.00	£452.24	£526.25	£452.24
		AIT Allowed Rate	Unknown	13%	0%	38%	0%	33%	40%	25%	13%	25%	N/A	N/A	50%	14%	21%	24%	19%
Amber	56	CLR Grants Made	3	3	0	4	1	0	1	2	11	5	0	0	3	23	56	33	52
		% of Amber CLR Grants	5%	5%	0%	7%	2%	0%	2%	4%	20%	9%	0%	0%	5%	41%	100%	59%	93%
		Amber CLR Grant Rate	30%	75%	N/A	25%	25%	N/A	50%	67%	39%	83%	N/A	N/A	60%	70%	49%	40%	53%
		Av CLR Prof Costs	£1,498.00	£218.90	N/A	£2,495.89	£372.78	N/A	Unknown	Unknown	£824.71	£3,313.44	N/A	N/A	£310.36	£751.86	£1,221.48	£1,568.60	£1,079.88
		Av CLR Disbursements	£60.00	£43.36	N/A	£512.81	£32.50	N/A	Unknown	Unknown	£123.22	£544.94	N/A	N/A	£498.59	£203.41	£268.81	£313.40	£239.23
		Av CLR Counsel Costs	N/A	£498.85	N/A	N/A	N/A	N/A	Unknown	Unknown	£57.74	N/A	N/A	N/A	£670.87	£385.23	£390.36	£409.15	£390.36
		AIT Allowed Rate	33%	33%	N/A	0%	100%	N/A	0%	0%	0%	40%	N/A	N/A	33%	17%	18%	18%	19%
Green	8	CLR Grants Made	0	0	0	2	0	1	1	1	0	0	0	0	3	8	5	6	
		% of Green CLR Grants	0%	0%	0%	25%	0%	13%	13%	13%	0%	0%	0%	0%	0%	38%	100%	63%	75%
		Green CLR Grant Rate	N/A	N/A	N/A	50%	N/A	100%	100%	100%	N/A	N/A	N/A	N/A	N/A	38%	32%	29%	29%
		Av CLR Prof Costs	N/A	N/A	N/A	£1,085.83	N/A	£1,502.56	£620.07	£868.11	N/A	N/A	N/A	N/A	N/A	£779.59	£951.22	£1,032.48	£906.34
		Av CLR Disbursements	N/A	N/A	N/A	£1,115.57	N/A	£5.95	£139.63	£814.75	N/A	N/A	N/A	N/A	N/A	£61.87	£486.90	£638.29	£235.44
		Av CLR Counsel Costs	N/A	N/A	N/A	N/A	N/A	£399.90	£349.26	£458.20	N/A	N/A	N/A	N/A	N/A	£175.79	£311.79	£402.45	£311.79
AIT Allowed Rate	N/A	N/A	N/A	0%	N/A	0%	0%	100%	N/A	N/A	N/A	N/A	N/A	0%	13%	20%	17%		
Total CLR		Total CLR Granted	4	11	1	14	2	4	7	11	19	9	0	0	5	55	142	87	128
		% of Total CLR Grants	3%	8%	1%	10%	1%	3%	5%	8%	13%	6%	0%	0%	4%	39%	100%	61%	90%
		Overall CLR Grant Rate	25%	73%	17%	41%	18%	66%	78%	73%	35%	64%	N/A	N/A	63%	74%	54%	46%	56%
		Av CLR Prof Costs	£1,102.43	£350.22	£676.87	£1,640.93	£372.78	£1,825.82	£693.01	£716.99	£847.91	£3,152.80	N/A	N/A	£414.32	£858.88	£1,101.64	£1,252.92	£1,024.59
		Av CLR Disbursements	£60.00	£129.16	£441.37	£788.73	£32.50	£1,393.79	£31.16	£259.21	£123.54	£618.33	N/A	N/A	£446.54	£178.55	£336.71	£428.97	£265.05
		Av CLR Counsel Costs	N/A	£390.20	N/A	N/A	N/A	£886.79	£391.93	£598.22	£247.94	N/A	N/A	N/A	£489.07	£329.69	£418.87	£497.34	£418.87
		AIT Allowed Rate	25%	18%	0%	21%	50%	25%	29%	27%	5%	33%	N/A	N/A	40%	15%	19%	22%	19%

Averages exclude £0.00 entries

CLR Grant rates expressed as a percentage of HO refusals

"% of CLR Grants" refers to the proportion of Red CLR grants attributed for each provider

"CLR Grant Rate" refers to the number of CLR grants by each provider as a proportion of HO Refusals they receive

Annex 18
Grant Rate by Quarter and by
Nationality

	Q1					Q2					Q3					Q4				
	Intake	Grants	Refusals	CLR Grants	Grant Rate	Intake	Grants	Refusals	CLR Grants	Grant Rate	Intake	Grants	Refusals	CLR Grants	Grant Rate	Intake	Grants	Refusals	CLR Grants	Grant Rate
Afghanistan	13	2	11	4	36%	11	1	9	1	11%	4	0	4	0	0%	4	0	2	1	50%
Bangladesh	2	0	2	1	50%	0	0	0	0	N/A	1	0	1	0	0%	0	0	0	0	N/A
Belarus	0	0	0	0	N/A	0	0	0	0	N/A	1	0	1	0	0%	0	0	0	0	N/A
Cameroon	2	0	2	1	50%	1	0	1	0	0%	0	0	0	0	N/A	0	0	0	0	N/A
China	1	0	1	1	100%	2	0	2	1	50%	2	1	1	0	0%	1	0	1	0	0%
Congo Democratic Republic	7	1	6	4	67%	4	0	4	2	50%	1	0	1	1	100%	1	0	1	1	100%
Cote D'Ivoire (Ivory Coast)	1	0	1	0	0%	0	0	0	0	N/A	0	0	0	0	N/A	1	0	0	0	N/A
Cuba	0	0	0	0	N/A	1	0	1	0	0%	0	0	0	0	N/A	0	0	0	0	N/A
Democratic People's Republic of Korea	2	2	0	0	N/A	0	0	0	0	N/A	2	2	0	0	N/A	2	2	0	0	N/A
Democratic Republic of the Congo	0	0	0	0	N/A	0	0	0	0	N/A	1	1	0	0	N/A	1	0	0	0	N/A
Eritrea	3	3	0	0	N/A	3	3	0	0	N/A	12	11	1	1	100%	32	28	4	4	100%
Federal Republic of Yugoslavia	1	0	1	1	100%	0	0	0	0	N/A	0	0	0	0	N/A	0	0	0	0	N/A
Gambia	0	0	0	0	N/A	0	0	0	0	N/A	1	0	0	0	N/A	0	0	0	0	N/A
Georgia	0	0	0	0	N/A	1	0	1	0	0%	0	0	0	0	N/A	0	0	0	0	N/A
Guatemala	0	0	0	0	N/A	1	0	1	1	100%	0	0	0	0	N/A	0	0	0	0	N/A
Guinea	2	1	1	1	100%	1	1	0	0	N/A	0	0	0	0	N/A	0	0	0	0	N/A
Iran (Islamic Republic of)	28	4	24	14	58%	14	1	11	4	36%	12	6	5	3	60%	21	5	15	12	80%
Iraq	11	2	8	3	38%	10	3	4	2	50%	6	0	6	3	50%	21	6	10	7	70%
Israel	0	0	0	0	N/A	0	0	0	0	N/A	0	0	0	0	N/A	1	0	1	0	0%
Kenya	0	0	0	0	N/A	0	0	0	0	N/A	2	0	1	1	100%	1	0	1	0	0%
Kuwait	4	4	0	0	N/A	2	2	0	0	N/A	1	1	0	0	N/A	0	0	0	0	N/A
Liberia	1	0	1	0	0%	0	0	0	0	N/A	0	0	0	0	N/A	0	0	0	0	N/A
Libya	2	1	1	1	100%	2	0	2	1	50%	0	0	0	0	N/A	0	0	0	0	N/A
Malawi	0	0	0	0	N/A	0	0	0	0	N/A	1	0	1	0	0%	0	0	0	0	N/A
Myanmar	0	0	0	0	N/A	3	2	0	0	N/A	0	0	0	0	N/A	1	1	0	0	N/A
Nigeria	1	0	1	1	100%	4	0	4	0	0%	1	0	1	0	0%	0	0	0	0	N/A
Pakistan	6	0	6	4	67%	2	0	2	1	50%	5	1	3	0	0%	2	0	1	0	0%
Palestinian Authority	1	0	1	0	0%	5	0	5	4	80%	1	0	1	1	100%	1	0	0	0	N/A
Refugee - Other	0	0	0	0	N/A	2	2	0	0	N/A	0	0	0	0	N/A	0	0	0	0	N/A
Russian Federation	0	0	0	0	N/A	0	0	0	0	N/A	2	0	2	1	50%	0	0	0	0	N/A
Sierra Leone	1	0	1	1	100%	0	0	0	0	N/A	0	0	0	0	N/A	0	0	0	0	N/A
Somalia	9	8	1	1	100%	7	5	1	1	100%	1	1	0	0	N/A	4	3	0	0	N/A
South Africa	0	0	0	0	N/A	2	0	1	0	0%	0	0	0	0	N/A	0	0	0	0	N/A
Sri Lanka	1	0	1	0	0%	0	0	0	0	N/A	0	0	0	0	N/A	2	0	2	1	50%
Sudan	4	0	3	3	100%	3	1	2	2	100%	5	2	3	2	67%	1	1	0	0	N/A
Syria Arab Republic	1	0	1	0	0%	2	0	2	2	100%	0	0	0	0	N/A	0	0	0	0	N/A
Trinidad & Tobago	1	0	1	1	100%	0	0	0	0	N/A	0	0	0	0	N/A	0	0	0	0	N/A
Turkey	2	0	2	1	50%	0	0	0	0	N/A	0	0	0	0	N/A	0	0	0	0	N/A
Uganda	1	0	1	0	0%	0	0	0	0	N/A	0	0	0	0	N/A	0	0	0	0	N/A
United States of America	1	0	1	0	0%	0	0	0	0	N/A	0	0	0	0	N/A	0	0	0	0	N/A
Zimbabwe	19	4	15	13	87%	29	9	17	9	53%	26	9	17	11	65%	26	13	11	5	45%
Totals	128	32	94	56	60%	112	30	70	31	44%	88	35	49	24	49%	123	59	49	31	63%

Annex 19

CLR Grants Q1/Q2 - Q3/Q4 Comparison

	Q1/Q2					Q3/Q4					Total				
	Intake	Grants	Refusals	CLR Grants	Grant Rate	Intake	Grants	Refusals	CLR Grants	Grant Rate	Intake	Grants	Refusals	CLR Grants	Grant Rate
Afghanistan	24	3	20	5	25%	8	0	6	1	17%	32	3	26	6	23%
Bangladesh	2	0	2	1	50%	1	0	1	0	0%	3	0	3	1	33%
Belarus	0	0	0	0	N/A	1	0	1	0	0%	1	0	1	0	0%
Cameroon	3	0	3	1	33%	0	0	0	0	N/A	3	0	3	1	33%
China	3	0	3	2	67%	3	1	2	0	0%	6	1	5	2	40%
Congo Democratic Republic	11	1	10	6	60%	2	0	2	2	100%	13	1	12	8	67%
Cote D'Ivoire (Ivory Coast)	1	0	1	0	0%	1	0	0	0	N/A	2	0	1	0	0%
Cuba	1	0	1	0	0%	0	0	0	0	N/A	1	0	1	0	0%
Democratic People's Republic of Korea	2	2	0	0	N/A	4	4	0	0	N/A	6	6	0	0	N/A
Democratic Republic of the Congo	0	0	0	0	N/A	2	1	0	0	N/A	2	1	0	0	N/A
Eritrea	6	6	0	0	N/A	44	39	5	5	100%	50	45	5	5	100%
Federal Republic of Yugoslavia	1	0	1	1	100%	0	0	0	0	N/A	1	0	1	1	100%
Gambia	0	0	0	0	N/A	1	0	0	0	N/A	1	0	0	0	N/A
Georgia	1	0	1	0	0%	0	0	0	0	N/A	1	0	1	0	0%
Guatemala	1	0	1	1	100%	0	0	0	0	N/A	1	0	1	1	100%
Guinea	3	2	1	1	100%	0	0	0	0	N/A	3	2	1	1	100%
Iran (Islamic Republic of)	42	5	35	18	51%	33	11	20	15	75%	75	16	55	33	60%
Iraq	21	5	12	5	42%	27	6	16	10	63%	48	11	28	15	54%
Israel	0	0	0	0	N/A	1	0	1	0	0%	1	0	1	0	0%
Kenya	0	0	0	0	N/A	3	0	2	1	50%	3	0	2	1	50%
Kuwait	6	6	0	0	N/A	1	1	0	0	N/A	7	7	0	0	N/A
Liberia	1	0	1	0	0%	0	0	0	0	N/A	1	0	1	0	0%
Libya	4	1	3	2	67%	0	0	0	0	N/A	4	1	3	2	67%
Malawi	0	0	0	0	N/A	1	0	1	0	0%	1	0	1	0	0%
Myanmar	3	2	0	0	N/A	1	1	0	0	N/A	4	3	0	0	N/A
Nigeria	5	0	5	1	20%	1	0	1	0	0%	6	0	6	1	17%
Pakistan	8	0	8	5	63%	7	1	4	0	0%	15	1	12	5	42%
Palestinian Authority	6	0	6	4	67%	2	0	1	1	100%	8	0	7	5	71%
Refugee - Other	2	2	0	0	N/A	0	0	0	0	N/A	2	2	0	0	N/A
Russian Federation	0	0	0	0	N/A	2	0	2	1	50%	2	0	2	1	50%
Sierra Leone	1	0	1	1	100%	0	0	0	0	N/A	1	0	1	1	100%
Somalia	16	13	2	2	100%	5	4	0	0	N/A	21	17	2	2	100%
South Africa	2	0	1	0	0%	0	0	0	0	N/A	2	0	1	0	0%
Sri Lanka	1	0	1	0	0%	2	0	2	1	50%	3	0	3	1	33%
Sudan	7	1	5	5	100%	6	3	3	2	67%	13	4	8	7	88%
Syria Arab Republic	3	0	3	2	67%	0	0	0	0	N/A	3	0	3	2	67%
Trinidad & Tobago	1	0	1	1	100%	0	0	0	0	N/A	1	0	1	1	100%
Turkey	2	0	2	1	50%	0	0	0	0	N/A	2	0	2	1	50%
Uganda	1	0	1	0	0%	0	0	0	0	N/A	1	0	1	0	0%
United States of America	1	0	1	0	0%	0	0	0	0	N/A	1	0	1	0	0%
Zimbabwe	48	13	32	22	69%	52	22	28	16	57%	100	35	60	38	63%
Totals	240	62	164	87	53%	211	94	98	55	56%	451	156	262	142	54%

Annex 20

Volume of CLR Grants by Nationality & Provider

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	Total
Zimbabwe	1	1	0	4	1	1	5	5	5	1	0	0	1	13	38
Iran (Islamic Republic of)	0	4	1	4	0	2	0	3	3	3	0	0	1	12	33
Iraq	0	0	0	0	0	0	0	2	4	3	0	0	0	6	15
Congo Democratic Republic	0	0	0	0	0	0	0	0	1	1	0	0	0	6	8
Sudan	0	1	0	0	0	0	1	0	1	1	0	0	1	2	7
Afghanistan	0	0	0	1	0	0	0	0	1	0	0	0	1	3	6
Eritrea	0	3	0	0	0	0	0	0	0	0	0	0	0	2	5
Pakistan	3	0	0	0	0	0	0	0	1	0	0	0	0	1	5
Palestinian Authority	0	0	0	3	0	0	0	0	0	0	0	0	1	1	5
Somalia	0	0	0	0	0	0	0	0	0	0	0	0	0	2	2
China	0	0	0	0	0	0	0	0	1	0	0	0	0	1	2
Libya	0	0	0	0	0	1	0	0	0	0	0	0	0	1	2
Syria Arab Republic	0	0	0	0	0	0	0	0	0	0	0	0	0	2	2
Federal Republic of Yugoslavia	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Guinea	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1
Russian Federation	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1
Sierra Leone	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1
Sri Lanka	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1
Trinidad & Tobago	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Bangladesh	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Cameroon	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1
Guatemala	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Kenya	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1
Nigeria	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Turkey	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1

Early Legal Advice Pilot – Report on the Evaluation Workshops

Maurice Wren
Director, Asylum Aid
April 2008

APPENDIX 3

Introduction

1. I have been a member of the ELAP Evaluation Group since its inception in October 2006 and was a New Asylum Model external stakeholder during 2005 and 2006 when the ELAP proposition was being developed. I was invited to join the Evaluation Group (EG) as an independent NGO representative, by Freda Challoner, the IND official responsible for the development of the NAM and, consequently, have attended regular EG meetings since October 2006 and been involved in determining the framework of the evaluation process and the format of Evaluation Group report.
2. With a brief to evaluate the outcomes and impacts of the ELAP and to assess the extent to which the criteria set out in the ELAP Evaluation Strategy had been met, the EG decided to complement its quantitative data and outcome analysis by obtaining qualitative feedback from active Pilot participants about the key outcomes and impacts of the Pilot. The initial method chosen was to run participative workshops for Case Owners and Legal Representatives involved in the ELAP, to enable them to reflect on their experience of the Pilot, to identify what had worked well and what had not, and to consider whether, and to what extent, the principles and practice of the ELAP are transferable.
3. On February 25/26th 2008 I facilitated three evaluation workshops in Solihull attended by UKBA Case Owners and independent Legal Representatives, all of whom were directly involved in the operation of the Pilot. This report details the format of the workshops, highlights the key findings and sets out the thinking of Case Owners and Legal Representatives about how the ELAP principle and process might be rolled out and what would be needed to ensure its success

Evaluation Workshops

4. Participants were advised of the purpose, aim, format and confidentiality of the workshops in a note circulated to Case Owners and Legal Representatives prior to the workshops. (Appendix I)
5. The first workshop, held on the morning of 25 February, was attended by six Case Owners from the Borders and Immigration Agency (BIA) who are based in Solihull. The second, on the afternoon of 25 February, was attended by thirteen Legal Representatives drawn from a number of legal advice providers contracted by the Legal Services Commission to provide legal assistance to asylum claimants routed to the ELAP. The third workshop, held on the morning of 26 February, was attended by a combination of 20 Case Owners and Legal Representatives.

6. In advance of the workshops on the 25 February, participants were asked to consider their responses to the following questions:
 - *Is the original ELAP model of interactive engagement feasible?*
 - *Which aspects of the ELAP worked well and which not so well?*
 - *Has your ELAP experience led to any personal changes of practice?*
 - *Has the ELAP led to any change in your perception of the role of Case Owners or Legal Representatives?*
 - *Are good professional relationships between Case Owners and Legal Representatives essential for the ELAP to work effectively?*
 - *Were any opportunities missed because of the way the EAP was set up or run?*
 - *Is the ELAP experience transferable and, if so, what are the key requirements for achieving a successful roll-out ?*
 - *What are the key outcomes of the ELAP?*

7. During both workshops on 25 February, participants views were also sought on a number of specific elements of the ELAP:
 - *The process of referring Pilot asylum seekers to independent legal representatives*
 - *The witness statement*
 - *The pre-interview engagement between the Case Owner and the Legal Representative*
 - *The ELAP Flexibility Criteria*
 - *The interactive interview*
 - *The post-interview engagement between the Case Owner and the Legal Representative (incl the pro-forma)*
 - *The complaints procedure*

8. A summary of the key points arising from the two workshops on 25 February was reported to the combined workshop on the 26 February and these were given further consideration during the joint workshop. Participants in the joint workshop were also asked to consider whether they perceived there to have been a ‘change of culture’ as a result of the introduction and operation of the ELAP, as one of the Critical Success Factors cited in the ELAP Evaluation Strategy was that ‘*Case Owners and Legal Representatives commit themselves to the cultural change required*’.

9. Detailed records of the discussions at all three workshops were taken by Davinder Sidhu and John Facey from the Legal Services Commission and these, together with my workshop notes, have been used as the basis for compiling this report.

Workshop Findings

10. Participants in the two workshops on 25 February confirmed unanimously that, from a practitioner perspective, the ELAP has been highly successful in enhancing the quality, sustainability and credibility of BIA decision-making on Pilot cases. The Case Owners and Legal Representatives who attended the combined workshop on 26 February affirmed this conclusion, again unanimously.

11. Workshop participants identified the following aspects of, and outcomes from, the ELAP as contributing significantly to its overall success:

- *That the clear and effective lines of communication developed between all ELAP participants - including the ELAP Management, the Project Board and the Evaluation Group – (together with the encouragement to use them) contributed to the success of the Pilot;*
- *That Witness Statements submitted before substantive interviews enabled the early and helpful clarification of which issues in the claim were in dispute and which not;*
- *That the pre-interview engagement between the Case Owner and the Legal Representative was an effective mechanism for clarifying what constituted the ‘core of the claim’ and for dealing with and, on occasion, for resolving, evidential issues, particularly where BIA flexibility over the decision making timescale was being sought by the Legal Representative;*
- *That interactive interviews contributed significantly to better decision making by ensuring that all issues in dispute were thoroughly examined and that the asylum claimant was supported by an informed representative who was familiar with the case and with the Case Owner’s initial thoughts about the claim;*
- *That the interactive process, building on the NAM Case Owner model, delivered better overall ‘client care’, with Case Owners and Legal Representatives all reporting positive client feedback and a strong impression that negative decisions were better received by the asylum claimants;*
- *That the post-refusal decisions on CLR merits by Legal Representatives were made more straightforward because of the higher quality of initial determinations;*
- *That the post-interview engagement between the Case Owners and the Legal Representatives, including the use of the pro-forma, was beneficial in ‘proofing’ the intended decision, by giving Legal Representatives the opportunity to make further submissions on specific issues, by agreement with the Case Owner;*
- *That the greater emphasis on interaction – on individual cases and via the ELAP User Group meetings and other non-case specific contacts – had led to the development of a culture of mutual professional respect and trust between Case Owners and Legal Representatives that had not existed prior to the ELAP when relationships were characterised by mutual suspicion;*
- *That Case Owners and Legal Representatives both reported they had derived greater job satisfaction from working on the pilot (further evidenced by the decision to take forward, post-ELAP, elements of the pilot process in respect of a defined group of cases in the West Midlands) as both experienced a sense of exercising greater control over their work;*

- *That user group and other non-case contacts (ie at EG meetings) enabled and underpinned the development of improved relationships between Case Owners and Legal Representatives, and that these, in turn, had reduced the incidence of problems occurring on cases;*
- *That by generating a higher initial grant rate, reflecting the earlier case resolution that the ELAP had encouraged and enabled, the Pilot was beneficial in reinforcing both the importance of the role of Case Owners and Legal Representatives and the essential integrity and credibility of the asylum process;*
- *That Case Owners and Legal Representatives were both applying elements of and learning from the ELAP process to their non-ELAP cases, to beneficial effect;*

12. As well as confirming the success of the ELAP, Case Owners and Legal Representatives emphasised that this had been achieved despite the fact that the Pilot had rarely run smoothly, due to a range of factors beyond their control. These included:

- *The lack of a clear and dependable definition of what constituted a 'Pilot case' at the outset of the ELAP and the uncertainty and lack of clarity about other key parameters that dogged the early stages of the Pilot;*
- *The discontinuity of ELAP management arrangements locally and the changes in the remit and role of the BIA Quality team during the course of the ELAP;*
- *The BIA staffing shortages in the Solihull office that caused considerable workload pressures for Case Owners and that undermined the ELAP (and NAM) end-to-end case management principle;*
- *The contemporaneous implementation of the NAM in Solihull that required Case Owners to adopt two differing processes, as a result of the decision not to establish a dedicated ELAP Case Owner team;*
- *The inadequate briefing of claimants prior to dispersal to the West Midlands required Case Owners and Legal Representatives to use valuable time reassuring suspicious and concerned claimants about the ELAP process and the independence of the legal representatives to whom they had been referred, leading to the late submission of witness statements;*
- *The lack and, on occasions, the inadequacy, of the interpreters provided by BIA for ELAP interviews;*
- *The impact of the tight timelines for decision-making led to cases being withdrawn from the Pilot (limiting the number of Pilot cases), confused participants about what constituted a 'Pilot case' and impeded the development of the clear and shared vision of what the ELAP was seeking to test;*

- *The pressure of adhering to BIA target timescales also meant that the time for pre- and post-interview discussions on individual cases was limited*
- *The conflicting guidance being given to Case Owners working on the ELAP by the internal BIA Quality Team, the UNHCR staff undertaking case auditing and by Senior Case Owners in Solihull;*
- *The variable quality of some Case Owners and Legal Representatives working on the Pilot, the lack of understanding about the purpose of the Pilot amongst some BIA staff and Legal Representatives and the inadequacy of the training provided;*
- *The complaints procedure was viewed by all sides as the ‘nuclear option’ and therefore never invoked, as it would have meant personalising relatively low-level operational concerns. This meant that there were no other viable means of raising issues that were impacting on the ELAP;*

ELAP Roll-Out

13. Case Owners and Legal Representatives, in the separate and the joint workshops, also identified a number of changes to both the Pilot and to the overall asylum process, that would have further enhanced the ELAP and should inform any future roll-out of the Pilot:
- *The better, pre-dispersal, induction of asylum claimants at the screening stage would have enabled ELAP Case Owners and Legal Representatives to use their limited time more efficiently, submitting witness statements earlier and engaging in full pre-and post-interview discussions;*
 - *A relaxation of the tight case completion targets would have ensured that there was always sufficient time for pre- and post-interview discussions;*
 - *The Flexibility criteria should include guidance about the likely time needed to commission expert reports, seek medical referrals, etc, so that Case Owners and Legal Representatives know more precisely how much time to request and to grant;*
 - *A better, low-level, problem resolution mechanism would have enabled operational problems to be raised and addressed earlier than they otherwise might have been;*
 - *The availability of good interpreters would have ensured that more cases were included in the pilot and that there was greater adherence to the full interactive process;*
 - *There needs to be more consistency and openness in the operation of quality assurance and control mechanisms (which might include the conduct of Legal Representatives);*
 - *There needed to be better and more committed ‘buy-in’ to the Pilot, and the principle it was set up to test, from BIA management, Senior Case Owners and Presenting Officers;*

- *More, non-case specific, communication between Case Owners and Legal Representatives should be fostered (eg an ELAP google-group?)*
- *The time and resources needed to achieve the cultural change required to make the ELAP work, and the scale of the learning curve for all involved, suggest that any roll out would best be done gradually, perhaps region by region;*
- *The training in advance of the roll out and during the implementation, should involve all participants, should be practical in its focus and should involve Solihull practitioners as trainers;*
- *There should be guidance produced on best practice in witness statement preparation, case based interaction and the operation of the flexibility criteria;*
- *The case completion timescale targets need to be more flexible to allow the interactive process to take place;*
- *For the interactive process to work, the calibre of Case Owners and Legal Representatives must be high;*
- *Latterly, the ELAP benefited from good local Pilot management, which points to the need for there to be someone locally with the responsibility for overseeing, managing and trouble-shooting the interactive process*
- *There must be commitment to the interactive principle from all stakeholders, including the AIT.*

Maurice Wren
Asylum Aid
April 2008

Appendix I

Early Legal Advice Pilot (ELAP)
Evaluation Report – practitioner workshops
February 2008

1. The **purpose** of the practitioner workshops is to explore Case Owner and Legal Representative perceptions of, and attitudes to, the ELAP.
2. The **aim** of the workshops is to generate a range of qualitative data about the operation of the pilot, in greater depth than will be possible from a written questionnaire alone, for use in the final ELAP Evaluation Report.
3. There will be three x 2 hour workshops on 25/26 February. The first will be for BIA Case Owners, the second for Legal Representatives and the third for a joint group.
4. Maurice Wren, the Director of Asylum Aid and an independent member of the EAP Evaluation Group, will facilitate the workshops and compile a report for use in the process of drawing up the final evaluation report.
5. Views expressed within the workshop sessions will not be attributed to any individuals, either in the joint session or in the workshop report.
6. Participants will be asked to reflect on and respond to the following questions:
 - *Is the original ELAP model of interactive engagement feasible?*
 - *Which aspects of the ELAP worked well and which not so well?*
 - *Has your ELAP experience led to any personal changes of practice?*
 - *Has the ELAP led to any change in your perception of the role of Case Owners or Legal Representatives?*
 - *Are good professional relationships between Case Owners and Legal Reps essential for the ELAP to work effectively?*
 - *Were any opportunities missed because of the way the EAP was set up or run?*
 - *Is the ELAP experience transferable?*
 - *What are the key outcomes of the ELAP?*



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03 November 2008

Notre/Our PRL.4/QI/APM/ 0777
code:

Re: **UNHCR contribution to Solihull Pilot Evaluation
Report – decision making quality in the Solihull
Pilot**

Dear Jane

We write further to our conversation of 28 October. You requested that we put in writing the comments UNHCR made at the Solihull Project Board meeting of 8 October 2008 on the matter of quality of decision making in the Solihull Pilot for inclusion in the forthcoming redraft of the September 2008 "Solihull Pilot Evaluation Report" ("the Report"), which was requested at the Solihull Project Board meeting. A summary of the main points made during our intervention is set out below, as is a related point in paragraph 3.

1. UNHCR reminded the Project Board that it had carried out a quality audit of interviews and decisions in Solihull. UNHCR indicated that during the course of this audit, UNHCR found that in 97% of Solihull Pilot cases, Solihull Pilot processes produced further evidence which was available before the first instance decision. UNHCR further observed cases where the availability of further evidence had led to better quality decisions. Concrete examples are provided on page 13 of UNHCR's Solihull Pilot Final Evaluation Report of 15 August 2008 ("UNHCR's Report") as well as in Annex III of UNHCR's Report. In our letter of 3 September 2008 (attached), UNHCR notes the *"growing evidence of positive impact of Solihull Pilot procedures on the quality of asylum decisions"*.

2. In UNHCR's view, good quality decision making involves both respecting procedural considerations as well as an accurate application of international refugee law concepts and credibility assessment. According to UNHCR's Report, the Solihull Pilot has shown that the front loading of evidence has led to an improvement in the procedural aspects of quality decision making. If some quality concerns - related mainly to the application of international refugee law and credibility assessment - have been pointed out in UNHCR's Report (page 10), it should be noted that they are by no means specific to the Solihull region and that similar concerns have been highlighted in Quality Initiative reports to the Minister¹. In UNHCR's view, the Solihull Pilot makes significant progress towards improving decision making in its procedural component. Concerns identified with the application of refugee law and credibility assessment are

¹ As can be seen from the Quality Initiative's 4 reports to the Minister for Immigration available at: <http://www.ind.homeoffice.gov.uk/aboutus/reports/>

Jane Aspden (Independent Report Writer)

longer standing ones which UNHCR has consistently recommended be addressed, in part, through ongoing training for caseowners.

3. On a related note, UNHCR wishes to highlight that it has, since the inception of the Solihull Pilot supported its aims and remains a strong advocate of the Solihull Pilot. It is therefore unfortunate that there is an indication in paragraph 28 of the Report that "*UNHCR were unable to keep to its Terms of Reference*". If UNHCR's findings in support of the benefits of the Solihull Pilot are to be given their maximum positive weight, such a statement risks detracting from the overall positive conclusion UNHCR was able to come to regarding quality.

UNHCR remains available for any further clarifications that may be necessary.

Yours Sincerely



Alexandra McDowall
Legal Officer



UNHCR

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03 September 2008

Notre/Our code: PRL.4/QI/JP/0658

Re: **UNHCR Evaluation of the Solihull
Early Legal Advice Pilot**

Jane Aspden (Independent Report Writer), Solihull Pilot Evaluation Group and Project Board:

The attached report represents UNHCR's full and final independent assessment as external evaluator of the process of decision making under the Solihull Pilot and its subsequent impact on the quality of asylum decisions in the Solihull asylum region.

UNHCR's evaluation suggests that the front-loading features of the pilot have the potential to improve the quality of first-instance decision making. Specifically, UNHCR has found that pilot procedures lead to more material evidence being identified and made available to the decision maker before the first instance decision is taken.

As made clear throughout the course of its evaluation¹, UNHCR again reiterates that, when assessing quality, its emphasis remains on trends illustrating the positive impacts of pilot procedures on the overall decision making process over and above decision quality scores.

It was encouraging to observe, over the course of the evaluation, increasing understanding of, and adherence to, pilot procedures as well as growing evidence of the positive impact of pilot procedures on the quality of asylum decisions. This was despite an initial period during which a misunderstanding and limited implementation of pilot procedures caused a lag in impact upon quality.

The attached evaluation provides concrete examples of instances where implementation of the essential elements of the pilot had a clear and positive impact on both the decision making process and the resulting decision quality. Examples of good practice include identification of key material issues prior to interview (facilitated by provision of a witness statement) resulting in well-focused substantive interviews. Further, it was observed that an improved working relationship between Case Owners and legal representatives resulted in pursuit and acquisition of relevant and focused additional evidence prior to decision.

In order to highlight the impact of pilot procedures on quality, UNHCR sampled a smaller number of non-pilot (Solihull and Leeds) interviews and decisions to make comparative assessments between these regions and pilot cases. UNHCR found evidence of similar trends in interview and decision quality across pilot, Solihull non-pilot and Leeds decisions. The Office's evaluation also indicates that Case Owners across these regions would benefit from improved training on appropriate use and consideration of evidence when drafting a final decision. Accompanied by such training, the pilot's front-loading features have the potential to improve the quality of decision making still further.

The Solihull pilot was designed to address some of the recommendations made by UNHCR through its Quality Initiative (QI) project, including better and more thorough pre-interview

¹ Solihull Evaluation Group Meeting minutes dated 17 November 2006, 11 January 2007 and 15 March 2007.

preparation as a mandatory step in the decision-making process and flexibility to timescales where it is recognised that further evidence may be able to be procured prior to decision². For these reasons, the Office has consistently reiterated its support for the aims of pilot and in particular its intended goal of improving the quality of first-instances asylum decisions.

It is hoped this report assists UKBA and LSC colleagues in their final assessment of the effectiveness of the pilot and any subsequent decisions about the future design of the asylum system in the UK.

Yours sincerely,



Jacqueline Parlevliet

Officer in Charge, UNHCR London

² Minister's response to Third Report of the QI Project – available at:
<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/reports/unhcrreports>

SOLIHULL PILOT FINAL EVALUATION REPORT

REPORT TO:	JANE ASPDEN, Independent Report Writer for Evaluation Group EVALUATION GROUP PROJECT BOARD
AUTHOR:	UNHCR
DATE OF REPORT:	15 AUGUST 2008

Background and Explanatory Note

UNHCR was invited by the Evaluation Group of the Solihull Pilot to evaluate the pilot and its impact on decision quality. UNHCR also evaluated Solihull non-Pilot decisions and Leeds decisions to be used as control groups.

The attached report outlines the final outcome of UNHCR's evaluation. It includes the following annexes:

- Annex I – UNHCR Evaluation Terms of Reference, Solihull Pilot
- Annex II – UNHCR September 2007 Interim Evaluation Report
- Annex III – Examples of Solihull Pilot Best Practice

**CIRCULATION OF THIS REPORT SHOULD BE RESTRICTED TO THE
PROJECT BOARD AND EVALUATION GROUP.**

1. INTRODUCTION

The background to the Office of the United Nations High Commissioner for Refugees' (UNHCR's) involvement in the Solihull Pilot is outlined in detail in the introduction to its September 2007 Interim Evaluation Report (Annex I).

UNHCR has supported the aims of the pilot from its outset. In particular, the Office has supported the objective of improving the quality of asylum decisions through the pilot process, in which UNHCR has a continuing interest. The pilot was, at least in part, designed to address recommendations made by the Office through its Quality Initiative (QI) project¹ based on UNHCR's ongoing assessment of the quality of asylum interviews and decisions in UKBA.

In order to facilitate both its evaluation and the provision of relevant ongoing feedback, UNHCR acted as an observer to both the pilot's Project Board and Evaluation Group.

As set out in the Terms of Reference (ToR)², this report provides an assessment of, and commentary on, the *process* of decision making under the pilot before the first instance decision is made, as well as an assessment of the quality of first instance asylum decisions made under the pilot, and in Leeds (which for the purposes of the pilot's evaluation was chosen to act as a 'control') by the pilot's Evaluation Group in October 2006³.

Over the course of its evaluation UNHCR presented various reports to the Solihull Pilot Evaluation Group to provide an ongoing update of its evaluation: three Evaluation Data Reports⁴, an Interim Evaluation Report⁵, a comment paper on a best-practice approach to the Solihull Pilot evaluation⁶, as well as UNHCR's contribution to the Evaluation Group's own interim report⁷. These reports have all contributed to the content of this final evaluation report.

The current report is designed to assist UKBA and LSC colleagues in their final assessment of the effectiveness of the pilot and any subsequent decision as to whether to implement the pilot's front-loading procedures across the UK asylum system.

¹ Minister's response to the QI project's Third Report, available at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/reports/unhcreports/>

² See Annex I.

³ In late 2007 it was agreed by all parties to the Evaluation Group to examine Solihull non-Pilot cases to lessen the impact of external variables existing in Leeds and Solihull regions on the evaluation. UNHCR therefore includes assessments of Solihull non-pilot cases in this report.

⁴ Dated 24/05/07, 21/06/07 and 26/07/07.

⁵ Annex II, Dated September 2007.

⁶ "Envisioning the Solihull Pilot", Dated January 2008.

⁷ Dated 11 April 2008.

2. EVALUATION – OVERVIEW

Methodology

UNHCR evaluated the quality of asylum decisions and interviews in Solihull Pilot cases and, as a comparator, in Leeds and Solihull non-Pilot cases. In doing so, it used the assessment forms developed under the Quality Initiative project (amended as appropriate). To facilitate its assessment of the pilot process and its impact on quality of decision-making, UNHCR also identified and developed relevant additional assessment criteria.

Throughout the piloting and evaluation phases, UNHCR maintained regular attendance at Evaluation Group meetings in an observer capacity and attended some User Group meetings. From July 2007 UNHCR also attended as an observer at the Solihull Pilot Project Board. Attendance at these meetings and frequent interaction with UKBA operational staff in Solihull—both Senior Caseworkers (SCWs) and Case Owners (COs) – have all helped to inform this evaluation.

UNHCR is grateful to colleagues in Solihull and Leeds UKBA Asylum Regions, and in the UKBA Asylum Design and Improvement Directorate, for their assistance in facilitating UNHCR's evaluation.

With the understanding that the data prepared for the evaluation by UKBA and the LSC has been divided and presented in two six-month time periods to take account of the period in which the pilot processes were “bedding down”, UNHCR has provided a similar split in the data presented throughout this report. In this report, the 1st six months refers to decisions taken during the period between 20 November 2006 – 31 May 2007⁸ while the 2nd six months refers to decisions taken during the period between 1 June 2007 – 7 December 2007.

As per the Terms of Reference (Annex I, section 3) for its evaluation, UNHCR undertook to audit 10% of all decisions taken within the pilot and an adequate proportion of interviews. Pilot interviews and decisions were chosen at random.

The following table provides an overview of the number of decisions and interviews assessed by UNHCR over the full pilot period in the context of its evaluation of the Solihull Pilot.

⁸ It should be noted, however, that UNHCR's audit began in January 2007 and thus all decisions referred to in the 1st six month period refer to decisions taken between 1 January 2007 and 31 May 2007.

Table 1

Criteria	Solihull Pilot		Leeds		Non-Pilot	
	Overall	1 st /2 nd 6 months	Overall	1 st /2 nd 6 months	Overall	1 st /2 nd 6 months
Number of decisions assessed	60	35/25	41	24/15	12	4/8
Number of interviews assessed	14	4/10	2	0/2	1	1/0

Limitations and constraints

UNHCR's evaluation was limited to an assessment of the quality of the first instance decision making process and included ways in which the pilot process may have impacted on quality. The Office's evaluation did not extend to a complete overview of the cases identified for assessment. For example, the process and outcome at the appeal stage, where applicable, remained outside the remit of its evaluation. Similarly, the Office's evaluation was based on a *sample* of decisions taken under the pilot, and of Leeds and Solihull non-pilot cases.

UNHCR's evaluation was also affected by a number of constraints which are outlined at Section 3 of the Interim Report (Annex II). UNHCR's own resource constraints and practical issues (in Solihull) also limited the number of interviews UNHCR was able to assess in both Solihull and Leeds.

3. EVALUATION – PILOT PROCESS

Specific observations

Provided below are UNHCR’s observations regarding the implementation of the various elements of the pilot process in Solihull decision-making. The information is based on the 60 decisions and 14 interviews assessed over the Pilot period which UNHCR was able to identify as Solihull Pilot cases⁹. The interviews assessed took place between January 2007 and 7 December 2007 while the decisions assessed were taken on cases that entered the pilot process during this period (the decision may have been taken after 7 December 2007).

As UNHCR consistently reported throughout the evaluation period¹⁰, it was often difficult to identify and track adherence to pilot processes due to a lack of file minutes – either on the file itself or on CID – and / or a limited use of the pilot pro forma – the document designed to record the discussions between the Case Owner (CO) and the legal representative¹¹.

As a consequence it was often not possible to be conclusive on whether the elements of the pilot process were adhered to or not and how these might have impacted upon the interview and decision quality. The data therefore reflects only the instances where there is clarity with respect to elements of the pilot process being followed (or, where indicated, where it is clear they have been followed to a limited extent).

Stage: pre-interview

Table 2

Criteria	Decisions			
	Number of decisions	1 st /2 nd six months	Percentage of decisions	1 st /2 nd six months
Clear that legal representative / CO discussed and agreed pro forma	33	15 / 18	47%	43% / 70%
Pro forma used to identify material facts / relevant evidence	19	12 / 8	31%	34% / 31%
Further evidence sought / commissioned at this stage	13	8 / 6	21%	23% / 23%

At the pre-interview stage it is envisaged that Case Owners and legal representatives – after the latter have submitted a Witness Statement –

⁹ UNHCR is aware that a small number of cases (14) it identified as pilot cases were not on the final agreed list of pilot cases used by UKBA / LSC. Nevertheless, UNHCR observed pilot processes were adhered to in these instances and therefore includes them in the final data tally.

¹⁰ In UNHCR’s September 2007 Interim Report and three previous Solihull Pilot Evaluation Data update reports produced by UNHCR for the Solihull Pilot Evaluation Group and Project Board.

¹¹ Page 4, *Testing Implementation of Early & Interactive Legal Advice* (July 2006).

discuss the case at issue to identify the key material facts; in particular those on which the two sides are not in agreement. This process assists to highlight to the Case Owner which areas may require more in depth questioning at interview. The pro forma is designed to facilitate and record these discussions.

UNHCR’s assessments found inconsistent use of the pro forma. In some cases the pro forma was used purely as a check-box exercise without material facts being identified at all. In other instances it was used to a limited extent to identify some of the relevant material facts (e.g. the material facts in a claim are only partly broken down). Less often, UNHCR observed examples of good use of the pilot pro forma by the Case Owner and legal representative to set out the relevant material facts pre-interview explicitly and in detail.

While in the majority of cases the pilot pro forma was not used pre-interview to identify the relevant material facts and “narrow” the issues for consideration, in many cases there were indications that discussions between the Case Owner and Legal Representative may have occurred (e.g. note on file or UNHCR’s observation of the interview), even if they weren’t fully recorded on the pro forma. Indeed, over the course of the pilot there was growing evidence of these discussions having taken place.

When observing live interviews, UNHCR was able to witness the conversations that took place between Case Owners and Legal Representatives even when they weren’t recorded appropriately on the pro forma. Anecdotally, it was often apparent that the conversations themselves led to more focused interviews and, on more rare occasions, agreement over required evidence that was then sought or commissioned at the pre-interview stage. Such evidence included medical reports, expert country reports, age assessments, and copies of arrest warrants from the country of origin.

Stage: interview

(A) Based on decision assessments:

Table 3

Criteria	Decisions			
	Number of decisions	1 st /2 nd six months	Percentage of decisions	1 st /2 nd six months
Legal rep participated actively in interview	13	9 / 4	27%	26% / 31%
Legal rep participated minimally in interview	21	15 / 6	33%	31% / 46%
Interactivity had clear positive impact on focus / fact-finding (of which limited)	20	14 / 6	33%	40% / 46%
Interactivity had limited positive impact on focus / fact-finding	10	8 / 2	16%	23% / 15%

(B) Based on interview assessments¹²:

Table 4

Criteria	Decisions	
	Number of decisions	Percentage of decisions
Legal rep participated actively in interview	8	62%
Legal rep participated minimally in interview	5	38%
Interactivity had positive impact on focus / fact-finding	10	77%

UNHCR's review of interview records (as opposed to "live" assessments of interviews) suggests that the involvement of legal representatives in interviews was limited, but that it increased in the latter six months of the Pilot. However, observations of "live" interviews suggested that legal representatives' involvement was greater than written records would suggest as their questions were not always attributed to them on the interview record.

In the interviews where legal representatives did take the opportunity to participate actively, UNHCR's assessments (particularly of live interview observations) suggested that this resulted in a positive impact on the focus and / or fact-finding potential of the interview and brought more relevant evidence to light through questioning.

Stage: pre-decision / post-interview

Table 5

Criteria	Decisions			
	Number of decisions	1 st /2 nd six months	Percentage of decisions	1 st /2 nd six months
Pro forma returned to post-interview	21	12 / 9	34%	34% / 35%
Pilot process produced further evidence (including witness statement, further testimony at interview)	59	33 / 26	97%	94% / 100%
Pilot process produced further evidence OTHER than WS, interactive interview	21	11 / 10	40%	35% / 39%
All material facts identified and relevant evidence sought (where applicable)	34	18 / 16	56%	51% / 62%

UNHCR's assessments suggest that the pro forma was often not employed post interview to identify whether issues remained in dispute. In some cases, it was not possible to conclusively identify whether discussions occurred post

¹² In this instance the statistics are not split into the two six monthly periods as UNHCR did not observe any interviews post 1 June 2007.

interview; it appears that such discussions may have taken place in other cases, but without being recorded on the pro forma. However, UNHCR understands from conversations with legal representatives and Case Owners that the post-interview discussions did not take place in a significant number of cases and less so than pre-interview discussions.

On the few occasions where UNHCR saw the pro forma employed post interview, again its use was inconsistent but included some examples of good practice and some examples where relevant information was recorded on the pro forma.

On a very positive note, in 97% of cases the pilot procedure produced further material evidence that was available at the pre-decision stage (including the witness statement and any further testimony elicited at interview through the involvement of the legal representative).

In a significant 40% of cases further evidence *other* than the witness statement and information obtained through the interactive interview was available at the pre-decision stage as a result of the pilot process. Such evidence included medical reports, country of origin information and the translation of certain documents.

Significantly, UNHCR notes that in just over half of Solihull Pilot cases (56%), all material facts were identified and all relevant evidence was sought (where applicable) prior to the decision.

Flexibility criteria

Table 6

Criteria	Decisions			
	Number of decisions	1 st /2 nd six months	Percentage of decisions	1 st /2 nd six months
Flexibility invoked	12	5 / 7	20%	14% / 27%
Application of flexibility result in the expected outcome / product available at decision	8	3 / 5		
	Percentage	1st/2nd six months		
Percentage of cases where flexibility invoked resulted in expected outcome / product available	67%	60% / 71%		

UNHCR observed the flexibility criteria being clearly and explicitly employed in a fifth of cases. To consider employment of flexibility 'clear and explicit' UNHCR looked for clear reference on the pro forma, the file or CID to flexibility having been employed for a particular amount of time to allow for the procurement of a particular piece of evidence.

Despite this minimal number, however, there were some anecdotal indications of flexibility being employed on a more 'casual' basis whereby the Case Owner reached an agreement with the Legal Representative not to make a decision until a particular amount of time had passed or until certain information had been received but did not record this in any official capacity without making a formal record of these discussions.

Positively, in those instances where flexibility was clearly and explicitly employed, it was most often the case that an outcome or product was available at the point of initial decision as a result.

Complaints procedure

UNHCR did not assess any decisions in which the formal complaints procedure was invoked.

General observations on pilot processes

UNHCR observed a wide range of practices with regards to implementation of pilot procedures – ranging from very little adherence to pilot procedures to high adherence.

It was clear to all involved in the evaluation and no less to UNHCR that there were various constraints that affected the implementation of the pilot, particularly in its early stages¹³.

In the earlier period of the pilot, through anecdotal conversations with Case Owners, it was evident that there was a lack of clarity as to whether it was expected that particular milestones (e.g. making decisions within 30 days of application) and targets applied to Solihull Pilot cases. This created a conflict for Case Owners when considering whether to apply 'flexibility' (a unique and important Pilot feature) to timescales. Throughout the pilot, Case Owners sometimes anecdotally reported that workloads did not provide sufficient time to adhere to some pilot procedures (e.g. discuss the case with the legal representative or read the witness statement pre-interview). This was exacerbated by evidence that some Case Owners failed to understand how pilot features could in fact streamline their work.

Conclusion on Pilot Processes Evaluation

On the whole, there was much positive anecdotal feedback from both Case Owners and legal representatives regarding elements of the pilot process and they reported an appreciation for a better working relationship, utility of the witness statement and the benefits of having the legal representative attend at interview.

It was clear, however, that the lag between the start of the pilot and adherence to pilot procedures impacted upon the resulting findings of the pilot. While adherence to the pilot procedures was never complete, where it was possible to identify adherence to pilot processes, UNHCR considers these had, on the whole, a positive impact. For example, where legal representatives did take the opportunity to participate actively during the substantive interview, UNHCR's assessments suggested that this resulted in a positive impact on the focus and / or fact-finding potential of the interview in the majority of cases. UNHCR's assessments also suggested that further evidence was available in almost all cases at the point of initial decision as a result of the pilot process. Whether and how that extra evidence impacted upon decision quality is discussed in Section 6 below.

¹³ See Solihull Pilot UNHCR Interim Report, Section 3, General observations

4. EVALUATION – QUALITY OF DECISIONS

Statistical overview

Table 7 sets out a statistical overview of UNHCR’s assessments of the quality of Solihull Pilot, Leeds and Solihull non-Pilot decisions. It is important to note that – in line with its practice on drawing conclusions from and feeding back on its findings under the QI project – UNHCR’s emphasis remains on the trends identified, rather than on the overall scores obtained.

Table 7

Criteria	Solihull Pilot		Leeds		Solihull non-pilot	
	Overall	1 st /2 nd six months	Overall	1 st /2 nd six months	Overall	1 st /2 nd six months
Number of decisions assessed	60	35 / 25	41	23 / 18	12	4 / 8
Number of Grants / Refusals	18 / 43	10 / 25; 8 / 17	5 / 36	5 / 9; 0 / 18	3 / 9	3 / 1; 0 / 8
Average decision assessment scores	82%	82% / 82%	82%	83% / 82%	81%	86% / 79%

Trends Identified

Generally, Solihull Pilot, Leeds and Solihull non-Pilot decisions revealed similar trends in terms of issues of concern and good practice identified through UNHCR assessments as outlined below.

Credibility: The assessment of credibility remained a common concern in decisions taken in all areas. In both Leeds and Solihull Pilot cases just over half of the decisions audited revealed a poor assessment of credibility, whilst the same issue was identified in just over a third of Solihull non-Pilot decisions. Still, a number of examples of a good approach to credibility assessment were found in both Solihull Pilot and Leeds cases.

Convention Reasons: A quarter of Solihull non-Pilot decisions contained a poor assessment of Convention reasons.

Persecution: A poor analysis of the concept of “persecution” was identified in just over a third of Solihull Pilot and Leeds decisions and half of Solihull non-Pilot cases.

Country of Origin Information (COI): Poor use and / or interpretation of COI was also found in a number of decisions; a third of Solihull Pilot cases, over half of Leeds cases and 4 in 10 Solihull non-Pilot cases. However, a number of cases where COI was used well were also found in decisions from Leeds.

Internal Flight Alternative (IFA): An audit of Solihull Pilot cases also demonstrated poor analysis of IFA in one fifth of pilot decisions.

Human Rights Considerations: In just under a third of Leeds decisions issues were identified in the analysis of Human Rights considerations.

Comparative assessment of quality of decisions

UNHCR’s assessments of Solihull Pilot, Leeds and Solihull non-Pilot decisions reported, overall, a similar picture in terms of the quality of decision-making. Similar causes for concern were identified in all types of cases with a similar degree of frequency. The Pilot did not appear to have had a detrimental impact on the quality of decision making for those Solihull cases going through the pilot process when compared to the quality of decisions made outside the pilot and in Leeds.

Whilst the average quality scores for Solihull Pilot and Leeds cases remained constant, there was a small drop in the quality of Solihull non-Pilot cases. Without being able to clearly link this drop to any one variable, it was positive to note that the quality of decisions in Pilot cases remained constant over the same period.

5. EVALUATION – QUALITY OF INTERVIEWS

Statistical overview

Table 8 sets out a statistical overview of UNHCR’s assessments of the quality of Solihull Pilot, Leeds and Solihull non-Pilot interviews. As with the discussion of decision assessments above, it is important to note that UNHCR’s emphasis remains on the trends identified, rather than on the overall scores obtained.

Table 8

Criteria	Solihull Pilot		Leeds Solihull non-pilot	
	Overall	1 st /2 nd six months	Overall	1 st /2 nd six months
Number of interviews assessed	14	4 / 10	3	1 / 2
Average interview assessment score	87%	80% / 90%	85%	83% / 87%

Trends Identified

The quality scores for Solihull Pilot interviews improved significantly between the first and second six-month periods of the Pilot’s duration. The quality scores for Leeds and Solihull non-Pilot interviews increased to a lesser extent.

Comparative assessment of quality of interviews

UNHCR's assessments of Solihull Pilot, Leeds and Solihull non-Pilot interviews have revealed a slightly higher quality score for interviews conducted within the Solihull Pilot, as compared to those conducted outside the pilot in Solihull and Leeds. However, given the comparatively small sample of Leeds and Solihull non-Pilot interviews assessed, less weight should be given to these interview quality findings.

While significant comparisons between pilot and non-pilot interviews (both Solihull and Leeds) cannot be made, the findings detailed in Section 3 (stage: interview) point out the greater focus and fact-finding facility of pilot interviews.

6. EVALUATION – RELATIONSHIP BETWEEN PILOT AND DECISION QUALITY

As noted in Section 3 (tables 3 and 4) above, the interactive nature of pilot interviews (facilitated by the pre interview discussion of issues) positively impacted upon the fact-finding focus of those interviews in just under half of interviews assessed on the papers and 77% of interviews assessed live. Additionally, UNHCR observed in the latter six months of the pilot that pilot processes led to appropriate identification of all material facts and pursuit of relevant evidence to make findings on those facts in 62% of cases.

It is also noted in Section 3 that in almost all pilot cases further evidence was produced at the pre-decision stage directly as a result of pilot procedures. In a smaller minority (40%) of cases that evidence consisted of more than the witness statement and information obtained at interview.

However, as outlined in table 9 below, UNHCR’s assessment shows that explicit and appropriate consideration was given to that extra evidence in only 21 (35%) of the pilot cases sampled. Nevertheless, it is pleasing to observe that in the latter six months of the pilot there was a significant increase in this statistic with appropriate consideration being given to further evidence obtained in 52% of cases.

This data suggests to UNHCR that there are strong indications of the positive impact of pilot procedures (provision of a witness statement, pre interview discussions between Case Owner and Legal Representative, interactive interview, etc) on the separate stages of the wider decision-making process leading up to the drafting of a final decision. However, it was not always possible to observe a direct and obvious impact at the drafting stage. Still, there was a marked improvement in the latter six months of the pilot when Case Owners gave increasing explicit and appropriate consideration to this further evidence in their final decisions.

Solihull

Table 9¹⁴

Criteria	Number of decisions		Percentage of decisions	
	Overall	1 st /2 nd six months	Overall	1 st /2 nd six months
Pilot process produced further evidence (including witness statement and further testimony at interview)	59	33 / 26	97%	94% / 100%
Further evidence (including witness statement and further	21	8 / 13	35%	23% / 52%

¹⁴ Table 9 examines whether and how various types of evidence elicited through pilot processes were given explicit and appropriate consideration in the final decision.

testimony at interview) given explicit and appropriate consideration in decision				
Pilot process produced additional evidence OTHER than WS and interactive interview.	21	11 / 10	40%	35% / 39%
Additional evidence OTHER than WS and interactive interview given explicit and appropriate consideration in the decision	3	1 / 2	5%	3% / 8%

UNHCR has not sought to establish or assess *why* Case Owners often fail to appropriately consider the extra evidence available to them but notes that many factors or variables independent to the pilot have the potential to affect the quality of pilot decisions beyond adherence or lack of adherence to the pilot processes. These may include the skills and abilities of the decision maker him or herself, his or her awareness of the purpose and utility of the pilot and its specific elements, the supervision and support Case Owners receive from senior colleagues, and their working environment – including workloads.

Indeed, further to an explicit request from Jane Aspden to aid in her full evaluation of the pilot, UNHCR reviewed its assessments of Leeds cases to examine what type of evidence was available to Leeds Case Owners when making their decisions and how this evidence was used in their decisions. Additionally, note was taken of whether applicants in Leeds had legal representation and whether they had put a witness statement forward before interview. Table 10 presents the data retrieved:

Leeds

Table 10

Criteria	Number of cases (of 41 total Leeds cases)	Percentage of cases
Applicant had legal representation up to first instance decision	37	90%
Witness statement was provided pre decision	23	56%
Evidence other than witness statement was available pre decision ¹⁵	11	27%
Additional evidence OTHER than witness statement given explicit and appropriate consideration in the decision	2	5%

¹⁵ Other evidence included (translated) documentary evidence, additional COI and further representations.

It is clear from the available information that, of the Leeds cases sampled by UNHCR, almost all had legal representation in the first instance. In 56% of cases a witness statement was provided prior to the interview. In only 27% of cases was evidence additional to the witness statement available. Finally, in only 5% of instances was the additional evidence – including the witness statement – given explicit and appropriate consideration beyond using that evidence to outline the basis of claim (i.e. the evidence is brought into credibility assessment or when assessing future risk).

As the interactive interview is not a feature of Leeds decision-making, it is significant to compare the Leeds and Solihull tables (9 and 10) above and note that further evidence beyond the witness statement and / or resulting from the interactive interview was available in 40% of Solihull pilot cases but only in 27% of Leeds cases. Meanwhile, in both locations, only in 5% of cases was that evidence given explicit and appropriate consideration in the decision.

These findings demonstrate that the unique pilot processes allowed for the provision of more material evidence prior to decision. The findings also demonstrate that a failure to explicitly and appropriately consider that additional evidence was found to occur in both pilot and Leeds cases. As such, the findings suggest that failure to consider additional evidence in the final decision (thereby failing to impact positively on decision quality) should not be attributed to pilot procedures but instead may indicate a wider training need for UKBA decision makers to better understand how to make appropriate use of all evidence put forward and how to adequately consider that evidence in a final decision.

In the Office's view, therefore, it is both necessary and appropriate to also reflect on whether the pilot process itself has continued *potential* to improve the quality of decisions, whether or not that potential was fully realised in the decisions taken during the pilot period. With additional training, the pilot's front-loading features have the potential to improve the quality of decision making still further.

In an effort to demonstrate the positive impact of pilot procedures where they are fully implemented, UNHCR has outlined specific examples of instances in which pilot procedures gave rise to additional evidence which had a positive impact upon decision quality in Annex III.

6. CONCLUSION

UNHCR has consistently reiterated its support for the aims of the pilot and in particular the intention to improve the quality of asylum decisions. Many of the Office's previous recommendations to improving decision-making were to be put into practice through the adoption of pilot methods. These included pre-interview preparation (review of the file, identification of material aspects of the claim, testable evidence) as a mandatory step in the decision-making process and flexibility to timescales where it is recognised that further evidence may be able to be procured¹⁶.

Positively, UNHCR's evaluation of the process of decision-making under the pilot confirms that the front-loading features of the pilot lead to more relevant evidence being identified and placed into account before the first instance decision. There have also been a number of clear examples of instances where the essential elements of the pilot have been properly implemented in particular decisions and where it has had a clear and positive impact on decision quality (Annex III).

Overall findings indicated very similar levels of decision quality in Solihull Pilot, Leeds and Solihull non-Pilot decisions. However, a comparison of the data with Leeds cases gives support to the view that this was in large part due to a wider concern with Case Owner decision making – that there is often a failure to explicitly consider additional evidence in the final decision or a tendency to dismiss the evidence based on weak reasoning.

As similar practice was found in Leeds, this may indicate a wider training need and therefore should not be linked to a failure of the pilot process.

Indeed, from UNHCR's view, the increased availability of evidence at first instance is a welcome result of the pilot that brings benefit to the decision-making process in and of itself. Further benefits include:

- clear improvements to the working relationship between Case Owners and Legal Representatives;
- improved focus in interviewing;
- clear identification of material facts and issues and resulting pursuit of further evidence to establish the credibility of those facts and issues.

UNHCR remains of the view that pilot processes have continued potential to contribute to an improved asylum decision-making process.

¹⁶ Annex B to third report - list of UNHCR recommendations and IND responses as available at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/reports/unhcrreports/>

ANNEX I: UNHCR EVALUATION TERMS OF REFERENCE

Terms of Reference (UNHCR) – Solihull Pilot

1. The United Nations High Commissioner for Refugees ('UNHCR') will act as an external evaluator for the New Asylum Model ('NAM') Solihull pilot, having regard to the aims of the pilot as outlined in the proposition paper 'Testing Implementation of Early and Interactive Legal Advice' (NAM Quality Team and Legal Services Commission, July 2006) and to the implementation of relevant recommendations made by UNHCR's Quality Initiative ('QI') project.
2. The evaluation to be conducted by UNHCR will encompass
 - a. An assessment of, and commentary on, the process of decision making under the pilot before the first instance decision is made (pre-interview, interactive interview and post-interview stages) based on relevant fact-finding exercises and its assessments of interviews and decisions made under the Solihull pilot.
 - b. An assessment of the quality of first instance asylum decisions made under the Solihull pilot, including, in so far as is possible, an assessment of, and commentary on, the impact of features introduced under the pilot on decision quality.
3. UNHCR will aim to assess at least 10% of decisions made under the Solihull pilot to facilitate its evaluation set out under (2).
4. UNHCR will observe and assess an adequate proportion of interviews conducted under the Solihull pilot to facilitate its evaluation set out under (2).
5. UNHCR will sample and assess a similar proportion of interviews and decisions by the NAM teams in Leeds to enable, in so far as is possible, a comparison with those sampled and assessed in Solihull.

6. The assessments of interviews and decisions outlined in (3) to (5) above will be conducted according to the quality criteria and using the assessment forms developed for the QI project, with the addition of criteria specific to the Solihull pilot as identified by UNHCR.

7. UNHCR will present a report with its interim findings to the pilot's Evaluation Group in March 2007. A final report with its overall evaluation of the pilot is to be presented to the Evaluation Group in June 2007.

8. The evaluation will be undertaken by UNHCR staff working on the QI project.

ANNEX II: UNHCR'S INTERIM REPORT, SEPTEMBER 2007

SOLIHULL PILOT UNHCR INTERIM REPORT

REPORT TO:	PILOT PROJECT BOARD / EVALUATION GROUP
AUTHOR:	UNHCR
DATE OF REPORT:	19 SEPTEMBER 2007

Background and Explanatory Note

UNHCR has been invited to by the Evaluation Group of the Solihull Pilot to evaluate the pilot and its impact on decision quality. UNHCR is also evaluating decisions at Leeds to be used as a control group.

The attached report is intended to provide an update of UNHCR's ongoing evaluation. It seeks to present a UNHCR assessment the progress of the pilot to date.

A full and final report will be provided upon conclusion of the pilot.

CIRCULATION OF THIS REPORT SHOULD BE RESTRICTED TO THE PROJECT BOARD AND EVALUATION GROUP.

1. INTRODUCTION

Background

In late November 2006, an 'Early and Interactive Legal Advice' Pilot, jointly-owned by the Border and Immigration Agency (BIA) and the Legal Services Commission (LSC), commenced in the Midlands asylum region. This came to be known as the 'Solihull Pilot'.

The aims and features of the pilot are set out in various scoping documents, prepared by BIA with the LSC, in particular the proposition paper *Testing Implementation of Early & Interactive Legal Advice* (July 2006) and the *Evaluation Strategy: Early Legal Advice Pilot – Solihull* (October 2006)¹⁷.

The pilot seeks to "create an environment where all relevant evidence is correctly identified and placed into account before the [first instance] decision is made rather than coming to light fully only at the appeal stage."¹⁸ Through doing so the pilot is intended to deliver a number of benefits which the evaluation strategy identifies as the pilot's objectives:

- Improve the quality of asylum decisions assessed
- Reduce the percentage of cases granted following appeal
- Achieve this with no rise (and if possible a fall) in legal aid costs
- Reduce overall support costs
- Reduce IND's interpreter costs (by reducing interview times)
- Reduce overall AIT units costs per Asylum case
- Test whether Early Legal Advice can be rolled out nationally if successful

UNHCR's role

The Office of the United Nations High Commissioner for Refugees (UNHCR) has, from the outset, supported the aims of the pilot. In particular, the Office has supported the objective of improving the quality of asylum decisions through the pilot process, in which UNHCR has a continuing interest. The pilot was, at least in part, designed to address recommendations made by the Office through its Quality Initiative (QI) project¹⁹ based on UNHCR's ongoing assessment of the quality of asylum interviews and decisions in BIA.

UNHCR was formally invited to provide an external assessment of the quality of decisions over the period of the pilot in Solihull, as well as in Leeds (which for the purposes of the pilot's evaluation was chosen to act as a 'control') by the pilot's Evaluation Group in October 2006. Following an 'in principle'

¹⁷ ELAP Ev Strat v0.41.

¹⁸ Page 1, *Testing Implementation of Early & Interactive Legal Advice* (July 2006).

¹⁹ Minister's response to the project's Third Report, available at http://www.bia.homeoffice.gov.uk/6353/aboutus/Microsoft_Word_-_Sub_Annex_1.pdf.

acceptance of this invitation, UNHCR set out the Terms of Reference (ToR)²⁰ of its evaluation by way of correspondence in January 2007.

These ToR set out that the Office's evaluation will encompass an assessment of, and commentary on, the *process* of decision making under the pilot before the first instance decision is made, as well as an assessment of the quality of first instance asylum decisions made under the pilot. In order to facilitate both its evaluation and the provision of relevant ongoing feedback, UNHCR agreed to act as an observer to both the pilot's Project Board and Evaluation Group.

This interim report is prepared pursuant to the ToR and is designed to assist BIA, LSC and external stakeholder colleagues to assess the progress of the pilot to date²¹. It is not intended to reflect the Office's overall assessment of the pilot, which will instead form the focus of its final report to be delivered at the end of the pilot.

²⁰ See Annex I.

²¹ It was agreed to extend the pilot for a further 6 months in June 2006 with a consequent impact on the reporting arrangements envisaged under the ToR.

2. EVALUATION – OVERVIEW

Methodology

UNHCR’s evaluation focused on assessing the quality of asylum decisions and interviews, relying on the assessment tools²² (adapted where appropriate) and auditing arrangements developed under its QI project. To facilitate its assessment of the pilot process, UNHCR identified and developed relevant additional assessment criteria.

The Office’s regular attendance at Evaluation and Users Group meetings, and its frequent interaction with asylum decision makers in Solihull – both Senior Caseworkers (SCWs) and Case Owners (COs) – have all helped to inform its evaluation to date.

UNHCR is grateful to colleagues in Solihull and Leeds BIA Asylum Regions, and in the BIA Asylum Design and Improvement Directorate, for their assistance in facilitating UNHCR’s evaluation.

The following table provides an overview of the number of decisions and interviews assessed by UNHCR to date in the context of its evaluation of the Solihull Pilot.

Criteria	Solihull Pilot²³	Leeds
Number of decisions assessed	34	25
Number of interviews assessed	10	2

Limitations and constraints

The Office’s evaluation does not extend to a complete overview of the cases identified for assessment. For example, the process and outcome at the appeal stage, where applicable, remains outside the remit of its evaluation. Similarly, the Office’s evaluation is based on a *sample* of decisions taken under the pilot, and in Leeds, as set out below.

UNHCR’s evaluation has also been affected by a number of constraints which have become apparent during the course of the pilot.

In particular, the number of its assessments of decisions of Solihull Pilot cases has been affected by the lower than expected proportion of cases going into the pilot. Similarly, as the discussion which follows will highlight, it has been difficult at times to be certain whether or not a particular case is going through the pilot process. UNHCR’s own resource constraints and practical

²² The decision and interview quality assessment forms.

²³ UNHCR has also assessed 5 decisions in Solihull it identified as ‘non-pilot’ decisions, and 1 interview in Solihull identified as a ‘non-pilot’ interview. These cases are not included in the totals included in this table and are not being used by UNHCR in its assessment of the Solihull Pilot processes.

issues (in Solihull) have also limited the number of interviews UNHCR has been able to assess in both Solihull and Leeds.

3. EVALUATION – PILOT PROCESS

Specific observations

Provided below are UNHCR’s interim observations regarding the implementation of specific elements of the pilot process in Solihull decision-making. The information is based on the 34 decisions and 10 interviews assessed to date²⁴, which UNHCR has been able to identify as Solihull Pilot cases. The decisions assessed to date were all taken between January and July 2007.

As has been noted by UNHCR previously²⁵, it has been difficult to identify and track adherence to pilot processes in individual decisions due to a lack of file minutes – either on the file itself or on CID – and / or a limited use of the pilot pro forma which is designed to record the discussions between the Case Owner (CO) and the legal representative relating to the agreement of issues considered not to be in dispute and applicability of the flexibility criteria²⁶. UNHCR notes that concerns with respect to the capturing of data relevant to the pilot and the adherence to the pilot process have been echoed at successive Project Board and Evaluation Group meetings.

As a consequence, it has not been possible, in a number of cases, to identify conclusively whether the elements of the pilot process have been adhered to or not. The data therefore reflects only the instances where there is clarity with respect to elements of the pilot process being followed (or, where indicated, where it is clear they have been followed to a limited extent).

Stage: pre-interview

Criteria	Number of decisions (%)	
Clear that legal representative / CO discussed and agreed pro-forma	16	47%
Pro-forma used to identify material facts / relevant evidence	15	44%
Further evidence sought / commissioned at this stage	10	29%

At this stage, it is envisaged that Case Owners and legal representatives – once the latter have submitted a Witness Statement – discuss the case at issue, identify the key material facts and in particular those on which the two sides are not in agreement. The pro-forma is designed to facilitate and record these discussions.

In the majority of cases, the pilot pro forma is not being used pre-interview to identify the relevant material facts and “narrow” the issues for consideration.

²⁴ A minority of UNHCR’s assessments of Solihull Pilot decisions and interviews have been subjected to the QI project’s own quality assurance processes (peer review). As such the data presented is provisional at this interim stage.

²⁵ For example, in the three Solihull Pilot Evaluation Data update reports produced by UNHCR to date for the Solihull Pilot Evaluation Group and Project Board.

²⁶ Page 4, *Testing Implementation of Early & Interactive Legal Advice* (July 2006).

In some cases, it has not been possible to conclusively identify whether discussions have occurred, i.e. it appears that they may be taking place, but without being recorded on the pro forma.

UNHCR’s assessments to date suggest that use of the pro forma has been inconsistent. In some cases the pro forma has been used only to a limited extent to identify the relevant material facts (e.g. the material facts in a claim are only partly broken down). However, UNHCR has also observed some examples of good use of the pilot pro forma by the Case Owner and legal representative to explicitly and in detail set out the relevant material facts pre-interview.

UNHCR has also identified some cases where a pro forma appears not to have been used by the Case Owner / legal representative in a pilot case. UNHCR understands, through anecdotal conversations with Case Owners in Solihull, that some decision makers do not believe the pro forma to be a useful element of the pilot process, with some viewing the need to complete it as an inconvenience. This is in spite of the fact that it is designed to be the primary tool for identifying and narrowing issues for discussion – a fundamental element of the pilot.

Where the pro forma has been used to record evidence that has been sought or commissioned at the pre-interview stage, such evidence has included medical reports, expert country reports and copies of arrest warrants from the country of origin.

Stage: interview

(C) Based on decision assessments:

Criteria	Number of interviews (%)	
Legal rep participated actively in interview	10	29%
Legal rep participated minimally in interview	12	35%
Interactivity had clear positive impact on focus / fact-finding (of which limited)	14	41%
Interactivity had limited positive impact on focus / fact-finding	8	24%

(D) Based on interview assessments:

Criteria	Number of interviews (%)	
Legal rep participated actively in interview	4	40%
Legal rep participated minimally in interview	6	60%
Interactivity had positive impact on focus / fact-finding (of which limited)	5 (1)	50%

UNHCR’s review of interview records (as opposed to “live” assessments of interviews) suggests that the involvement of legal representatives in interviews has been limited. Observations of “live” interviews suggest that Case Owners generally invite legal representatives to ask questions; however, this interaction is not always reflected in the interview record,

particularly where the legal representative declines to do so (which has often been observed).

However, in the minority of interviews observed where legal representatives do take the opportunity to participate, actively UNHCR’s assessments suggest that this results in a positive impact on the focus and / or fact-finding potential of the interview in the majority of cases.

Stage: pre-decision / post-interview

Criteria	Number of decisions (%)	
Pro-forma returned to post-interview	15	44%
Pilot process produced further evidence (including witness statement, further testimony at interview)	32	94%
Pilot process produced further evidence OTHER than WS, interactive interview	15	44%
All material facts identified and relevant evidence sought (where applicable)	19	56%

UNHCR’s assessments suggest that the pro forma is not being employed post-interview to identify whether issues remain in dispute in the majority of cases. In some cases, it has not been possible to conclusively identify whether discussions have occurred post-interview; it appears that such discussions may well be taking place in other cases, but without being recorded on the pro forma. However, UNHCR understands from conversations with legal representatives and Case Owners that the post-interview discussion does not take place in a significant number of cases.

Where the pro forma is employed post-interview, its use remains inconsistent including some examples of good practice and some examples where information recorded on the pro forma is much more limited.

In almost all cases, the pilot procedure produced further evidence that was available at the pre-decision stage (UNHCR defines “further evidence” to include the witness statement and any further testimony elicited at interview through the involvement of the legal representative). However, in some cases, the further evidence available that was produced through the legal representative’s participation in the interactive interview was limited.

In a significant proportion albeit a minority of cases further evidence other than the witness statement and information obtained through the interactive interview was available at the pre-decision stage as a result of the pilot process. Such evidence included medical reports, country of origin information and the translation of certain documents.

Significantly however, UNHCR notes that, in the majority of Solihull Pilot cases, all material facts have been identified and all relevant evidence has been sought (where applicable) at the pre-decision stage.

Flexibility criteria

Criteria	Number of decisions (%)	
Flexibility invoked	9	26%
Application of flexibility result in the expected outcome / product available at initial decision	7	21%

UNHCR has observed the flexibility criteria clearly and explicitly being employed in only a minority of cases. In some instances where flexibility has been applied, it has not been possible to identify whether or not an outcome or product is available at the point of initial decision as a result.

Complaints procedure

UNHCR has not assessed any decisions in which the formal complaints procedure was invoked.

General observations

UNHCR has received, on the whole, positive anecdotal feedback from Case Owners and legal representatives regarding elements of the Solihull Pilot process. In particular, Case Owners have reported an appreciation of the closer working relationship between themselves and legal representatives, having access to a witness statement at an early stage and participation of a legal representative at interview.

However, a number of constraints appear to have affected the implementation of the pilot process in Solihull. Several of these have been highlighted previously through the Project Board as well as the Evaluation and Users Groups.

These include practical issues such as the difficulties experienced at the early stages of the pilot in ensuring sufficient numbers of cases enter the pilot in the first place. In spite of efforts taken to rectify this initial constraint, UNHCR understands that the proportion of asylum cases in Solihull undergoing the pilot process remains low, if for different reasons.

The need to source interpreters and co-ordinating all relevant parties to attend the substantive interview, have, at times, had an impact on the ability of substantive interviews to proceed as originally scheduled with a consequent impact on the potential for a decision to be taken within the 30 day decision milestone.

Indeed, in the course of its involvement with the Solihull Pilot process to date, UNHCR has heard conflicting reports on whether or not the 30 day milestone is or is not applicable to pilot cases and, if it is, how strictly it will be applied.

Nevertheless, anecdotal evidence suggests a fairly strict adherence to the 30-day decision milestone in Solihull. UNHCR's fact-finding suggests that this has resulted in some decisions being taken out of the pilot due to difficulties in

meeting the milestone. In any event, UNHCR suggests that an emphasis on meeting the milestone can play a role in limiting the time available to a Case Owner in any one case, and affect his or her willingness to apply flexibility or indeed delay an interview or the making of a decision to enable relevant discussions with the legal representative to take place as envisaged under the pilot.

UNHCR's conversations with Case Owners and Senior Caseworkers suggest that decision makers in Solihull have high workloads. It is understood, for example, that Case Owners are being routed more cases per week than originally envisaged. It is also understood that, since the pilot was implemented, a number of Case Owners have moved on leaving some posts vacant. Whether or not these problems are specific to Solihull, the resulting higher workloads of Case Owners has, in UNHCR's opinion, the potential to have an adverse impact on both the adherence to the pilot process and the quality of decisions themselves²⁷.

In addition, UNHCR has previously expressed concern that awareness and understanding of the aims of the pilot is low amongst staff at Solihull, including Case Owners. Training to this effect was provided to those Case Owners who were able to attend in June 2007. However, UNHCR remains concerned that many Solihull decision makers (including Senior Caseworkers) do not fully appreciate the purpose behind the pilot, its elements and how each is intended to operate.

In the Office's opinion, these issues appear to have limited the ability to fully and properly implement the pilot processes in Solihull.

Conclusion

UNHCR's assessments of the elements of the pilot process as set out above suggest that the pilot as a whole has not, overall, been fully implemented in Solihull to date. Many principles of the pilot process do not appear to have been adhered to in a significant proportion of pilot cases, and practical constraints appear to have had an impact as well. Therefore, clear conclusions cannot be drawn regarding the impact of elements of the pilot process at this stage.

UNHCR suggests that it may be useful to establish why adherence to specific elements of the process – such as the use of the pro-forma to narrow and agree the issues – has been limited. This may include reviewing, by way of example, the user-friendliness of the pro-forma template.

Where it has been possible to identify adherence to pilot processes, UNHCR considers these to have had, on the whole, a positive impact. For example, where legal representatives do take the opportunity to participate actively during the substantive interview, UNHCR's assessments suggest that this results in a positive impact on the focus and / or fact-finding potential of the

²⁷ See UNHCR's recommendations 27 – 30 in its Second Report on the Quality Initiative.

interview in the majority of cases. UNHCR's assessments also suggest that further evidence is available in almost all cases at the point of initial decision as a result of the pilot process, although in a majority of cases this remains limited to the provision of a witness statement and further oral testimony elicited from the applicant during the substantive interview.

4. EVALUATION – QUALITY OF DECISIONS

Statistical overview

The table below sets out a statistical overview of UNHCR’s assessments of the quality of Solihull Pilot and Leeds decisions²⁸ to date. It is important to note that – in line with its practice on drawing conclusions from and feeding back on its findings under the QI project – UNHCR’s emphasis remains on the trends its assessments identify, rather than on the overall scores obtained.

The decisions assessed to date were all taken between January and July 2007.

Criteria	Solihull Pilot	Leeds
Number of decisions assessed	34	25
Number of Grants / Refusals	6 / 28	5 / 20
Average decision assessment scores	76.76%	82.92%
Proportion of decisions scoring 85% (FE) or above	32.35%	48.00%

Trends Identified

(A) Solihull Pilot decisions

UNHCR’s assessments of decisions taken under the Solihull Pilot suggest a mixed picture in the quality of decisions. The Office has observed that the 1951 Convention relating to the Status of Refugees (“the Convention”) and the principles contained in its Handbook on Procedures and Criteria for Determining Refugee Status (“the Handbook”) are at times incorrectly interpreted and misapplied.

In common with the trend reflected in the assessments undertaken by UNHCR under the auspices of its QI project more widely across BIA²⁹, a significant proportion of decisions were identified by UNHCR as not adopting a ‘proper approach’ to establishing the facts of a claim for international protection.

This includes, in particular, reliance on poor or unsustainable reasoning, including speculative arguments, in the assessment of the credibility of particular factual claims. This was identified to be a concern in nearly half of pilot decisions assessed to date.

It also includes the adoption of an incorrect approach to the concept of the burden of proof in establishing factual claims (or indeed future risk), bearing in

²⁸ A minority of UNHCR’s assessments of Solihull Pilot decisions and interviews have been subjected to the Quality Initiative’s own quality assurance processes (peer review). As such the data presented is provisional at this interim stage.

²⁹ Second, Third and Fourth Quality Initiative Reports, available at: <http://www.ind.homeoffice.gov.uk/aboutus/reports/unhcr>

mind the shared duty to ascertain and evaluate all of the facts, as per Paragraph 196 of the Handbook. This was identified to be a concern in nearly a third of pilot decisions assessed to date. For example, a recurring problem observed in a number of pilot decisions is the reliance on a standard of proof in assessing past or current facts, and the attachment of little or no weight to evidence – including oral testimony – put forward.

It is of course important to point out that a proportion of decisions – around 1 in 10 – were identified as adopting a particularly good approach to establishing the facts and the assessment of credibility.

In nearly a third of pilot decisions, UNHCR identified a misapplication of the concept of persecution. This includes decisions which either do not properly assess whether treatment feared amounts to persecution or indeed do not adequately assess future risk. The latter is often a consequence of a decision which focuses on the past, rather than the future, in light of the forward-looking nature of the Convention.

A smaller proportion of decisions – nearly 1 in 3 – have also been assessed as incorrectly interpreting or applying the concepts of sufficiency of protection and / or internal flight.

In nearly half of decisions assessed, UNHCR has identified concerns about the use made of country of origin information (COI). This includes situations where available and relevant COI is not explicitly considered in the decision as well as, in particular, situations where conclusions are drawn which the COI quoted does not actually support.

While the analysis above raises a number of concerns, it is important to point out that a number of elements of good practice have been observed in *particular* Solihull Pilot decisions. Examples include some decisions with clear conclusions on whether material claimed facts in a case have been accepted or not, employing tailored and relevant COI as the basis for these conclusions.

(B) Leeds decisions

As with the assessments of decisions taken under the Solihull Pilot, UNHCR's assessments of decisions taken in Leeds also suggest a mixed picture. A significant proportion of decisions were identified as incorrectly interpreting or misapplying one or more of the Convention criteria or principles contained in the Handbook.

A significant proportion of decisions were identified by UNHCR as not adopting a 'proper approach' to establishing the facts of a claim for international protection. As set out above, this includes, in particular, reliance on poor or unsustainable reasoning, including speculative arguments, in the assessment of the credibility of particular factual claims. This was identified to be a concern in just over half of Leeds decisions assessed to date.

However, just over 1 in 6 decisions were identified as adopting a particularly good approach to establishing the facts and the assessment of credibility. For example, in one case the decision maker clearly considered the claimed material facts in turn and, with reference to tailored country of origin information, objective reasoning and considering whether to apply the benefit of the doubt where necessary, came to clear findings as to whether those facts could be accepted or not.

UNHCR's assessments of Leeds decisions highlight particular concerns about the application of the concept of persecution and the assessment of future risk – similar to those reflected above. This was identified as a concern in just over a third of decisions assessed.

In just over half of decisions assessed, UNHCR has identified concerns about the use made of country of origin information (COI), similar to those identified in Solihull Pilot decisions as set out above.

While the above analysis raises a number of concerns, it is important to point out a positive trend observed by UNHCR in Leeds. This is the reliance in a not insignificant number of decisions on a clear and logical structure in decisions, i.e. clearly establishing the facts of a claim for international protection and then applying the refugee definition or, as the case may be, European Convention on Human Rights (ECHR) criteria, to those facts.

A number of elements of good practice have also been observed in *particular* Leeds decisions. Examples include decisions with good and tailored use of country of origin information and case law relevant to the facts of the applicant's case, enabling the decision maker to employ objective reasoning in coming to her conclusions in the application.

(C) Comparative assessment

A high-level comparison of UNHCR's assessments of Solihull Pilot and Leeds decisions to date suggests that, overall, Leeds decisions have scored consistently higher than Solihull Pilot decisions.

UNHCR's assessments suggest a number of differences as well as similarities between decisions under the pilot and in Leeds.

UNHCR notes, for example, that its assessments of Leeds decisions suggest a lower prevalence of the misapplication of interpretation of the concepts of sufficiency of protection and internal flight. A much lower proportion of Leeds decisions appear to adopt an incorrect approach to the concept of the burden of proof in establishing factual claims (or future risk). A more consistent approach is also apparent in Leeds in adopting a clear and logical structure in decisions.

On the other hand, it is noted that a slightly higher proportion of Leeds decisions have been identified as not adopting a 'proper approach' to establishing the facts of a claim for international protection. Indeed, a higher

proportion of Leeds decisions have been identified as adopting a particularly poor approach to the assessment of credibility, than under the Solihull Pilot.

In the light of this UNHCR does not feel able to make an assessment, at this stage, of the *relative* quality of decisions between the two.

5. EVALUATION – RELATIONSHIP BETWEEN PILOT AND QUALITY

UNHCR’s assessments of the pilot process and the quality of decisions taken under the pilot, including in comparison with Leeds, do not, in its opinion, facilitate a clear conclusion of the impact of the pilot on the quality of decisions to date.

The question as to whether or not explicit and appropriate consideration is given to any of the extra evidence elicited through the pilot process, as assessed by UNHCR, shows that this has only been done in 15 out of 34 cases assessed (see table below).

This suggests to UNHCR that, in the majority of the decisions reviewed to date, the pilot’s potential impact has not been realised at the final stage – i.e. the making of the actual decision.

UNHCR has not sought to establish or assess *why* this is the case, but notes that many factors have the potential to affect the quality of decisions taken under the pilot beyond the adherence or lack of adherence to the pilot process. These may include the skills and abilities of the decision maker him or herself, his or her awareness of the purpose of the pilot and its specific elements, the supervision and support they receive from senior colleagues, and their working environment – including workloads.

In the Office’s view, therefore, it is both necessary and appropriate to also reflect on whether the pilot process itself has the *potential* to improve the quality of decisions, whether or not that potential has actually been realised in the decisions taken under it, due to other or external factors.

It is worth noting that in almost all pilot decisions, as set out elsewhere in this report, more evidence was available at the pre-initial decision stage as a consequence of the implementation of the pilot process. In nearly half of cases assessed, this included evidence other than the witness statement or oral testimony elicited from the applicant through questions put by the legal representative during the substantive interview. It is also worth noting that in just over half of decisions assessed, in the view of the Office all the material facts had been identified and relevant evidence sought at the pre-initial decision stage.

Unfortunately, as set out below, UNHCR’s assessments go on to suggest in just under half of pilot decisions assessed to date was this further evidence given explicit and clear consideration, leading the Office to conclude that the pilot only had a clear and positive impact on decision quality in just under half of pilot decisions.

Criteria	Number of decisions (%)	
Appropriate and explicit consideration given to further evidence / submissions	15	44%
Pilot process clear positive impact on decision quality	15	44%

On a more encouraging note, UNHCR has identified a small number of decisions where clear adherence to and effective implementation of the pilot process have had a clear positive impact on the quality of the ultimate decision taken³⁰.

Unfortunately, UNHCR's assessment of specific elements of the pilot process as set out elsewhere in this report, suggest a lack of adherence to or proper implementation of particular elements of the pilot process in a majority of cases reviewed. This leads the Office to conclude at this stage that, overall, the pilot itself has not been properly tested, in spite of the potential impact the Office has identified it can have, as set out above.

In the light of this conclusion and UNHCR's view that it is not possible, at this stage, to make an assessment of the relative quality of Leeds and Solihull Pilot decisions (see above), the Office is of the view that an evaluation which focuses solely on comparing Solihull Pilot with Leeds decisions does not facilitate a conclusion on the merits or otherwise of the pilot process nor indeed support a conclusion that the pilot does not have the potential to deliver its objectives.

UNHCR suggests therefore that a view on the merits of the pilot should focus on an assessment of the elements of the pilot themselves and their actual or potential impact on decision quality. Where it is felt necessary to rely on a comparative assessment, UNHCR recommends that any such analysis encompass a comparative assessment of non-pilot decisions taken in Solihull with Solihull Pilot decisions, particularly in view of the fact that a significant proportion of decisions taken in Solihull are non-pilot cases, contrary to the original expectations. Such an analysis will enable a more focused assessment of the impact of the pilot process.

³⁰ See Annex II.

6. CONCLUSION

UNHCR wishes to reiterate its support for the aims of the pilot, in particular the intention to improve the quality of asylum decisions. The Office is however concerned that the aim to improve the quality of decisions is, at this stage, not being met.

Due to the issues outlined in this report, however, UNHCR is inclined to conclude that this is more a consequence of the lack of clear adherence to and effective implementation of the elements of the pilot process, and other external factors which may have an impact on the quality of decisions. UNHCR recognises the difficulties inherent in the testing of any new initiative and of the logistical challenges introduced by this pilot in particular. Efforts to remedy and address some of these during the course of the pilot are therefore to be commended.

Nevertheless, in the view of UNHCR, the potential and actual impact of the pilot – as demonstrated in a number of specific pilot cases assessed to date – has not been properly tested as yet. As such the Office cannot at this stage conclude on the actual impact of the pilot on the quality of decisions. UNHCR is however of the opinion that where the essential elements of the pilot have been properly implemented in particular decisions it has had a positive impact on decision quality. UNHCR furthermore believes that a shift in the focus of the final evaluation on the impact of the pilot's elements themselves and to include a comparative assessment of Solihull Pilot and non-pilot cases will enable a more focused evaluation of the actual and potential impact of the pilot process.

ANNEX III: EXAMPLES OF GOOD PRACTICE & POSITIVE IMPACT OF PILOT PROCEDURES ON QUALITY OF INTERVIEWS AND DECISIONS

(The first two examples were also provided in UNHCR's interim report of September 2007)

Case A

The pro forma was used well to break down the material issues relevant to the claim. Although it was not signed by the Case Owner as well as the legal representative, documents on the file referred to discussions having taken place between them to discuss the material facts at issue in the claim. Questioning at the interview then focused mainly on the areas previously noted as being in dispute on the pro forma. The information obtained from the witness statement and interview and the consistency between the two accounts was then used by the Case Owner in deciding whether they were able to accept the material claimed facts at issue.

Case B

The legal representative participated fully in the interactive interview. The interviewer and legal representative appeared to be working well together in order to clarify and identify the relevant material facts in the case, with the interviewer providing regular opportunities for the legal representative to ask questions. The questions asked by the legal representative allowed further information to come to light and appeared to prompt the Case Owner to further explore material areas. The additional information obtained through the legal representative's presence at the interview was then considered by the Case Owner along with the contents of the witness statement, allowing for a more detailed assessment of the material facts of the claim in coming to a decision.

Case C

The pro-forma was clearly used by both parties to identify accepted and disputed material issues. There was excellent use of the Witness Statement on the part of the Case Owner to prepare relevant and material areas of questioning for the interview. Additionally, knowledge of the content of the claim prior to interview led the Case Owner to undertake pre-interview research which led to a vital line of questioning at interview.

Good interactive interview allowed the Legal Representative to delve deeper in some areas of questioning and ultimately provided for more evidence upon which the Case Owner was able thoroughly consider credibility in the decision.

Case D

UNHCR observed a well-focused interview resulted from use of the witness statement as was clear from the minuting of the file. At interview, questions

from the legal representative allowed for more evidence to come to light in which the applicant was able to clarify responses and address inconsistencies.

While UNHCR did not have access to a copy of the pro-forma for agreeing issues, there was a significant amount of additional documentary evidence available pre-decision which appears likely to have resulted from fruitful discussion between Case Owner and Legal Representative. Further consideration of the claim post interview had led the Case Owner to apply flexibility to allow for the commissioning of further medical evidence. The resulting medical report provided evidence on material elements of the claim relating to credibility. Unfortunately UNHCR noted the decision did not adequately consider the content of the medical report.

Case E

Following completion of the pro-forma pre-interview, UNHCR observed a useful discussion between the Case Owner and Legal Representative which allowed them to agree on areas which would need further questioning at interview. Upon observation of the interview, it was evident that interaction between Case Owner and Legal Representative led to a less adversarial environment and allowed him to put forward more detailed evidence. Additional evidence that came to light as a result of the Legal Representative's questioning was considered in the credibility assessment of the final decision.

Case F

The pro forma, agreed by Case Owner and legal rep just before the interview, was used well to identify the material elements of the claim which were in dispute. The interview then focused purely on the material elements of the claim. In the course of the interview – the Case Owner decided that she was not going to take issue with an aspect of the claim previously identified as “in dispute”. This was communicated to the legal rep and the interview was therefore curtailed without the need to cover this issue in detail. A good quality decision was then produced which focused on the material facts of the claim. Findings were well supported by the evidence gained thorough questioning on relevant issues during the interview.

Case G

Although the pre-interview pro forma was not signed by either party, good record keeping presented a file note stating that the pre-interview discussions had been conducted by telephone with the legal representative. The pro forma was used well to identify the material facts of the claim. The interview focused on the material issues in dispute in the claim, whilst the legal representative took the opportunity to make oral submissions at the end of the interview in order to make clear the applicant's multiple reasons for future fear. A file note also detailed how the post-interview discussion had taken place by telephone – although a pro forma was not completed, the

discussions were followed with a letter from the legal representative detailing what had been agreed and an issue where further evidence was required (further evidence which the legal representative duly provided). The further evidence provided post interview was then taken into account when assessing the credibility of the material claim to which it related.

Case H

While the pro forma had not been signed by both parties, it had clearly been used by the Case Owner prior to interview to identify areas relating to material facts that required further questioning at interview. At interview, the Case Owner was clear and transparent about his areas of doubt / uncertainty which allowed the legal representative to ask useful, focused questions that brought more material evidence to light. The cooperation between legal representative and Case Owner allowed the applicant to put forward more relevant information and to clarify what otherwise might have appeared as inconsistencies. Prior to finishing the interview, the legal representative took further representations from the client and was able to make submissions on areas for which the Case Owner had doubts (e.g. what the convention reason was in the case). Post interview the CO and LR had a useful discussion where the CO was able to be explicit about what further evidence would be useful to make an informed decision on a particular material fact. He then gave the LR and applicant 2 weeks to provide that information (flexibility). Information provided in written representations by the LR was taken into account in the Case Owner's decision.

Appendix 5

Testing Implementation of Early & Interactive Legal Advice

New Asylum Model Quality Team & Legal Services Commission

July 2006

Introduction

This paper sets out details of how a six-month pilot of a new approach to improve asylum decisions through early and interactive advice and representation might be implemented in Solihull. It follows the circulation of a joint proposal from the New Asylum Model (NAM) Quality Team and the Legal Services Commission and incorporates comments and suggestions from a stakeholder workshop held on 5 June 2006.

Pre-Screening Information Service

Proposition Summary

An independent on-site information service is set up in each asylum screening unit to ensure that all asylum seekers have access to the full range of information, including their rights and responsibilities in the asylum system, before they approach the Home Office to claim asylum.

Testing Implementation

Since it will not be possible to set up an information service that would only provide information to those applicants going to Solihull and since further work with stakeholders is needed to flesh out the details of this aspect of the proposal, the on-site information service will not be dealt with in the pilot. It will form a separate proposal and will be tested in one asylum screening unit (ASU) later in 2006.

Although the information service will be developed and tested independently, it will be necessary to establish an efficient referral service to representatives in Solihull to ensure that the rest of this pilot, including the time limits envisaged, is feasible. The Legal Services Commission Rota Administrator will therefore deal with these referrals during the pilot.

Pre-Interview Legal Advice and Funded Evidence Gathering

Proposition Summary

The proposition seeks to create an environment where all relevant evidence is correctly identified and placed into account before the decision is made rather than coming to light fully only at the appeal stage. To achieve this, legal representatives and case owners will work together to ensure that the key issues in the case are identified before the asylum interview and those which are not in dispute and do not require specific evidence are quickly dispatched, allowing the representative to concentrate on evidence gathering only for material issues which remain in dispute. Where a material issue is in dispute and specialist evidence could genuinely assist the decision-maker to make a just decision, the flexibility criteria will ensure that agreed delays to the usual one month time limits are possible.

Testing Implementation

Ordinary v. Complex Cases

An ordinary case is one where the genuinely useful evidence is confined to the applicant's statements and general country of origin or other objective evidence already in the public domain. Such cases (whether grants or refusals), which are expected to be the majority, fall to be decided within one month of application. Complex cases are defined as those which fall within the flexibility criteria and which may not be able to be decided within one month, especially where specific evidence gathering is required.

Ordinary Timelines

For ordinary cases the time limits and process shall be as follows.

- Day one: Application and Screening
- Day two: Dispersal
- Day four (the third day after arrival in the dispersal area even where screening and dispersal has been delayed): Initial appointment with designated legal representative.
- Day ten (or earlier where possible): Representative submits witness statement and supporting evidence.
- Days ten – fifteen: The case owner and the legal representative agree on matters which are not to be considered in dispute, ensuring that the asylum interview can be focussed and that no further, specific evidence is required.
- Day fifteen: The substantive asylum interview.
- Days fifteen – twenty: Legal representative submits any further evidence if agreed with case owner to be necessary.
- Day twenty: The decision is served.

The Flexibility Criteria

The flexibility criteria seek to define, without being exhaustive, those occasions when a fair and sustainable decision may not be able reasonably to be made within one month. The criteria set out circumstances where the time limits may (but not necessarily will) have to operate flexibly by agreement to ensure that applicants and their legal representatives have the time which is required to provide specific evidence on material issues in dispute and so that the case owner can make just decisions with all available evidence.

Given the unavoidable possibility of late disclosure of material facts as a result of fear, trauma, gender or other factors, a case may fall within the flexibility criteria at any stage of the process, although it is expected that the majority of such cases will come to the attention of the legal representative after day four and before day ten.

As with an ordinary case, the legal representative will be expected to submit a witness statement and any general supporting evidence no later than day ten and will alert the case owner to the possible need to adopt the flexibility criteria as soon as possible after their interview with the claimant but not later than day 10. There may be instances where the need to adopt the flexibility criteria only becomes apparent at some time during or post the asylum interview. In these cases there will be provision to allow for flexibility according to the criteria below, if necessary. Every effort will be made to reach the day 20 deadline if possible.

Where a factual issue is material to the decision and is one which *can be established by specific objective evidence*, the case owner, having received the witness statement and general supporting evidence, and in discussion with the legal representative, will decide whether the issue is one which can be accepted without specific evidential proof over and above that already submitted. If this is not the case and the matter remains in dispute, the case owner and the legal representative will jointly ensure that all possible steps are taken to obtain the specific evidence required to decide the particular factual issue within the twenty day limit if possible or a reasonable time thereafter, which shall be agreed between the parties.

Flexibility may apply to the following categories of case:

- Where there is an allegation of torture or other trauma which is material to the decision and which expert medical evidence could reasonably resolve;
- Where there are gaps in publicly available objective evidence on issues which are material to the decision and for which expert country evidence can reasonably be obtained;
- Where specific documents are presented the validity of which is material to the decision and which can reasonably be verified by a relevant expert;

- Where the language or dialect spoken by the applicant is material to the decision and this can reasonably be verified by a relevant expert;
- Where the nationality, ethnicity or clan of an applicant is material to the decision and this can reasonably be verified by a relevant expert;
- Where the age of the applicant is material to the decision and this can reasonably be verified by a relevant expert;
- Where a factual claim is material to status determination and a witness to that alleged claim will be available to give evidence within a reasonable time;
- Where the applicant's mental capacity to give evidence is in dispute and the matter could reasonably be resolved by expert medical evidence;
- Where further objective evidence may resolve an issue identified as being in dispute and can be obtained within a reasonable time;
- Where the interests of justice and the need to make sustainable decisions otherwise require flexibility.

Agreeing the Issues

In both ordinary and complex cases, the case owner and legal representative will be required to discuss the material issues in the application before the asylum interview and to come to an agreement in relation to the following categories of issue:

1. Those material issues which the case owner is willing to accept without further proof after submission of the witness statement and general supporting evidence and which need not be the subject of further proof or argument;
2. Those issues which remain in dispute, which could not be resolved by further objective evidence;
3. Those issues which remain in dispute but which could potentially be resolved by further objective evidence (not including expert evidence).
4. Those issues identified as falling within the flexibility criteria.

The Pro-Forma

Discussions relating to both the applicability of the flexibility criteria and to the agreement of issues considered not to be in dispute will be recorded on a pro-forma which shall form part of the file and shall be included in the appeal bundles of both the applicant and the Home Office in the case of any appeal. While the pro-forma will not bind the parties it will provide evidence of the discussions which led to the particular evidence gathering that did or did not take place in the particular case.

The Interactive Asylum Interview

Proposition Summary

As a result of the pre-interview work, the issues in each case should already be known to the case owner before the asylum interview and a discussion should already have taken place with the representative to narrow the issues in dispute. As a result, the case owner will be in a position to prepare thoroughly for the asylum interview which will also be limited and potentially shorter and simpler than is currently the case. The asylum interview should therefore represent the last rather than the first opportunity to clarify issues in dispute in the majority of cases. To assist with this process, although the case owner will control the interview they will invite the legal representative to participate in the interview with a view to jointly ensuring that, in the vast majority of cases, all factual issues are put into account and that the whole case has been presented before the end of the interview.

Testing Implementation

Roles of the Parties

As the decision-maker, the case owner will lead the interview. The case owner may request the legal representative to begin the questioning; only questioning the applicant him/herself when an issue of difficulty arises or needs clarification. Alternatively, the case owner may wish to conduct the majority of the questioning him/herself. In either case, the proceedings should be genuinely interactive so that both parties ensure that the applicant has addressed all the material issues still in dispute as fully and comprehensively as possible. The legal representative may request the case owner to ask follow up questions where an issue does not appear to have been adequately explored and the case owner may request the legal representative to take over questioning if it appears this would assist either the applicant or the case owner to understand and deal with the issues effectively. Normal professional standards will apply to the representative so that any line of questioning should not lead the applicant.

At all times the emphasis should be on assisting the applicant to put forward the factual basis of the claim in as much detail as possible. The legal representative may wish to make representation on legal points at the end of the interview and these will be taken into account by the case owner, but the interview should not become a forum for a detailed discussion between the legal representative and the case owner of legal points. The central role of the applicant and the establishment of the facts must always be in the forefront of the minds of all parties.

The emphasis of this interactive process is on establishing the facts. It should not degenerate into a law lecture or an argument which excludes the applicant from the process. Breaks, delays and adjournments should be permissible whenever

these are necessary in the interests of justice and would assist sustainable decision-making.

Departing from Agreed Issues

The starting point for the interactive asylum interview will be the pro-forma which records those issues considered not to be in dispute and those which require further examination and evidence. It would not normally be appropriate to re-open issues already agreed not to be in dispute. There are, however, two circumstances where a departure from the agreed issues would be appropriate. Firstly, where the applicant's responses to questions cast doubt on an issue which had previously been considered settled and the issue is a material one. Secondly, where the applicant raises new material claims which have not been presented before. In both these circumstances the case owner and the legal representative have a shared duty to assist the applicant to put forward the issue and to ensure that relevant follow up questions are put to the applicant. In either of these circumstances the case owner and the legal representative should come to an agreement by the end of the interview on any further amendments to the pro-forma which records the issues agreed to be in dispute or otherwise.

The Record of Proceedings

To ensure a truly interactive interview, it will not be possible for either party to take verbatim notes. For this reason the interviews will be tape (or digitally) recorded. The parties may also agree to a summary written record of the proceedings which will form the basis of the decision. A transcript of the recording will not usually be necessary before the decision unless a matter arising during the interview is in dispute and requires clarification and such issues should generally have been raised during the interview itself.

Post-Interview Evidence and Representations

While the majority of issues and evidence should have been presented before and during the asylum interview, it is open to the parties to agree a timetable for further submissions or evidence either in relation to issues already identified or in relation to those which arose for the first time or were re-opened during the interview itself. As with all aspects of this process, the objective of post-interview submissions is to ensure that all relevant evidence has been put into account by mutual agreement before the decision is made.

Achieving Cultural Change

Proposition

Achieving a genuinely interactive process where issues are clearly delineated and only those the subject of real dispute are contested, where all relevant evidence is presented at the decision rather than only at the appeal stage and where the

representative and case owner can jointly ensure the applicant clearly puts forward all relevant material claims during the interview, will require a significant shift from the current polarised and adversarial culture in asylum decision making. This is true for both case owners and legal representatives and will require both formal and informal mechanisms if it is to have any chance of success.

Testing Implementation

Top-Up Training

A top-up training programme for both case owners in Solihull and legal representatives in the region will be designed by the NAM Quality Team and the Legal Services Commission to ensure that all parties are able to identify relevant issues, evidence which might or might not support particular claims and the genuine applicability of the flexibility criteria. All case owners in Solihull and all legal representatives participating in this pilot will be required to undergo this training. The training programme will include joint sessions with case owners and legal representatives on identifying issues genuinely in dispute and conducting an interactive asylum interview to maximise disclosure of material facts as well as generally how to manage a close and interactive relationship in an adversarial casework context.

Performance Management & Targets

Within the asylum teams the case owners will be performance managed in such a way as to ensure that the benefits of the interactive and front-loaded process are realised. Case owner targets will be to complete as many cases as possible within a given period. Completion is defined as grant or removal and where unsustainable negative decisions continue to be made this target will not be reached. Team leaders and other managers will therefore ensure that case owners understand the benefits of defining the issues in dispute, waiting for genuinely needed specific evidence and only making the decision when relevant evidence is available in the minority of cases expected to require specific evidence gathering.

The Legal Services Commission intends to have certain quality criteria as a prerequisite for legal representative involvement in the scheme during the implementation of the pilot.

Establishing Professional Respect in a Non-Adversarial Environment: The Working Group

In addition to formal measures such as training and performance management, case owners and legal representatives need less formal mechanisms to meet, establish mutual respect and to break down existing barriers of suspicion and mistrust. Much of the success of this interactive approach will depend on the confidence that each side has in the professionalism and good will of the other. For the test of the proposition, a working group will be set up in the region, chaired and

facilitated by the NAM Quality Team and the Legal Services Commission. The aim of this group will be to bring case owners and legal representatives (who will already have had joint training on implementing this proposal) together after casework has begun in the pilot and on a monthly basis thereafter. While this working group will not be a forum for the discussion of individual cases, it should allow case owners and legal representatives to discuss any difficulties or frustrations they have, using specific cases as examples, and to formulate mutually agreed working practices and procedures in general with a view to making this proposition work in practice. It is envisaged that these joint stakeholder/Case Owner meetings will be established on a regional basis to reflect the regional nature of NAM.

The Mutual Complaints Procedure

While it is to be hoped that the training, performance management and the working group will ensure that complaints are unnecessary, it is expected that there will be occasions when either the case owner or the legal representative considers the other party to be acting unreasonably. A mutual complaints procedure will therefore be established during the pilot. The procedure will seek to address those issues, generally relating to the implementation of the flexibility criteria, which could be most usefully resolved through a complaints procedure rather than in the formal appeals process. It will not seek to resolve genuine disagreements as to the evidence or the conclusions which should be drawn from the evidence, since this is the proper place of the appeal system.

The mutual complaints procedure will be jointly overseen by the Legal Services Commission and the NAM Quality Team and will deal with circumstances where either a legal representative or a case owner is not applying the flexibility criteria fairly, such as:

- failing to mitigate delay in obtaining third party reports or other evidence;
- seeking flexibility to submit evidence on issues which are not material to the claim;
- seeking flexibility to submit evidence on issues which are not susceptible of proof;
- seeking flexibility to submit evidence from individuals or organisations which are not qualified to provide specialist evidence on the issue in dispute;
- otherwise unreasonably seeking flexibility;
- insisting on proof of matters which cannot reasonably be proved by evidence;
- insisting on evidence which would establish the issue in dispute beyond the standard of proof of reasonable likelihood;
- insisting on unreasonable time limits to obtain third party reports or other evidence;
- insisting on evidence on issues which are not material to the claim;

- otherwise unreasonably denying flexibility.

Within the confines of the above circumstances the aggrieved party should first complain to the team leader, in the case of the case owner or to the managing partner of the participating firm in the case the legal representative.

Where this does not resolve the situation the aggrieved party may escalate the issue to the joint complaints mechanism, co-chaired by the Legal Services Commission and the NAM Quality Team. The complaint shall be addressed to the complaints mechanism in writing setting out how the flexibility criteria are allegedly not being applied fairly. The Legal Services Commission and the NAM Quality Team will adjudicate on the matter within 24 hours of receiving the complaint and will make a recommendation to the case owner and the legal representative with a view to resolving the issue before the matter proceeds to the appeal process. Any legal challenges should be notified to the NAM Quality team.

Unrepresented Applicants

Proposition and Assumptions

During the pilot of this proposition every applicant who qualifies for publicly funded representation at the decision stage will receive it and it is not envisaged that there will be any unrepresented applicants other than those who fail the existing sufficient benefits test (expected to be a tiny minority). The problem of unrepresented applicants was, however, a significant concern of stakeholders given the interactive nature of the relationship between case owners and legal representatives in this process. Because of these concerns some general principles relating to unrepresented applicants as well as the process to be followed in such cases during this pilot are set out here.

Pilot Implementation

In general, case owners have an obligation to make a fair and sustainable decision based on all relevant evidence. To achieve this goal when faced with an unrepresented applicant, case owners will need to make an assessment whether or not the applicant's case is one which requires specific evidence gathering. If the applicant is unrepresented as a result of failing the sufficient benefits test the case owner will proceed to interview and decide the case in the normal way, asking for relevant evidence to be produced if this is necessary for a just determination to be made. If the applicant is unrepresented for any other reason the case owner will refer the matter to the Legal Services Commission Rota Administrator for allocation to a representative.

In situations where the case requires specific evidence gathering to ensure a fair and sustainable decision and the applicant remains unrepresented for any other reason not dealt with above, the case owner can commission such expert or other reports as are necessary to make the decision correctly him or herself and shall

follow the guidance in the flexibility criteria in as much as is necessary to ensure the availability of all relevant evidence before the decision is made, despite the absence of a legal representative.

Evaluation

The six month pilot of this proposal will be subject to a rigorous evaluation procedure. This will be overseen by an Evaluation Working Group which will meet on a monthly basis throughout the period of the test and draw up a final report at the end of the six month test.

The Evaluation Working Group

Membership: LSC, stakeholders, the Asylum & Appeals Policy Directorate, Home Office legal advisors and the NAM Quality Team

Terms of Reference: Will be decided before the commencement of the pilot scheme.

Reporting Cycle: Will be monthly for the duration of the pilot. There will be a contractual requirement on the participating solicitors to report (stage) costs to the LSC on a monthly basis.

Final Recommendation: Will be produced at the end of the six month test.

Quantitative Evaluation Criteria v. Leeds:

Number of cases decided;

Number of cases meeting a one month completion target;

Grant rate;

Number of appeals;

Appeals overturn rate;

Legal aid costs per case (pre-interview, for attendance at interview, post interview, pre-decision disbursements);

Overall legal aid costs (including funded appeals lodged and appeal disbursements);

Support costs per case;

Overall support costs;

AIT costs per case;

Overall AIT costs;

Overall costs (LSC/NASS/AIT);

Number of unrepresented cases.

Qualitative Evaluation Criteria v. Leeds

External Audit of 30% of NAM Files by Auditor Appointed by Evaluation Working Group;

NAM Files Audited according to the Quality Criteria and Assessment forms Developed in QI;

LSC Research Dept to Audit the Same 30% of Repls Files According to Similar Criteria Agreed by the Evaluation Working Group;

LSC Peer Review of a Selection of files.

2008 No. 760

IMMIGRATION

The Asylum Support (Amendment) Regulations 2008

<i>Made</i> - - - -	<i>18th March 2008</i>
<i>Laid before Parliament</i>	<i>19th March 2008</i>
<i>Coming into force</i> - -	<i>14th April 2008</i>

The Secretary of State, in exercise of the powers conferred by section 166(3) of, and paragraphs 1 and 3(a) of Schedule 8 to, the Immigration and Asylum Act 1999(a), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Asylum Support (Amendment) Regulations 2008 and shall come into force on the 14th April 2008.

Kind and levels of support for essential living needs

2. For the table at regulation 10(2) of the Asylum Support Regulations 2000(b) substitute:

“Table

Qualifying couple	£66.13
Lone parent aged 18 or over	£42.16
Single person aged 25 or over	£42.16
Single person aged at least 18 but under 25	£33.39
Person aged at least 16 but under 18 (except a member of a qualifying couple)	£36.29
Person aged under 16	£48.30”.

Revocation of the Asylum Support (Amendment) Regulations 2007

3. The Asylum Support (Amendment) Regulations 2007 are revoked.

Home Office
18th March 2008

Liam Byrne
Minister of State

(a) 1999 c.33

(b) S.I. 2000/704: regulation 10(2) was substituted by regulation 4 of the Asylum Support (Amendment) Regulations 2002 (S.I. 2002/472) and amended by regulation 2 of the Asylum Support (Amendment) (No. 2) Regulations 2002 (S.I. 2002/2169), regulation 2 of the Asylum Support (Amendment) (No. 2) Regulations 2003 (S.I. 2003/755), regulation 2 of the Asylum Support (Amendment) Regulations 2004 (S.I. 2004/763), regulation 2 of the Asylum Support (Amendment) (No. 2) Regulations 2004 (S.I. 2004/1313), regulation 2 of the Asylum Support (Amendment) (No. 2) Regulations 2005 (S.I. 2005/738), regulation 2 of the Asylum Support (Amendment) Regulations 2006 (S.I. 2006/733) and regulation 3 of the Asylum Support (Amendment) Regulations 2007 (S.I. 2007/863).

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 amends regulation 10(2) of the 2000 Regulations by increasing the cash amounts payable, as a general rule, in respect of a person's essential living needs. These changes take effect from the 14th April 2008 and on that date the Asylum Support (Amendment) Regulations 2007, which set out the amounts previously payable, are revoked.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.

£3.00

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