The Extra Mile

An evaluation of the model, achievements and success factors of the Legal Services Agency Women and Young Persons’ Department

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### Abbreviations used in this report

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<th>Abbreviation</th>
<th>Definition</th>
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<tr>
<td>ARE</td>
<td>Appeal Rights Exhausted</td>
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<tr>
<td>CICA</td>
<td>Criminal Injuries Compensation Authority is an executive agency, sponsored by the Ministry of Justice, which awards compensation to people who have been physically or mentally injured because they were the blameless victim of a violent crime in England, Scotland or Wales. They run a compensation scheme for victims of human trafficking.</td>
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<td>DLR</td>
<td>Discretionary Leave to Remain is a form of immigration status granted to a person who the Home Office has decided does not qualify for refugee status or humanitarian protection but where there are other strong reasons why the person needs to stay in the UK temporarily.</td>
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<td>FGM</td>
<td>Female Genital Mutilation</td>
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<td>FNP</td>
<td>Foreign National Prisoner</td>
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<td>FOI</td>
<td>Freedom of Information</td>
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<td>HO</td>
<td>Home Office</td>
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<td>JR</td>
<td>Judicial Review</td>
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<td>LASPO</td>
<td>Legal Aid, Sentencing and Punishment of Offenders Act 2012</td>
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<td>LSA</td>
<td>Legal Services Agency (the charity and law centre of which the Women and Young Person’s Department is one of the three legal departments)</td>
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<tr>
<td>NGO</td>
<td>Non-governmental organisation. In the UK, this usually refers to charities and other non-profit making organisations such as social enterprises. It is used in this report to denote a charity or not-for-profit organisation.</td>
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<tr>
<td>NRM</td>
<td>National Referral Mechanism (a process for identifying and supporting victims of trafficking)</td>
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<td>NRPF</td>
<td>No Recourse to Public Funds</td>
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<tr>
<td>OISC</td>
<td>Office of the Immigration Services Commissioner is an independent, non-departmental public body set up under the Immigration and Asylum Act 1999. It is responsible for regulating immigration advice nationally, and recognises three levels of ‘competence’ (Levels 1, 2 and 3) which have to be learnt and demonstrated in order to be able to practice at that level.</td>
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<tr>
<td>SLAB</td>
<td>Scottish Legal Aid Board</td>
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<td>TARA</td>
<td>Trafficking Awareness Raising Alliance. TARA is an initiative of Community Safety Glasgow and provides a range of support for victims of trafficking, including intensive advocacy, support and information.</td>
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<tr>
<td>UASC</td>
<td>Unaccompanied Asylum Seeking Children i.e. children under the age of 18 who arrive without any known guardian</td>
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<td>UKBA</td>
<td>United Kingdom Border Agency</td>
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<td>VAW</td>
<td>Violence Against Women</td>
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<td>VOT</td>
<td>Victim of Trafficking</td>
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Acknowledgements

We would like to thank everybody who contributed time and thought to this evaluation. A wide range of external stakeholders carved space in often very busy schedules to speak with us. Two people who could not find time to speak with us during our fieldwork period took the time to fill out our questions and send them back. All the inputs were extremely helpful.

Clients of the Department came forward in unexpectedly high numbers to meet with us and discuss often personal issues. They made journeys right across the city to do so, sometimes with small children, arrived on time, and were engaged, thoughtful and honest. Their contributions are central to this evaluation. We would also like to thank the interpreters and guardians who accompanied some of the client interviewees and made our discussion possible.

We would finally like to thank the staff of the Woman and Young Persons’ Department who gave us literally days of their time to enable us to do our research. Interviews with them often took two or three hours and they organised six full and long days for us in the office to review case files and meet with clients. From the first to the last they were helpful, professional and transparent about their work, giving us far more documentation to review than would be normal for an evaluation of this size. We would particularly like to thank the Head of Department, Kirsty Thomson, for welcoming and answering all our questions with patience and making us feel that nothing was too much trouble.
1. Introduction and context

“The Department has one quality which to me is like a shining light. It is always prepared to go the extra mile for its clients. Many others may have given up on them, but the Department never does.”

The Department provides a specialist legal advice, assistance and representation service for refugee and migrant women who have experienced gender-based violence, and refugee and migrant young people up to the age of 25. The Department’s model is unique in the UK with its particular focus on this client group, commitment to partnership working and range of activities to share its specialism with others in this field, through advice, training, seminars and policy work.

The Department’s current work grew out of the Refugee Legal Project at the LSA, and work with women started ten years ago (2004). The Department originally focused on women and their children but as it found itself more and more dealing with young people in their own right, either because they were unaccompanied or because they were themselves victims of gender-based violence and persecution, it set up in 2012 a separate project to specifically focus on young people. The Department is thus currently comprised of two projects: the Women’s Project (which includes adults and children) and the Young Persons’ Project. It is one of three departments at the LSA, the others focussing on Mental Health and Housing.

From small beginnings it now has five full time staff, ten years’ experience behind it, a full caseload and a considerable reputation for excellence amongst professionals and policy-makers. Its development has been supported by funding from the Scottish Government’s Violence Against Women Fund, Comic Relief and the Paul Hamlyn Foundation.

The context in which the Department is working

The scope of this evaluation did not allow a detailed analysis of contextual factors. However, some were commonly mentioned and are intrinsic to understanding the Department’s development, positioning and future, as follows.

- **The political context for work with migrants is more supportive in Scotland.** It was noticeable throughout the evaluation, and particularly highlighted by the Scottish referendum debate, that the context for work with migrants in Scotland is more positive than that in England. Scotland welcomes migration in principle, and this shows in a range of positive strategies designed to uphold migrant rights and encourage support and integration.

- **Legal Aid in Scotland:** Scotland as a whole has a different system for legal aid than England and Wales. Financial support is not restricted to matter starts and is readily available on application for a wide range of advice and assistance. There are also no legal aid contracts in Scotland. But though legal aid may be more generous overall, costs on individual cases are controlled tightly by the Scottish Legal Aid Board and respondents reported that the process of accessing it for cases can be challenging, time-consuming and subject to delays arising from refusal of legal aid (which may then be challenged) and of end-of-matter payments.

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1 From interview with external stakeholder working with the Department’s client group
2 The Legal Services Agency (LSA) is a law centre covering Scotland with three departments of which the Women and Young Persons’ Department is one. Throughout this report ‘the Department’ refers to the Women and Young Persons’ Department, and LSA refers to the Legal Services Agency within which the Department sits.
Legal and policy culture in Scotland is different. The tradition of Scotland is less litigious generally than England and Wales. Public law has not developed in the same way and strategic litigation is regarded as a more unusual step. Part of the reason for this may be that people feel closer to politicians, particularly since devolution. Several respondents spoke about how the voluntary sector is more involved in the framing of public policy, and how much easier it is to raise proposals or issues of concern with the Scottish Government and other public authorities than it would be at Westminster.

High-level commitment level to advancing key policy areas. The work of the Department touches on a wide range of policy areas (such as trafficking, children’s rights and domestic violence) and there is much going on at policy and strategy level to respond to these. There are many initiatives around trafficking and violence against women, for example, and the Scottish Government’s recently published strategy[^1] on the latter promises further commitment and innovation in this area. There has been also been clear interest at the highest level on work around separated children, FGM and Forced Marriage.

Key specialist services enable effective engagement with clients. The Department’s work is assisted by the active engagement of others working with their client groups. Some services are different in Scotland, and close working with these has helped the Department access and maintain close engagement with their clients. For example, Scotland has an innovative Guardianship service for unaccompanied young people claiming asylum which makes provision for a guardian to accompany them throughout the system. This has meant the Department can work alongside professionals who can support and reinforce their legal work with the young people concerned. Similarly TARA (Trafficking Awareness Raising Alliance) has been funded by the Scottish Government to provide support for women who have been trafficked, and again evidence from the evaluation is that this has been useful for the Department’s work, the support of clients and the effective progressing of their cases.

Cuts in some services are resulting in more work. Conversely, other service developments impact less favourably. We heard that the Home Office’s retendering of the contract to support newly-arrived asylum seekers has meant that the Scottish Refugee Council no longer provide this service which has since March 2014 been transferred to Migrant Help. Whereas before there was face to face support available, now there is only telephone support. The implication of this for the Department is that the face to face work (vital with this client group) will devolve to the Department and to others to take forward, and essentially result in more to do.

Decision-making within the system can be slow. Delays in decision-making at the Home Office (reported at the time of writing this report to be virtually at a standstill for reasons to do with internal re-organisation) can significantly affect the Department, its clients and its finances. Poor decision-making results, ultimately, in more challenges so if Home Office staff make poor and uninformed decisions this will ultimately result in more work for Department staff.

Some providers have still a limited understanding of the rights of these client groups. An understanding of the rights and entitlements of this client group is still not widespread amongst some professionals which means some clients may still be mis-advised: we heard, for instance, that some workers still think that clients with no recourse to public funds are not eligible for legal aid (they are), and that asylum seekers do not have the right to access health care (they do).

Conflicting agendas amongst those seeking to support clients can emerge. The Department’s work is with clients who are frequently traumatised and suffering from a range

[^1]: Equally Safe: Scotland’s strategy for preventing and eradicating violence against women and girls is the new violence against women strategy published by the Scottish Government and COSLA on June 25th 2014
of mental health problems. They are not the only organisation seeking to support these individuals, and not surprisingly, those working in the field are passionate about what they do as the stakes are extremely high for the individuals caught up in these cycles of violence and exploitation. One interesting issue we encountered was the presence of slightly conflicting agendas amongst professionals themselves: so, for example, Police Scotland has a much-lauded strategy in which those picked up in situations where trafficking is indicated are treated as a victim (rather than a criminal). This approach is welcomed by the Department and others working with victims of trafficking, but nonetheless the police agenda overall is one of preventing the crime happening in the first place. They therefore have an interest in talking to a person lifted from a crime scene (such as a cannabis cultivation farm) as soon as possible as they want to ask who else might be in danger. For the Department and indeed other support workers, however, their interests will be first and foremost to protect their client’s interests and take instruction from them on how they want to proceed. Such issues need to be worked through.

- Gender-based violence and trafficking are becoming more apparent problems. The problem of gender-based violence and trafficking is not subsiding. Whereas once most young trafficked victims were Afghan, we were told that now new waves of Vietnamese and Chinese young people are being brought into the country to work in cannabis cultivation, prostitution and the seemingly more respectable nail bars. Against this backdrop, an ongoing response by policy-makers and services is clearly needed.

The evaluation and this report

This evaluation has been funded by Comic Relief and the Paul Hamlyn Foundation to help take stock of the Department’s model, achievements and critical success factors. It is the Department’s first external evaluation. Fieldwork included interviews with staff, external stakeholders and clients, case reviews of a selection of files and a comprehensive document review. A full methodology is given at Appendix A.

This report is divided into nine sections. This introductory section provides a brief overview of some key contextual factors which frame the work of the Department and which were highlighted as significant during fieldwork.

Section 2 goes on to look at what the Department does, and provides a description of the various strands of its work. When appropriate we raise any concerns or suggestions which were made by interviewees.

Sections 3, 4 and 5 then summarise the evaluation’s findings about the Department’s achievements. Section 3 looks at the outcomes for clients ‘in the round’, examining how the Department achieves results for its clients as well as engages them in the legal process. Section 4 looks at outcomes for other professionals working in the field, and Section 5 examines practice and policy outcomes which the Department has contributed to.

Section 6 then looks at the Department’s model and how it does its work, and draws out key factors which define its approach. In some instances, it raises issues which might be addressed in the future.

Sections 7, 8 and 9 effectively provide conclusions for this report. Section 7 distils from the wide range of fieldwork undertaken the critical success factors which contribute to the positive outcomes in the legal work. We list these factors, and provide commentary and examples from the fieldwork to explain these in some detail. Section 8 then examines the costing implications of the enhanced legal model, and seeks to provide an overview of the Department’s ‘theory of change’ (what it does in order to achieve what outcomes) and the financial implications of this. Finally, Section 9 summarises the key conclusions reached taking into account the evidence collected overall.
2. What the Department does

This section looks at what the Department does and provides a brief summary of its activities, and any concerns or suggestions for development mentioned during the evaluation.

Client advice and casework

“I have worked with many lawyers who ride rough shod over their clients, don’t listen to them, don’t consider their safety, don’t consider the ramifications of their experiences. That’s the antithesis of how the Department works. It is always about ‘What works for my client?’ They will fight their client’s corner to the bitter end, and it genuinely seems to matter to them that they represent their client’s best interest. They don’t compromise on integrity and they don’t compromise on the law.” (External Stakeholder)

The Department currently works with two client groups: refugee and migrant women and children who have experienced gender-based violence, and refugee and migrant young people up to the age of 25. The Department provides initial advice and assistance as well as representation to both these client groups.

212 women and 119 young people were supported between 1 April 2012 and 31 March 2014. Those it cannot help for whatever reason it refers on and tries, where possible, to find other support.

Clients access the Department either directly or through referral by another worker in the field. A regular weekly drop in session has been introduced allowing clients to directly access initial advice. This is well attended, and has the added advantage of being able to offer clients referred by partners a quick appointment if their case is urgent. In practice, virtually all clients are referred by other professionals, including social services, the Scottish Guardianship Service at Aberlour, TARA (Trafficking Awareness Raising Alliance), specialist VAW services, the British Red Cross or accommodation providers.

The criteria are tightly applied. There are a range of people who may seek help but who are not eligible: men over the age of 25 will not get support, and those with no asylum or immigration issue will also not qualify. In such cases the Department does seek to give initial advice and refer appropriately, but this can be difficult given a lack of specialist services. The Department will also not take on cases if they are operating at capacity (which they often are) as they do not consider it fair to take on a client and then be unable to do their case justice because they do not have enough time. They will also not take on a case if, after initial investigation, it is found to be ‘unstateable’. In such circumstances the Department will discuss other options with clients.

“We won’t take on somebody with poor prospects of success. I will explain why, often at some length. I think sometimes people suspect this already, but they haven’t been told it by anybody.” (Staff member)

Clients are taken on quickly, their situation is investigated fully and evidence is gathered early to ensure that all submissions are ‘front-loaded’ when made to the Home Office. Clients are supported not only with their asylum claim, but where relevant also with other aspects of their life which may help them stabilise and live better, including accommodation, accessing benefits, schooling, health and other services and finding emotional and psychological support to deal with trauma experienced. The Department will act in asylum claims, applications outside the rules, will take fresh claims, and will judicially review decisions throughout the process if they feel there are grounds and it is right for the client’s case. They will also act in other legal matters they support clients on, such as housing, education, access to health and compensation claims.
Once taken on, the Department’s core promise to their clients is that it will never give up on them. There were some compelling examples of ‘going the extra mile’ reported during the evaluation, even when the case has seemingly reached its end.

“Basically once they take the client on they don’t give up. They just keep going. If they are knocked back they just keep fighting. With an odd few they are not successful but they don’t stop. One woman with small children had been back and forth in detention services and was then sent down to England – I remember they tried to find representation for her down there. They just kept fighting all the way until she was put on the plane. And then they arranged for somebody to meet her at the other end.” (Staff member)

**Concerns relating to casework**

The main concern expressed by external stakeholders and staff is that their current focus may be too narrow, both in relation to their geographical remit and to their criteria for selection. Several people spoke about unmet needs which the Department could meet given appropriate funding, and about their regrets that the Department could not help all of their clients. “I really enjoy working with the Department, but in my dark days I get these pangs of jealousy, like ‘Why can’t all my clients have them?’”. Staff at the Department would also like to see the opportunities offered by their service extended:

“I would want to widen our pool of clients. We know that there may be need in Aberdeen for example, and also Dundee, but there’s no specialist provision there for women and young people. And I would like to see the service extended in Edinburgh.”

“We do visit people in detention, but there’s a huge amount more we could do. I would like to extend the service to people in Young Offenders’ Institutions, or people in local authority care where nobody as yet has spotted that they have unlawful status. Developing links with local authorities would be key for this.”

There are moves afoot on this, with an initial day at Cornton Vale prison organised and relationships being established with VAW services in Aberdeen, Perth and Dundee. At present any work in this area will, however, be considerably constrained by capacity.

For other providers of services, it can be frustrating if the Department cannot take on a client. A particular concern was around the need for advice for young people in initial accommodation:

“How do people who are really new to the country find a lawyer? This is probably a more acute problem now that there’s no induction service at the Scottish Refugee Council. We need to be getting in early and speaking to young people before they make their choices – we see some interpreters sending clients to particular lawyers from initial accommodation, for example. It can be frustrating as there are a lot of services for a few young people taken on by the authorities, but still a large number who are not getting access to that privileged advice and support.” (External stakeholder)

**Suggestions for the future**

These included:

- Increased work in detention centres and prisons
- Expanding the geographical remit of the project to include more sustained work across Scotland

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4 Women only prison in Edinburgh
Expanding the areas which the Department can provide advice on to include initial advice and assessment, particularly for young people

- Broadening the reach of the Women’s Project to include women in general who have suffered violence.

**Second tier advice to other professionals**

Second tier advice is provided to other professionals working in the field to increase skills and awareness within the sector and help other professionals work better with their clients. This is particularly important for agencies outside Glasgow who are distant from a range of specialist services such as TARA and the British Red Cross.

The Department views second tier advice as a vital way of extending an informed, human rights-based approach to other clients and professionals. At present there is an afternoon session on Tuesdays during which other professionals are encouraged to phone in to access this. However, most acknowledged (sometimes sheepishly) that they did not feel constrained by this availability, and phoned the Department whenever they needed to.

“I phone whenever I need to, to be honest. I try not to overwhelm them with questions, but especially if I’ve got specific things to check I’ll pick up the phone. Quite often I want to know if I’m missing something in relation to a client, is there something which can be done about this which I haven’t thought of?” (External stakeholder)

“We don’t really use their advice line, we just pick up the phone. If the Home Office for instance says something we are not clear about we would clarify that with the team.” (External stakeholder)

Consistent feedback on the second tier advice was that it was detailed, boundaried, specialist and helpful. Quotes from a range of external stakeholders (frontline and policy workers) illustrate this:

“Sometimes even other lawyers phone up. The Department has built up such expertise in areas like age disputes that can be very useful for them. If we were working with a lawyer who wasn’t as familiar with that area, we would always point them in the direction of the Department.”

“I feel I can ask questions to the Department in an objective way. They are never trying to get clients. The advice they give you is always impartial and fair – they are very, very careful not to give legal advice to people who are not their clients, for instance. They are also clear on the boundaries of what they can do and can’t do. But talking it through helps – they will say things like: ‘That seems unusual, you might want to check that out with your client’.”

“We know that a lot of services – police, for instance - can be concerned about asylum issues, what processes are involved and cultural issues. Having a service which helps them think through that makes it a lot easier.”

“We don't have an in house lawyer. I rely on external agencies for 'real' advice and the Department is one of the main ones I use. I had a very interesting case recently that came up through enquiries and they were extremely helpful – clear and cogent.”

“You can phone them even with small things. Like what on earth is an IS64? They never make you feel you should know that – they explain.”

**Concerns relating to second tier advice**

The only concern expressed by staff was that second tier advice can be time-consuming, and a commitment to providing it quickly can be challenging to juggle with other priorities. “It can take up quite a bit of time – it’s not normally five minutes worth. For instance, this week I took a call from a
social worker about a very complex case..... it covered a lot of bases around domestic violence, EU Free Movement Rights, access to benefits. I spent nearly 30 minutes with them working through the issues.” (Staff member)

**Suggestions for the future**

There were various suggestions made as to how this could be addressed, including increased resourcing, charging for the service or making the service more streamlined in terms of how it is accessed (as, for example, the AIRE Centre\(^5\) does). What needs to be balanced against any changes is the obvious value the immediate accessibility of this service is bringing to the sector, enabling specialist expertise to be transferred to a wide range of stakeholders, informed by detailed, frontline casework.

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### Providing training and seminars

The Department develops and delivers training for the in-house seminar department at the LSA as part of its financial contribution to the organisation overall. It also, as a result of its grant funding, can develop and deliver subsidised or free training for others working in the field. This can include customised training for individual organisations or networks.

The Department also works with partners in creating and delivering joint sessions. This joint working develops relationships and can have a positive effect in terms of the client work. Staff deliver training according to their area of expertise.

The specialist training is extensive and directed at a range of potential audiences. For example in 2012 – 2013 the Department delivered 11 training courses including on:

- Changes to the Criminal Injuries Compensation Scheme (effect on Asylum Seekers and victims of human trafficking)
- Interpreting and Asylum Seeking Women (for the WAIR Group\(^6\))
- Domestic Abuse and Scots Law
- Child Trafficking (for Dundee Violence against Women Partnership)
- Court Procedures in Asylum Law

Feedback on the training itself was overwhelmingly positive.

“They have done a lot of the training to get me through my OISC level 1... it is unbelievably amazing training. Interesting and engaging and delivered in a way which means something.... with case studies and so on.”

“I attended one they delivered with Freedom from Torture, all about how to work with people with trauma. It was brilliant.”

“All our staff were trained. It was OISC Level 2, but it was more tailored to asylum seekers so it benefited staff even in their daily practice as we were able to talk about everything. They told us about how they do things in their work, and how decisions are reached, and some of the things we can do to actually help the client make sure they are prepared and can present their view. It was really empowering.”

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\(^5\) The AIRE Centre is a London based charity providing free legal advice on European human rights law and European Union law.

\(^6\) Women Asylum Immigration and Refugee (WAIR) Working Group was established by the Glasgow Violence Against Women Partnership to provide specialist input on women asylum seekers, immigrants and refugees who have experienced gender-based violence.
Training was regarded as an essential strand of the Department’s work by nearly all interviewees. Staff report training as being time-intensive, but also a vital part of disseminating their specialist knowledge and experience. The legal work they do is highly specialised, and there are a range of professionals who may be in contact with the Department’s current or future clients but not know how to properly diagnose or handle the case. Staff note how useful training can be in such circumstances:

“There are some things which social workers, for instance, are dealing with a lot but may not understand the implications of, such as a document which ran out two years ago. They need to understand the implication of that and the impact it could have on the client. I recently saw somebody who had had no identity document for five years but this hadn’t been dealt with.”

“When I do the migrants training I have had many local authorities people come up and tell me that ‘We never thought to check with the young people in our care whether this person has lawful immigration status’. In my view it is wrong that young people are languishing in local authority care without having regularised immigration status.”

Concerns about the training programme

The concerns mentioned about training were that:

- Like other areas, there is greater demand for it than current capacity can meet
- Two people said that they had found some of the sessions rather legalistic and difficult to engage with and wondered if they had been correctly pitched at the audience
- Linked to this, there is some concern about the publicity and marketing of training sessions, with some staff reporting that courses are not always as full as they would like. There is clearly a need to generate income from the training, it was felt that this has to be tempered by the need to get the relevant professionals to attend.

Suggestions for the future

External stakeholders agree that many agencies benefit from the training and many had views on how it could be expanded as a programme:

“There’s a huge list of organisations I think need training in this area. Police officers for instance – Police Scotland’s Trafficking Unit is excellent, but people working at local division level may not understand basic asylum and immigration rules. Social workers also need training – any frontline service, in fact, working with a changing community.”

“I think Home Office staff would be helped if they had training in working for survivors of sexual violence. I think it’s unfair on Home Office staff who don’t have training to be dealing with these sorts of specialist issues. I’d like to see the Department develop training around that.”

“I think the VAW sector needs to be targeted… from my experience unfortunately sometimes Women’s Aid agencies will take it upon themselves to provide advice, and I think we need to help workers understand why specialist legal intervention is needed early on.”

“Age assessment is a key one. A culture of disbelief is prevalent. I remember somebody saying to me: ‘Obviously this person is not 18, they are clearly older’ whereas the Department will point out that ‘Things happen to people which make them look older’, and can show how trauma can impact on an individual. These things need to be considered and understood.”

“The training is vital. It is about joined up, partnership working, and ensuring that vulnerable people do not fall through gaps in service. It you understand the process you understand your duties and responsibilities better..... often workers I liaise with don’t know really what they are doing. They don’t write the reports they need to..... if a woman is initially refused leave to remain,
for instance, often legal agencies will give up on her rather than understand that they need to be pushing to get her properly assessed.”

Volunteer programme

The volunteer programme enables the Department to resource its casework, for example by undertaking research. “When you take a statement, you need fact checking and volunteers will work behind the scenes doing country of origin research, for instance”.

The volunteer programme is also seen as a way of broadening interest in the work of the Department, and potentially inspiring people to come into the field. It offers a rare opportunity for students to volunteer or take an internship during which they are genuinely deployed on legal matters, trained, inducted into the work of the Department thoroughly, and treated as part of the team. There are now two intakes of volunteers a year, with an overlap to allow handover.

The Volunteer Programme was developed by one of the lawyers with previous experience as a volunteer manager. It is a model of good practice in terms of assessment, support and genuine involvement; the volunteer is supported throughout, given regular feedback, and treated with respect. Feedback from volunteers confirms that the experience can be very positive:

“It was great to see how the law works in practice and doing research. I felt that the department really tried to involve you in helping with cases which was great.”

“Volunteering… has completely exceeded my expectations. The work I was being allowed to do was so interesting (and sometimes quite challenging) but I was really made to feel as if I was being a big help by doing it. Overall the experience was really enjoyable.”

“I have been seeking an area of law to focus on…. This area of law is what I have been looking for and I intend to focus my energy on this area as much as possible.”

Policy work

The Department contributes towards a number of policy and research initiatives through a range of stakeholder groups, meetings, initiatives, consultations, discussions and research. Interviewees reported that they are seen as key players in a number of areas, in particular Human Trafficking, Violence Against Women, Child Protection, Children’s Rights (including Separated Children and Young People and Strategic Litigation on Children’s Rights) and Detention. They are also members of a strategy group on FGM, and are part of a group on Forced Marriage. As well as working within Scotland, the Department is also engaging more internationally and participating in a European funded project looking at best practice in terms of early legal interventions for victims of human trafficking.

Work in this area is seen as vital, enabling as it does the Department’s legal expertise, grounded in its casework, to inform wider legal, policy and practice change in the field. “Casework will not change broader outcomes. Casework is only one tool within a tool box. We think funders will get more value for money by allowing the legal service to contribute more widely in the field.”

It is also motivating for staff to work towards improving the broader picture rather than simply coping with the impact of a negative or non-existent policy framework. “We often consistently come up against the same problem, and it is often a problem of process, procedure and practice. We may be able to change through strategic litigation, but that’s rare and costly, in many ways. This enables us to sit round a table with people who we may be challenging through our casework and ask how we can make the system better.”
It is also a key way in which the Department learns and develops its expertise. “We learn in these groups all the time….. so for instance by attending the FGM group I have realised that we can do better as a service in relation to this issue. Are we ignoring it when we shouldn’t be? Should we be asking questions which we are currently not? It helps us reflect on our practice which has improved as a result.”

The Department is increasingly relied on by policy makers, government officers and practitioners who regard them highly:

“They are very passionate about what they do, they try to secure the best outcome for clients, and they do this with policy work as well.” (External stakeholder)

“They talk to Government ministers and I would like to see more of that. In terms of policy and strategy I would like to see better guidelines and benchmarks for good practice, and the Department is a good model for that.” (External stakeholder)

“They have insights which other agencies just don’t have from their casework, and a legal specialism on top of that.”

“They approach [policy work] with an enquiring mind… for example when we were looking at figures on FGM, I was saying to the Government that we could be looking at several thousand women who are survivors and the same number at risk. Everybody told me I was wrong except for Police Scotland and the Department. They don’t assume that because something isn’t visible or they don’t know about it, it isn’t there.”

Concerns in relation to policy work

There were two main concerns identified. Firstly, capacity: policy work can be an open-ended commitment, and lead to a considerable amount of work for which, at present, they are not paid. “We have to be careful that we don’t over-commit to this work. It can become a bit of a runaway train.” (Staff member).

The second concern relates to a lack of publicity about what they are doing in this area:

“My only concern is visibility… They clearly have a wider contribution to make in terms of expertise. Increasing their visibility in the policy arena would be very welcome….. It’s a crowded scene but it is always useful to hear from them because they actually have close contact with women and young people experiencing these issues in real life. That’s a really useful foundation for developing policy, coupled with their specialist legal expertise.” (External stakeholder)

“When I first started working with [the Department] I had absolutely no idea that they did that strategic work. They should shout about that.” (External stakeholder)

Suggestions for the future

Some stakeholders would like to see the Department become more proactive in undertaking policy research, perhaps in partnership with other agencies. “I’d like to see a piece of work on the length of time some young people are in the legal system and the effect that has on their mental health. I think the Department would be well placed to either lead on or participate in this. It should look at the totality of that, and how to highlight the various elements which contribute to positive or negative outcomes for the young person.”
Strategic Litigation

The Department is interested in developing the law through strategic litigation, but reported two main obstacles to this: firstly, there is not a developed culture of doing such legal work in Scotland (unlike England and Wales) and secondly, it can be very difficult to find a suitable case to take forward with the client group they work with. This is for a range of reasons: there is a smaller pool of clients in Scotland, and those there are may be unwilling to take cases against those currently providing them with services, frightened of the potential ramifications of taking a case which may be high profile, or simply impossible to engage because they disappear.

Some cases have been taken however and the Department is interested in developing its strategic litigation work. The Department also regularly Judicially Reviews decisions which can result in important decisions in relation to process. The Department has also been successful in obtaining a grant from the Strategic Legal Fund for Vulnerable Young Migrants (Trust for London and Esmee Fairbairn Foundation) to undertake pre-litigation research into support provided by local authorities across Scotland to separated children who arrive in Scotland aged 16 – 17 and claim asylum.

Suggestions for the future

The only suggestion made in relation to Strategic Litigation was to try and better co-ordinate potential actions on a planned basis in the different jurisdictions of the UK. The interviewee suggested increased liaison with partners in England and Northern Ireland. The Department has already some strong links, and could develop this further.
3. Findings on outcomes for clients

The Department supported 212 women and 119 young people between 1 April 2012 and 31 March 2014. This section summarises what the Department achieved for these clients from evidence gathered during the evaluation.

Clients experience an accessible and welcoming service

Clients and other workers in the field report that the Department is easy to access, particularly compared to experiences elsewhere. Clients are mainly referred by other professionals, though they can also access the service through the regular weekly drop in, and some clients are also initially seen in prison. “Their approach is essential in terms of their results – it is straightforward, sympathetic and, with young people, age appropriate. They have much more of a genuine involvement in their clients’ lives.” (External Stakeholder)

Clients experience the Department as welcoming, reassuring, available and interested in them:

“I was at that time having great stress, I was worried, I was afraid I would have to go back... When I met [the lawyer] I felt better – I talked to them, and I was open to them. And the receptionist also was good – every time I phoned or came they really helped me. I felt welcome.”

“Nobody has ever treated me badly here. Since I have met my lawyer, I feel happy. It is very, very easy to get to her – if she wants to book an appointment and I say ‘I am busy and running for school’, she says ‘ok ok’. She will try to make everything easier for me. They really understand where you are coming from, they understand your story, and they try their possible best to make sure they achieve the best for you.”

“First time I see my lawyer, I don't know how she can help. I was in prison. But every week she came. Every week. My lawyer before visit me maybe four times in eight months. But she come every week. I am amazed.”

“My lawyer was a very warm, welcoming person. Whenever I meet him he meets with a smile and always asks me how I am doing and how my life has been doing. Even if I don’t feel well on the day... I find it easy talking to him because of that.”

The physical environment of the office has been made as non-threatening as possible, with walls painted in sunny yellow, round tables and confidential spaces to talk. There are also toys for children as though the Department tries to arrange appointments when children are in school or nursery, sometimes bringing them is unavoidable. During the evaluation we interviewed several clients who had had to bring their children. It was noticeable that most children were relaxed – indeed, in one case a child waiting with his mother in reception was so pleased to be in the office that he rushed forward and gave the evaluator a hug when they were collected from reception. “He is excited to be back in this office,” his mother explained. “He loves this place. People are kind to him”.

Because the Department works closely with partners and allows clients to be accompanied during legal consultations by other support workers (from, for instance, the Guardianship Service, Rape Crisis, TARA or British Red Cross) clients not only experience continuity in support and care, but are helped to understand their issues better because other professionals involved can reinforce, re-explain or remind the client of the advice given and what is happening. Other professionals are viewed by the Department as an intrinsic part of the service, as external stakeholders report:

“The Department was very helpful in terms of involving our staff. We came along as well as the young person’s Guardian. It was a big change for [the client] – we could be in touch with the
lawyer about what they had talked about and we could make sure that the staff in the residential unit were aware about what had been talked about the next day so that they would be able to deal with any fallout.” (External stakeholder)

“There’s much more of a joined up approach to supporting people through the process and involving the major agencies who are working with each client. I am able to talk with them, and with the young person, and after consultations they will email me and tell me where we are up to if I have not been present at the appointment.” (External stakeholder)

Benefits for clients are clear: they do not have to repeat themselves, problems or trauma ignited by telling their story can be anticipated and dealt with, and other professionals are involved in helping them engage with and navigate the asylum process.

**Clients understand the reality of their situation and prospects for success**

For clients who are taken on, great care is taken to enable them to understand that, though the Department will, as several external stakeholders observed “fight for them tooth and nail” their cases will have varying prospects of success. This helps clients understand and prepare for various outcomes.

“They really manage expectations for their clients, at the same time as really fighting for them in the system. I had a case recently of a woman who had already received advice from another firm, but who then went to see [the Department]. They were very open with her about her situation and then gave her advice that there were grounds for a claim, so the woman went away to think about it. There was no pushing towards an outcome, and no pushing towards the client taking their case forward. They are very clear about whether there are grounds or not for a claim.” (External Stakeholder)

Clients appreciate the honesty: “They didn’t give me the assurance that ‘You are going to get it’ but at least they explained the procedure. My lawyer then said ‘I am not promising you anything, but I will do everything within the law to present your case’. That’s more assuring than what I had before. They assured me that they would listen to me. As a human being.” (Client)

Strikingly, several clients said that they knew that their cases may not succeed ultimately but that if this was the case they also knew that they had been helped as much as possible to present their case. One client described this feeling:

“I have seen with other people, when they find out they are not granted permission [to stay] they look at their lawyer as if it is their fault. They judge the organisation based on the results of their case. But with the little I have seen here, I would not say about this organisation that they have not tried their best. I have seen the effort they have put in, they have tried their best. I know that. I will not judge them badly even if I get a negative decision. I know they have done their best.”

Several other clients reported feeling the same way including (perhaps surprisingly) several of the young people we spoke with. The client quoted above has been given refugee status following our interview with her.

**Clients who cannot access the service are advised on poor prospects of success**

Those who fall outside the remit of the project, or whose case is not ‘stateable’, are not taken on. For these clients, the Department provides an objective and honest eye on their immigration situation and brief advice which can help them understand that trying to pursue their case is fruitless and they
should attempt to find other solutions. They explain the options to clients to help them understand what is realistically available to them.

The Department believes strongly that this is in the client’s best interests: “We know it is the grim truth, but sometimes it is the best favour you can do for somebody. Sometimes for instance people are asked to pursue this route even though they don’t want to. And I suspect some people already know and expect the advice we give, but just haven’t heard it before set out clearly.” (Staff member)

Clients understand and engage with asylum process

Staff invest time in ensuring that clients understand the process and their rights within it. From the feedback from clients, staff and external stakeholders during the evaluation, the time taken to do this is critically important.

This might involve helping clients gain a better understanding of the process itself: for instance, understanding that the interview at the Home Office is a standard one, and the questions asked are not personally directed but required. Or it might involve helping clients understand the different legal framework and rights that they have in this country: for some clients, the idea of having rights at all is novel. It might involve explaining the concept of trafficking, that it is a crime, and that they are viewed as a victim, not a criminal. Some clients presume that the legal and cultural framework they were used to in their country obtains in the UK, and need to be helped to understand that this is not the case. As one female victim of trafficking noted: “[The Department lawyer] was the first person who led me to understand that female circumcision in this country is illegal. In my place it is not like that – it is mandatory. That made me feel better. And also prostitution. The Home Office said it was illegal too, so that was good. I didn’t know I was a victim of a crime.”

Some is about psychological preparation for the ordeals ahead: one lawyer described how she brought clients into the Board Room at the LSA and painted a picture in their mind of the courtroom in which they were going to give evidence. “I tell them that the room will not be bigger than this, and tell them where they judge will be, where they will be and so on.”

The Department also takes time to try and ensure that the client has a suitable interpreter, and where possible that the interview or court situation is as user-friendly as possible. They seek to postpone interviews or hearings if the client’s mental health is too fragile, often successfully. One lawyer described how they had fought to make sure that two extremely traumatised young people who were the subject of a massive legal challenge were supported when the case came to court. “This huge case generated a huge amount of interest. We asked for the court to be emptied and the judge to come off the bench. They gave evidence in jeans and a T-shirt: at this point their health is terrible. They are shrugging. They were up against the whole establishment, and all they had was us and their guardian.” Unfortunately in that instance, the judge refused to accommodate the request to make the court less intimidating.

Explaining and reassuring takes time, and sometimes a lot of time. “I spend a lot of time, a lot, going back to the basics – explaining who the Home Office are, what the immigration system is, what the Home Office’s job is, what asylum is, what criteria have to be met – so somebody can understand why they are being asked the questions they are being asked. If you don’t know that you are really going to struggle.” (Staff member). Clients recognise that the lawyer is patient when helping them to understand what was going on. “They didn’t rush me into piling lots of information, but they took me step by step. The initial stages took longer to break down some possibly complicated bits into ways I could understand. I cannot exactly remember but I know it took more than one appointment.”

Evidence from other professionals working with the women and young people is that they observe a big difference in their clients as a result of this input, often comparing the Department favourably with previous legal experiences.
“Some situations you sit down with clients with solicitors and you ask them: ‘So tell me what has happened, what has your lawyer done for you?’ and they are not sure. But people who go through [the Department] have that benefit of people explaining things and knowing the options” (External stakeholder)

“The young people were very much given the information they needed to make their decisions, in terms of who would have the info, who they were advised to share it with, they were encouraged to keep their statements safe. Running through things meant that they would deal with the process much better. They were very much more prepared for the level of questioning the Home Office would give.” (External stakeholder)

“Young people always know that next week, this is going to happen. I’m going to ask X for a letter and then send it back – that sort of thing. So there’s an efficiency of working which helps alleviate their anxiety of the YP. The approach is also about taking the YP through the process in stages and making sure they understand everything.” (External stakeholder)

“I have sat in a lot of appointments between the lawyers at the Department and clients and they consistently explain really complicated things really clearly to clients. I have a lot of respect for that, and I think it enables people to be really, really engaged.” (External stakeholder)

“They make sure that they are very very strict with taking instructions, for instance – so for example, if [the Department] get a letter in from somebody’s counsellor they would make sure that they read it with the young person and that they are happy for it to be submitted. That’s very unusual… Nothing is slapdash. I know with other lawyers young people often don’t feel like they know what is going on.” (External stakeholder)

Clients reported again and again that because of this approach, they felt able to engage.

“When I came I didn’t have any idea about the process and I found it difficult to explain how the process and the authority work, but after I get explanation from the lawyers I think I understand. And there are so many departments in the asylum process, one will deal with my case, one pays for the fee for the legal advice and one does something else. That was difficult.” (Client)

“She explained me before we went to court that there would be another lawyer. She explained she couldn’t represent me in court, and why this was the case. She explained why.” (Client)

“As a matter of fact, for me their explanations probably made all the difference. I didn’t know what the asylum process was. The way they broke it down, they brought it to a level in a language I could understand. I started being comfortable with it – I started understanding it.” (Client)

“They did help me understand – I don’t know even the word asylum – they took their time to explain to me and they listed all the options that I have.” (Client)

“First time I do remember when I met the lawyer, she told me ‘We have to be patient about the next step – if next step is not successful we will apply again’. I was happy - that meant we had some plan, if this job doesn’t succeed, we will get another plan. I was happy with that because I have met many lawyers and asylum seekers – I think they had no plan. They had no plan to fight with. If I have no plan for tomorrow I am confused and I will get lost.” (Client)

Specialist insight allows new challenges to be brought for clients

The Department is specialised and has developed a fiercely insightful expertise in some areas (trafficking/NRM mechanism and age assessment/working with young people, for instance). Because of this, it is able to spot potential routes of challenge which other lawyers have not. Both external stakeholders and clients provided evidence of cases which had been pronounced ‘hopeless’ prior to arriving at the Department, only to have them reconsidered and a route for challenge identified. The
Department spends a lot of time up front diagnosing and considering the evidence as well as speaking to the client, and through this is able to identify gaps or mistakes in what has happened before.

This was true, for example, of a trafficking case we reviewed where the lawyer reported that:

“We took a full statement, did a subject access request to the Home Office and got input from her previous lawyers. It was clear from this that there were indicators of being trafficked which had not been picked up on. You really needed a knowledge of trafficking to be able to do that. There was a mish mash of immigration and trafficking decisions in this case, and you really needed to know the interaction between the two in order to be able to confidently challenge. You also needed to know how the role of the police could help or hinder in the case – in this case the police were critical in the information they provided.”

Clients appreciate the new hope this brings them:

“When I first came here I was a bit afraid in my mind - I heard from people that most solicitors do not take this kind of case. It was an emergency – the Home Office was going to take steps to return me. The first meeting they said they are not going to tell me they were going to take my case but they were going to let me know. Then later they said yes, they would take it on. They gave me hope.”(Client)

Of the two cases referred to above, one has been granted refugee status. The other case is still pending, but a previous ‘negative reasonable grounds’ on their trafficking status by the NRM has been withdrawn, and a fresh claim is being pursued supported by new evidence gathered by the Department.

**Clients gain various benefits from being able to tell their story well**

Most clients arrive at the Department with a story which has to be unravelled, checked and well stated in order for a case to progress. Given the nature of the client group, some of these stories are acutely difficult to tell, involving violence, torture, abandonment, fear, and multiple loss. Clients are often traumatised and closed down, mistrusting of authority figures and unable to recall details. They have often found themselves agreeing to versions of their stories before they arrive at the Department either unknowingly (because, for example, they did not speak English and could not check what was written down) or because for whatever reason they did not feel able to explain and elaborate on details which are essential for their credibility findings and the successful progression of their case. The Department takes a great deal of care and time to enable them to remember, communicate and convey the most accurate version of their story possible.

The first and most obvious benefit of doing this for the client is that once anomalies in successive accounts to authorities have been sorted through and hopefully explained, and once a full version of their experiences has been set out, their case has a much higher prospect of success. Aside from this, however, there are a number of other benefits which clients report.

**Feeling unburdened by sharing their experience**

Some clients, particularly the women interviewed, said that they had felt, often for many years, that they could not talk about their situation. Finding themselves able to speak with the lawyer at the Department was often the first time that they had been asked to tell and explain their whole experience. For some this is immensely relieving:

“I was like a balloon, a cupboard full of cups. I felt I was full and I didn’t have anyone to contact….. Then from there I started working together with the lady. When the cupboard is full you open them and they all fall down – I was looking for somebody to take at least some cups and have peace of mind.”
“I kind of felt relieved in a way when I had told that story although I was ashamed. You don’t say things like that to people in my culture. But [my lawyer] didn’t see me like that. So after the whole story I felt at least relieved I was able to tell somebody what happened to me.”

**Feeling believed, often for the first time**

Both women and young people reported appreciating the fact that somebody believed them. Feeling that they were not being doubted and were being taken seriously is extremely important for them:

“Before I came here I found it very difficult to tell my story to anyone, as there are so many difficult things to say and speak out, but when I came here for a few times and they make me feel comfortable and I understand that they are helping me a lot so I am willing to tell them my story. I felt they believed what I said.”

“Honestly I thought they won’t understand my story as they won’t know how I was feeling then….. it was so hard, but they were so calm and they calmed me down and they gave me the opportunity to say whatever about my case so they could understand what was going on then. I didn’t think they would understand – I thought it was only me to understand the pains there. I was so vulnerable. But they felt what I was feeling – I thought they couldn’t but I was so happy that they heard me. I don’t know if they have other experiences like this but they really understood my story.”

For some, part of this process involved helping them explain anomalies in their statement which had led to negative credibility findings before they arrived at the Department. Here clients who have told their story to the Home Office find themselves disbelieved because of, for example, an inability to remember facts or dates which it is felt they should remember. This may be because there are culturally different norms in operation, as one client described:

“My first case was refused and they didn’t believe me because of me not remembering the dates and times and things like that. And so my lawyer here was asking me ‘Can you remember exactly what happened?’ She helped me to go back to the facts in my country. I remember what happened that season, even if I cannot remember the date. Like in my village, we don’t normally go with time, we go with weather, the way the sun and the shadow is, and maybe the season. You don’t look at the calendar. We have this season when you plant things and it’s those things you use to tell the time.”

For the Department, this is about taking time to understand the client, and work round that, as well as taking time to liaise with the Home Office to explain why asking about time lines is a pointless exercise, and ensuring that they do not make credibility findings on that basis. Other partners who work with clients also noted how important being listened to and believed is for clients.

“We see women distraught and in crisis feeling like nobody is listening (apart from us) begin to soften and calm down and feel less anxious when somebody is taking their story seriously. That’s huge. If you are traumatised and nobody listens to you in your community and your culture you have no power. To have somebody listen to you and represent your story – that’s a crucial part of a healing journey.” (External stakeholder)

“Where people have been trafficked, violated, abused, beaten - having a lawyer who listens to you, who places value on what you have to say, is respectful of you and helps you get the kind of support and care you may need is part of the healing process. People do not reveal personal trauma unless you can establish safety for them. [The Department] starts to create that safety.” (External stakeholder)

“[Clients] have a sense that people are believing in their story and that’s a huge thing for them when they have faced disbelief from the Home Office. For people to come at it from a perspective of ‘we believe you’ means they get a sense of confidence” (External stakeholder)
**Feeling more in control**

Key to the interactions between the client and Department staff is the desire to place power back in the hands of people who have often had it entirely removed from them by their own society or culture, or by virtue of having been caught in violent or exploitative situations. Clients can feel powerless as a result of their often violent experiences at the hands of others, and this sense of lack of control can amplify if they are then caught in legal processes and procedures which they are not helped to understand. Being helped to tell their story, and being put in charge of that process, was a significant moment for some.

“It did take quite a bit of time .... I had kept a notebook though so that helped. I felt really in control of that process.” (Client)

“I had to make choices. Like this appointment I have now with you – she said I needed to make the decision on my own if I would like to come to see you [the evaluation interview]. The decision is mine. She always do that anyway – I am always told that it is my decision. That helped me feel in control.” (Client)

“Basically in my situation they gave me three options. I had already had Article 8 with the Home office. They said I could apply for Zambrano, put in more information for an Article 8 application or the asylum route. My lawyer described the advantages and disadvantages of each and I ended up deciding myself. So I ended up deciding – it was obviously down to me. That was the first time I understood it. At least they were giving me options – whereas the other lawyer wasn’t giving me options.” (Client)

**Reconstructing the narrative of their life**

For some clients who have dealt with their trauma by blocking some of it from conscious memory, the process of telling their story can literally feel like re-piecing together their lives. Some clients said that it felt that they were once more in touch with who they were through this process.

“Honestly – when I met her and we started writing the story I never remembered anything. She asked me ‘Which school were you at?’ and I was looking at her and said ‘I don’t remember anything’. I tried to mention university but I don’t remember the years. She said ‘I will help you in this’. I didn’t know what to say. Things had happened so badly to me that I had lost even focus. She was helping me by remembering some good things, the year I go to my primary school. I called my mum at home, I said ‘Can you please remember the year?’ so I start picking up all these things. I come to my age, I know the year I was born, the time I finished school, the time I went to secondary, and I found my certificate of university. So she was there to help me put things in order, and she really did great. The way she told me about my family, my years...... She really did great. Just to have my story back – what had happened to me. I was so pleased.” (Client)

“I had lost myself but it was like they made me feel like a human being. They listened to me.... like I found a refuge, sort of. I can tell somebody - somebody can see me – it was like I had been invisible. They could see me.” (Client)

**Clients feel supported and less isolated**

Many of the Department’s clients have experienced an acute sense of isolation and detachment, cut off by virtue of the abuse they have endured, language and cultural barriers, poverty or trauma. It was clear that for some of these clients the Department became (along with other support workers) effectively a ‘family’ for those who found themselves far from anybody they knew, in a country they did not understand. As one external stakeholder put it: “a sense that somebody, somewhere, is finally on your side”.
Clients consistently said that they know that the Department will stand by them come what may. It is difficult to imagine how important this is for a client who is, for instance, an 18 year old victim of trafficking with no family at all in this country. Some quotes from support workers highlight its perceived impact:

“Before they [the young people I work with] go to the Department, often their experience is that nobody cared, nobody tried, and their voices weren’t heard. But when they go there they know they have had the gold standard service and that people are battling on their behalf. And at the end of the day if they do get sent back they will know that they had every opportunity and the best of the best. They haven’t been given up on.” (External stakeholder)

“I think the people I work with have more of a sense of confidence that everybody is working to make the best thing happen. That doesn’t take away the uncertainty, but it gives them a sense of confidence that they are not dealing with this on their own.” (External stakeholder)

“I had one case referred to me by the Department for support. This young man was so clearly distressed and struggling. But when I think about the improvements for him, I attribute those to his sense of attachment with his lawyer [at the Department], British Red Cross, and myself, his awareness that those three people worked together, having lost his entire family. We represent a family-type base. There were those three people who always worked hard for him. He is much better now, but throughout his difficult therapeutic work it was that fact he went back to: ‘I know I have got LSA, BRC and myself’. I am not aware of hearing any other young person talking about their lawyer in such a caring way. And that’s not a one off.” (External stakeholder)

“Look, [as a support worker] I can’t achieve the outcomes they want. I can’t get them back with their family, can’t take away the past. What I can do though is stay beside them and show them that their life matters. So for them sometimes it is just about carrying along walking alongside them and showing them that their case and their story matters. Even with the difficult, thorny cases, the big thing for me is that those people know they are held in mind by the Department.” (External stakeholder)

Clients report the same sense of having somebody they can rely on:

“From the time I got in here I could see love in their eyes towards me. They quickly built my trust in them, I truly saw that they were ready to help me. And if you are in trouble and somebody truly shows they want to help you, you will definitely cooperate and tell what you wanted to do. Telling and explaining my story itself, as you probably saw it in the notes, took a long time. But I started willingly ... because I saw it in them from the beginning that they wanted to help me and I didn’t doubt.” (Client)

“I didn’t trust my social workers. But [my lawyer] was always arguing for me. If they made a decision, she was always arguing with them. I think it even got to a point where I asked her if she was tired of arguing and she said no.” (Client)

**Improved capacity to cope**

The previous sections describe incremental changes in clients’ feelings and outlook. There was a lot of evidence from interviewees that this added up to better mental health overall and an increased ability to cope.

“[The clients] know that the people involved in their lives on a day to day basis are all working for them with their best interests at heart. That has a major effect on their sense of optimism about what their future might be. You can’t underestimate the effect of living with not only trauma and loss, but also uncertainty. When I look at the difference between those who have had [the Department’s lawyers] and those who haven’t it is very obvious to me. They have more of a sense
of confidence that everybody is working to make the best thing happen. I see the effect on their ability to concentrate, retain information, their ability to actually come to college every day – they feel that they are being taken care of.” (External stakeholder)

“We hear other women in their community say about the Department ‘They are good, I’m glad you have got them’. And we are more confident about clients attending without us. Part of our model is encouraging independence, so having the confidence that if they go to LSA it will be sensitively handled is great. For the women, we see them feeling relieved and safe.” (External stakeholder)

The changes clients describe range from the small to the dramatic:

“So many things have changed. Before I was not myself. I couldn’t look after my baby properly. I would dress like somebody who is not ok. But now I feel so many changes in my life. We are still waiting to hear from the Home Office, but now I have something new. Something is changing. I have made a fresh claim and my spirits are up.”

“Back home I take good care of myself. But then I did not wash for a week. Sometimes I didn’t bother to eat. My doors and my windows are always locked and before I could have only about two or three hours sleep. I kept going to the door every two or three minutes. I see things that are not there. Like I think something in my head and I can see it – they are not there but I can see it. I still take medications once in a while, but it is not comparable. I had lost it. But then I was still thinking I was doing something in the right way. But when I look back now I had anxiety, depression and all that. But now I have really, really moved on.”

“A lot of stresses are off me, if that’s how you put it. I was stressed when I came here - it was very complicated and hard for me. Now I am a lot happier, as things are getting better and better.”

“I am looking so much better now. You need to see me then. The Home Office pictures of me then were awful – I was terribly stressed, my mind had shut down, I had aged then.” (Client, showing evaluator a photo in which she looks considerably older than she now looks)

“My situation was really, really hard, like others I know – I have no relatives nor very close friends. I was so much stressed about so many things making my physical condition worse and worse. For me there’s been a huge big change. A huge relax. A huge comfort.”

“Looking back at when I arrived…. I had enormous fears. Not knowing what to expect. Those fears really took a toll on me in terms of not only my thinking but even physically. I couldn’t eat, I couldn’t sleep. But when they started to explain to me, they quelled my fears and they told me they were ready to help me, and they even told me that it was going to be all right. So though my issues are still not fully resolved, I don’t know where I would have been without getting the services I have received. I mean for instance I have been going to college. I don’t think I would have been able to do that before. Have a bit of concentration. I’m studying.”

These changes are not solely down to the Department’s input, of course, as staff are quick to point out. There are other key players in the system who also support the women and young people, some of them far more intensively than Department staff. However, being supported and reassured around their legal issues, with the connotations of safety and security which the resolution of these will bring, is clearly a critical component.

**Clients access a range of services and support**

The Department works to support the client holistically, by also helping them gain access to health care, accommodation, schooling, psychological support, access to English classes and much more besides. Several clients noted that the first question when they came in was not about their case, but about how they were as individuals, and how they were feeling. This is also part of building trust between lawyer and client that they are seen as more than their legal issue.
Any problems or issues identified, if possible to act on, are then taken up or the client is referred to somebody who can help.

“They are much more holistic than other solicitors – they will consider all the different aspects of someone’s life. That’s why they refer to us a lot, they are assessing the needs all the time. If they are working with somebody who is particularly vulnerable and needs emotional support, or has a complex situation or is very, very new – they would refer to us with support for those things.” (External stakeholder)

“I was supporting an elderly lady who had been in the UK for almost 10 years. She came in and the only thing I thought was ‘I think she would benefit from the Department’s input’. She moved from being completely destitute to being on Section 4 support.” (External stakeholder)

“If somebody has gone to meet a solicitor at the Department and she was not accompanied by us and gets distressed at the end, they will phone us and say ‘Can you follow up?’ and fill us in. Rather than just going ‘I’ve done the legal stuff, now goodbye.’ If there are child protection concerns they will contact the social work team. They have a lot of contact with the support services – looking at how that’s going or referring in to that.” (External stakeholder)

“They take their time to make sure that clients are accessing the right accommodation, the right support. And they take that on and if it needs a legal challenge they will do that. And they will ensure that a client is referred to a GP for help, that sort of thing.” (External stakeholder)

For some clients, this holistic support is done in close cooperation with a support worker, but if clients don’t have one the Department will take on more responsibility for welfare issues until one is found. One staff member explained: “I recently contacted the British Red Cross to find out what services there would be for English classes in a particular area and pass them on to them. Other clients will need a lot more help though, and if they didn’t have a support worker I would phone up the service myself to get them linked in.”

There were a wide range of outcomes large and small identified, including:

- Clients who report fears about where they live, particularly as a result of fear of renewed domestic violence or racism, are helped as a matter of urgency to find new accommodation
- A young person who was about to be transferred against his will to adult accommodation was supported to remain where he was
- A client who was living in a house without a functioning toilet was helped to find new accommodation
- One client who had been taken off the critically-needed donor transplant list has been reinstated on it as a result of representations made by the Department on their behalf. The Department is now arguing that as they were wrongfully taken off it, they should be bumped up the list in recognition of the time lost.
- They help clients understand their rights in relation to being interviewed by the police when they are implicated in criminal proceedings by dint of being victims of trafficking
- Clients who report distress, sleeplessness or lack of concentration are taken seriously and referrals made where possible to health or other services
- Delays or mistakes in paying due benefits are challenged
- Clients have been supported in going to school, particularly by challenging age assessments

A few quotes from clients illustrate what they appreciate about this holistic approach:

“I got stopped with my weekly payment just recently. The Home Office said they sent me money but I never got it. So I came here, and explained what was happening, and she took it up. She called another agency and said that they had to give me money, that they could not leave me. She talked to a social worker as well. She said to somebody I remember ‘You have the right to make
sure she is OK until this is sorted out.’ Oh, she really took it up. She had appointments, but still dealt with it and before you know it, my problem was sorted.” (Client)

“They helped me with my accommodation and my learning English. It was very important. Before I was only half living and I did not know how my life could get on – I had no money, no place for living, no English. Now I have place, and I begin to speak.” (Client)

“I received help from my lawyer on the accommodation issue, which was so huge for me. Where I was accommodated from the time I came into the country was a place where I felt very secure given past experiences. When they wanted to take me out of that place I was very upset, and my lawyer fought hard to make sure that I wasn’t taken out ….. I am very grateful for that effort, I don’t know what would have happened to me if I’d been thrown out of that place.” (Client)

“Sometimes [my lawyer] came to see me – I stayed with a family. She would update me and then ask how everything is. I was taking swimming lessons – she remembered that. I said I wanted to join a football team. She said she might know somebody who could find me a club. I don’t think she knows much about football. But it was good she tried for me.” (Client)

**Successful legal outcomes are life-changing**

The evaluation looked at all cases during April 2012 and March 2014 in terms of success rates and ultimate client outcomes and a detailed breakdown of client case types and outcomes is given in Section 8.

Analysing such figures is complex given that:

- Some clients receive multiple interventions and have a case file opened for each (e.g. asylum and housing)
- Some clients receive initial advice and assistance only and are then referred on as not meeting the criteria
- Some clients start to pursue a claim, but it is then dropped for various reasons, normally because the client decides not to pursue it or moves away
- Cases can take a long time to decide and progress through the system, particularly given recent Home Office reorganisation which has reportedly slowed decisions down more than usual. At the end of the period analysed, for instance, 92 clients had ongoing cases with the Department where the outcome was not known.

However, in terms of known outcomes achieved during this period there are some significant successes gained. 45 people gained refugee status, Discretionary Leave was granted in 10 further cases, Humanitarian Protection in a further 8 cases and leave to remain in a further two. In addition, 36 clients gained a positive conclusive decision by the National Referral Mechanism as being a victim of trafficking which in 12 clients led on to the Department successfully pursuing compensation for their clients under the Criminal Injuries Compensation Awards scheme (CICA), with some significant payouts awarded.

Overall the success rates for clients both at initial application stage and even more significantly at appeal stage are higher (in the case of appeals, far higher) than the national success rates. When this is taken against the backdrop of the Department only selecting clients on the basis of whether their claim is ‘stateable’, and often dealing with clients who have already been refused status when they arrive, this is an impressive achievement.
Clients helped to get on with their lives post-decision

The Extra Mile: On the Tin Evaluation of LSA Women and Young Persons’ Department, October 2014

The transition to having a legalised status is a critical watershed. The relief of finding oneself the right side of the law can lead people to express their relief and joy in various ways: one client changed their name to that of the Judge who heard her case and granted her leave to remain.

Staff are aware, however, that though a positive decision is great news for the clients, this is not by any means the end of the road. “Getting refugee status is obviously great, but for me it is also about ensuring that they are able to move on and move forwards from there.... There are lots of other things which are successful outcomes. Assisting somebody retained under the Mental Health Act to understand the circumstances, and decide to leave the country. Helping to change somebody’s fee status from overseas to home student. Being successful under CICA and being able to get them compensation for what has happened to them. Helping people regularise their immigration statuses for themselves. Seeing them later on when they come back for a further leave to remain application without difficulties. Those things are great.” (Staff member)

The Department continues to support and take an interest in clients after they leave. This was evident during interviews, with many clients with status wanting to see their lawyers for brief advice, or perhaps just an update. The Department’s has an ongoing sense of responsibility towards its clients: one external stakeholder reported that they had helped support a young woman with a substantial CICA payout: “They had a young woman where there was a real concern about her having the money and being vulnerable to ongoing exploitation from people around her. So they worked with her and the money was put into trust for her child. That was a good example of their holistic concern – they sat down and almost risk assessed the situation with the client and then put mitigation in place. It’s that follow through from the beginning to the end for women that is so unique.” Another external stakeholder put it more succinctly: “They save people’s lives. It is big.”

Clients who have been granted status talk about a life which they never expected to have. Many are still recuperating from their traumatic experiences, but they spoke about moving on, studying, finding work and raising their children with evident pleasure.

“I did well in English this year and I am going to do intermediate next August. I want to finish higher than I did last year. Then I try and see if I can do midwifery. Because I have that skill – I was a midwife back in my country. The way I want to be treated is the way others want to be treated as well, I know that.” (Client)

“Now I am still on medication but it has reduced. Life has changed a lot for the better. Then I didn’t feel safe, but now the feeling of afraid is no more there. So I know I am in a place I am safe with my kids – so it makes me relax and I know my children have got a future, and I know a lot of things have changed.” (Client)

“Before I had lots of difficulties in my life and lots of hardship and misunderstanding of most of the system and the country and the culture. But now after my decision I am happy with my life and I am at a stage where I am thankful to [my lawyer] for helping me. If I say now a normal day: I wake in the morning, go to school, during school I do sports and some studies and learn new things and come back.” (Client)

“I am working in Home Care at present. I have a job, that’s good. Now I am free, I can feel it .... I have five children. Today’s is my youngest’s last day at school and they have started their holiday. That will make me even more tired!” (Client)

One client, a young victim of trafficking, arrived at the Department speaking no English at all. With limited education and a devastating experience of loss and exploitation behind him, he was traumatised by his experiences, found it extremely difficult to engage and had very little hope. Against all odds, the Department won his case and gained him refugee status as well as supported him with various welfare issues.
His caseworker talked about the change he has witnessed: “The change in him now is ridiculous. Now you see this beaming adult, his voice is lower, he looks assured.” When we asked the client to summarise how he felt his life had changed, he said this:

“When I first arrived I have a lot of difficult things happening in my life, but now my life has changed a lot. Now I can adapt in the environment here. Now I am a little bit older, so I can work, and I can travel by myself. And now also I can make decisions myself. Before when I have to do something I have to get support from the social work and other organisations but now I can do a lot of things myself. I think now that my life is improved a lot – I can stay here, I can go to school, and the most important thing is that I feel safe here. The most difficult thing now for me is language barrier, and when I can master English I will find a job which is suitable for me. There are so many things I want to do.”
Clients’ advice to future clients

We asked clients what they would say to people in their situation who were thinking about using the Department’s services. These are some of their comments.

“I would recommend them and tell them that they are going to help. I would say that I am so glad I found them.”

“I would bring my friend to here. They feel like friends, but more than friends. Because we can speak a lot of stuff to them and they to me and for that I feel very happy. I tell them that there is somebody listening. That makes me feel so happy.”

“Just to say they are excellent. I would definitely direct everybody here.”

“If anybody needs an angel of help, they should come here. Simple. They are good at what they do. They don’t look down on people. It is not every professional I have seen in the last five years where I would be prepared to come back to the office. But for me to feel comfortable to speak to you here – when they asked me, I didn’t even think twice. I just wanted to come and speak. They are good. They are really, really good.”

“If I met a person who experienced the same thing that I experienced, I would say ‘Go to this agency, they are very good, they give good advice and good asylum process.’ And I will explain to them that I was also scared, but my case is successful and I trust them and I hope that will give the new people motivation to come here.”

“I would tell them that there is a good lawyer, they can help people. Anytime I want to get here I can. Which means I am very happy with all the people in this office – the lawyer, the reception staff.”

“That is simple for me to answer. Because I would simply tell them that if they ever wanted to see a lawyer this was the best place to come. I have heard some stories of other people who have gone to other lawyers who didn’t not receive as good treatment as they have here. So I would definitely do all I can to alleviate their fears. I would tell them how I was, and how my expectations were different and how the lawyer they are fearing now in their mind is actually the best friend they can find.”

“I came to the country and met a lawyer. Before that I didn’t know what the word lawyer meant. And what they did and what they would do on behalf of me. But as everything was progressing in my life, I was learning new things, about the system, my knowledge was building up. So my advice to [a friend] would be, as I have experienced, that the lawyer is not a bad or a scary person. He should feel comfortable speaking to them. They will make a change in your life.”
4. Findings on outcomes for other professionals

The Department builds relationships with others working in the field through training, second tier advice and their policy and influencing work. From feedback during interviews, they have developed many strong and trusting working relationships with many in the field who report a range of benefits in their own client work.

Professionals are helped to support their clients

Other people working with this client group report that the input of the Department is helpful and sometimes essential to their ability to support their clients. Other support staff liaise mainly informally with the Department team. They phone the Department to get clarification on a legal situation for a client, to check if their reading of a client’s position is correct, to find out what the latest thinking is on a topic, and sometimes to bring the Department in to speak to clients about their options. They also contact them to take up issues on the client’s behalf – benefits or accommodation issues, for instance – or write supporting letters on the client’s behalf.

“I will go to the Department for advice and steering. Sometimes for instance the client doesn’t have a lawyer, so I’ll phone and say: ‘This is what someone is reporting to me, are there any possible routes you can see here?’” (External stakeholder)

“We get a lot of women through our doors who have been abandoned. A whole load of issues come up from this and the Department help by giving support, or advising if there might be a case there.” (External stakeholder)

“You can’t expect VAW workers to be expert on everything. So for me what is very important, is knowing that you can get advice when them when somebody turns up at four in the afternoon with a really complicated issue.” (External stakeholder)

“If somebody is referred to us they will see the woman as quickly as they possibly can and go through her immigration status. What they will do which others don’t if required is talk women through the NRM and explain it to them which for us is really positive.” (External stakeholder)

“I have spoken to [the Department] a number of times about complex cases….For us they are really complex issues, but to them it is an opportunity to work together to achieve the best possible outcome for clients. And the other thing is that you don’t feel like you are bothering them. They make you feel like it is good to check things. I could give you many, many examples of that.” (External stakeholder)

Professionals gain new understanding and skills

The Department not only helps in individual client cases, but also by increasing the overall awareness and skills of professionals so they are more able to diagnose or deal with problems on an ongoing basis. They do this in a variety of ways: informally, but also by circulating information, training and participating in a number of policy and practice groupings (including convening their own Advisory Group, which people said they found helpful from an information-sharing perspective).

“I did one course on women with limited immigration status who had experienced domestic violence issues. Lots of women’s aid workers were queuing up for that one to help them know what their entitlements might be and how best to support them.” (External stakeholder)
“The information they provide helps me in my job advocating with colleges and so on. I have used what they sent me as evidence to make sure the young people I am supporting get access to education.” (External stakeholder)

“The Home Office changes its goal posts consistently. They really help us by telling us what is going on. They’ll say ‘This week, we have mainly seen this happening’ and they’ll get that information out to others in the field.” (External stakeholder)

Professionals are updated and involved on their client’s legal case

Professionals mainly welcome an opportunity to be involved in the progress of their clients’ cases and having a chance to both influence (by for example producing references) and update themselves.

“The Department have always got back to me and asked for a reference and asked what I was doing with them. For other clients with different lawyer they have never asked for that type of reference or evidence from other agencies.” (External stakeholder)

“Of all the law firms I deal with LSA is the only one which will respond to your telephone calls and emails. The other firms are awful at getting back to you. Sometimes I want to know something about existing cases and if I needed to get something and couldn’t get hold of London I would get on to [the Department].” (External stakeholder)

“It often feels like you are chasing the lawyer – but not with [the Department] where it feels like a reciprocal process. They would never not keep me informed. With a case I have with them, I will know as much about that case as the lawyer. That’s very useful in terms of supporting the young person involved.” (External stakeholder)

Legal input into internal practice and policy development

Organisations also appreciate that the Department helps them develop their internal policies and practices, either at organisational or departmental level.

“I am the Child Protection Officer and they have been very helpful in terms of helping us develop our practice around raising issues about age disputes. We work with a lot of age disputes and quite often you are very concerned about their wellbeing... [the Department] has been very helpful in terms of explaining the legal risks.” (External stakeholder)

“We were concerned that some people with health related rights were not being seen. The Department ... has supported us with advocacy and also stuff we can pass on to other lawyers who are working with our clients. If the Department has done a lot of the groundwork, then you can pass the information to another lawyer who may be working with one of our clients and say ‘Maybe there are legal rights in terms of health and this is how you can fight it’.” (External stakeholder)

“We would describe [the Department] as a critical friend. We rely on [them] heavily – they are people we would go to for advice. I phone them up and say ‘Keep me right on how I deal with this’ – literally.” (External stakeholder)

“They have very much to add when it comes to observing what happens in that court arena which we have little sight of. From social work we can have intelligence back – but on the legal side it has always been more tricky for us to understand what is going on. So to have an agency which can provide you a view, especially when taking the child’s best interest at heart is something positive.... there are other specialist agencies but they don’t know anything about UASCs and that is their speciality.” (External stakeholder)
“In the last week I have had two calls from Police Scotland on second tier advice, and been asked to train on an issue which we have talked about for a long time. It’s all around the issue of treating victims of gender based violence, such as FGM, as victims before their immigration status is resolved. That’s a very valuable opportunity to input.” (Staff member)
5. Findings on outcomes: practice and policy context

Attributing changes in the practice and policy environment to individual agency input is notoriously difficult as changes are invariably caused by a combination of various contributions, including political commitment. However, it is clear that the Department is playing a lively and engaged role in this area and this section summarises what the evaluation learnt about the importance and impact of this work.

Changes to practice and policy

The Department has a good overview of the practices which are impacting positively or negatively on their client group. “They are good at spotting issues which are emerging as services change. If there’s a problem anywhere in the system for their clients, they will flag it up.” The range of practices which are covered by the Department’s purview are many, relating to trafficking, treatment of people experiencing gender-based violence, treatment of people who are traumatised, treatment of young people in the legal and care system and much more besides.

Given this, they have participated in numerous practice development initiatives with the aim of helping others improve the way they work. For example, they worked with the Community Safety Partnership on good practice around the use of interpreters and helped develop a resource in a number of languages around rape and how this should be addressed in Home Office interviewing.

Some practice changes emerge through the casework. In one case, for example, a client of the Department was asked to report to the UKBA with her children. The Department worked closely with the legal officer at Freedom from Torture in London and got agencies to write letters explaining why this could lead to a deterioration in the mental health of the child. When initially the Home Office did not respond, the Department started preparing to judicially review (JR) this practice. The Home Office at this point withdrew its requirement for the children to report so the JR was dropped.

The Department is also asked to suggest ways forward on existing poor practice where other professionals in the field identify this, as one external stakeholder explained. “We started seeing victims of trafficking being put in Young Offender Institutions, so we went straight to [the Department]. We were all rather drum-banging, but they were able to influence in much more subtle ways. They could raise it at the Scottish Government cross-party trafficking group, for instance, and could put it in the legal context. We just said ‘this is awful’, but [the Department] said ‘This isn’t just awful, it is contrary to X, Y and Z’ and that made people pay attention. Suddenly the practice stopped and there were no more cases.”

Court cases can also have an impact on practice. One case which involved a difficult, sustained and extremely high profile challenge to the treatment within care of two young people and their age assessment was taken all the way through the courts. The young people concerned eventually got their papers. This was observed by policy-makers at the highest level (it was reported in the legal news, and the Scottish Government attended at court), and both guidance and training on age assessment was commissioned from the Scottish Refugee Council with the support of Convention of Scottish Local Authorities (COSLA) and is now in place to guide future practice. As well as taking the case, the Department was also consulted on the guidance.

Department staff note and welcome that practice in some areas is changing:

“I think there is a much increased awareness for younger children in care that you need to get representation and advice in relation to that early on. Social work teams from around Scotland now phone us to check what needs to happen” (Staff member)
“I have really noticed a change with police and others about the treatment of victims of trafficking. We have seen a number of criminal cases taken against clients dropped. We’ve had a lot of meetings with the police, and policy papers produced. We’re seeing cases being handled differently and referrals happening differently, and that’s partly as a result, I’m sure.” (Staff member)

The Department is also involved in a wide range of policy development initiatives. Some examples illustrate this:

- They have a strong and positive working relationship with Police Scotland and are discussing the development of policies around the treatment of victims of trafficking.
- They have sent a paper to the Scottish Government with an analysis of the treatment of young people who are too young to give instructions, looking at how this can best be done in the interests of the child.
- They are working with the Scottish Government, through the Separated Young Person’s Forum, on whether UASCs between the ages of 16 – 17 should be treated under Section 22 or 25. This work has led the government to conclude that it is right to treat them under Section 25, making them formally ‘looked after children’ with a right to, for instance, day care and after care.
- Academics approach the Department to contribute to papers, for instance on the ways trafficked children should be identified and protected (with Stirling University).
- They are working with various policy groups to ensure that policies and practices in the Violence Against Women strategy accord the same rights to asylum seeking and refugee women as they do to indigenous women.
- They have been consulted on a scoping study into FGM in Scotland.
- They have reviewed the multi-agency guidelines and legal guidelines for forced marriage cases.

The Department attends existing groups, is invited to input on new groups and also in some instances will convene meetings to initiate discussions on particular policy matters of interest which they see coming up through the casework. Policy-makers find their input extremely useful, particularly commenting on the unique perspective their detailed legal approach and positive engagement with the legal and policy context brings:

“I was at an event last week on FGM organised by the Scottish Government and there was a representative from [the Department] there. They were very active in their input – they were visible, they were strategic, they were the kind of thing that we are looking for. My experience of them has been nothing but positive.” (External stakeholder)

“On our Forced Marriage consultation on criminalisation it was incredibly useful to have their legally trained critical eye. They bring us a joined up expertise – I often find myself picking up the phone to them and saying ‘Can I ask you something?’ on a policy matter”. (External stakeholder)

“[The Department] brings a different angle because of their legal expertise. Other providers do that, but there’s something about the set up and attitude to work which they have which is more positive and holistic. They are more a supportive service provider than a pure advocate. I’m not sure why this is. I’m always keen to see inventive children’s rights arguments brought forward – [the Department] understands this really well and have ideas which are more likely to fly in the courtroom.” (External stakeholder)

**Influencing standards through their approach**

The Department is influencing benchmarks standards in at least two ways. Firstly, it is spending time participating in a range of projects to develop them. Some examples of this have been mentioned already, and another example is their work in a European-funded project looking at best practice in terms of early legal intervention for victims of human trafficking. This is being led by the Immigrant
Council of Ireland and the AIRE Centre is also a participant. The Department is part of the team developing and implementing the pilot for this project.

Another less obvious way in which it is influencing standards is just by doing the work it does in the way it does it. Several external stakeholders noted that the Department itself is providing a model of working which is increasingly gaining a reputation both nationally and internationally. Recognition of this comes sometimes from surprising places, as interviewees noted:

“The Home Office doesn’t pay attention to some of the submissions put in by solicitors. But I know from experience that if the Department has submitted something they know it has to be looked at carefully. They will take it seriously. I know this because when I have worked with the Home Office they will take notice if I tell them that the Department has looked at a case, whereas I have seen them being very dismissive sometimes about others.” (External stakeholder)

“Once the Home Office knows that the Department is involved, my perception is that they sit up and take notice. They know that the Department will put special measures in if the client asks—having a female interpreter for instance—some lawyers wouldn’t bother with that. I’m sure it might be a pain for them in one way, but on the other hand they get a quality statement which has to make their life easier.” (External stakeholder)

“I have seen the solicitors at the Department commended in court. That never happens. The court up here generally treats everybody with contempt, often deservedly so given the lack of preparation and care I have witnessed. But the Department is always professional, courteous, incredibly well prepared. I’ve seen judges say ‘Thank you for your input’ to them. That’s extraordinary.” (External stakeholder)

The interesting point here is that practice is being developed ‘by doing’ which introduces an awareness of what a good service looks like, not only into the minds of those working for clients, but in the minds of those taking significant decisions about their lives.

Public bodies held to account

The only serious criticism voiced of the Department during the evaluation was that their client work had challenged some public bodies about their practices in a way which the external stakeholder regarded as unhelpful and wrong. This was in the area of age assessment, a very sensitive area. “I feel we did have a better relationship with the Department, but it has changed because of the age assessment.” However, the same interviewee also noted that: “If I was an asylum seeker I would want to be represented by them.”

We took time to explore this criticism with others, particularly since it was the one discordant note in an otherwise positive chorus of appreciation. Others with a specialism in Child Protection noted that: “[The Department] will robustly pursue circumstances and situations on behalf of the young people they are working with, and this may well at times be seen less favourably by other partner organisations who have less experience in working in this specialised area of practice.” Another external stakeholder noted more informally that “I think social workers respect them, but I also think they feel that [the Department] is a pain in the backside. They want to work with them as they know it’s in the best interests of the child, but they also know they will be on their case every hour of the day and night about housing, support, has the NRM gone in and so on.”

The key point would seem that the work of the Department inevitably brings it into contact with public authorities with duties of care or decision-making in relation to clients, whose practice may be challengeable. This is also true of decision-making within the Home Office, for instance, which is also something the Department challenges if they find cause to do so. “I would always want to challenge a public authority which is failing with their duties and if it is in the interests of the client.” (Staff member)
The overwhelming majority of those interviewed felt that this is vital to a transparent, functioning system which places the client’s rights at the centre of their treatment. It is also a key way in which public authorities are held to account.

**Developing the law through litigation**

It is difficult to identify potential litigants within the Department’s client group given their history, vulnerability, and the fact that the client may for good reasons not want to endure a testing progress through the courts on top of everything else they have experienced.

The Department advises clients as to their options. Sometimes there are none other than to proceed with litigation, as in the age assessment case mentioned above. In others where a challenge is more ‘for the record’, as for example in challenging a negative finding by the NRM in relation to trafficking in spite of the client being awarded leave to remain, clients are less motivated to continue as they cannot see the immediate personal benefit of such a challenge.

In spite of this there have been some challenges brought. The Department worked with the AIRE Centre, for example, to test the approach of the Criminal Injuries Compensation Authority regarding compensation for victims of human trafficking and was successful in the tribunal. The case is now being used to train lawyers on this issue. Other cases have been taken about women who have suffered domestic violence but fall outside the immigration rules because they are married to a refugee rather than a British citizen. The Department has taken this forward and written to the Home Office setting out their objection and potential challenge:

“We are of the opinion that the decision to refuse to vary our client’s leave under the Domestic Violence concession is unduly restrictive and therefore unlawful.

This is because the only reason she is stated not to be eligible for the Concession is that she was married to a refugee on her entry into the UK rather than a British national or other person who became settled in the UK. For all intents and purposes, however, our client entered the UK as a spouse joining her husband with a view to settlement. Indeed, she would be eligible for settlement in line with her husband’s visa in June of this year but for the domestic violence she sustained.

We understand that a case, on similar facts and making similar arguments to those noted above, referred to as T is due to be heard in the High Court in May 2014.”

(Extract from Department letter to the Home Office)

There is a desire to develop this area of work and various steps underway to do so: the Department sits on a Strategic Litigation group for children, for instance, and were also successful in gaining a grant from the Strategic Legal Fund for Vulnerable Young Migrants to undertake pre-litigation research into support provided by local authorities across Scotland to separated asylum-seeking children aged 16 – 17.
6. How the Department does its work

This section briefly examines how the Department is set up, governed and managed and notes strengths, concerns or suggestions for development where these were made during the evaluation.

Values and approach

The Head of Department has introduced a conscious commitment to embedding human rights principles within all the Department’s work. “Professionalism and structure matter. A proper human rights approach is not just about working well with our clients. It is about being accountable, through and through. I really feel that we cannot hold others to account if we don’t apply the same standards we expect from them to ourselves.”

In practical terms, this involves:

- All staff having a thorough grounding in and understanding of fundamental principles such as confidentiality, ethics, conflict of interest and international standards
- All staff understanding that all interactions, be these with clients, other staff members or those working external to the organisation (in whatever role) should be conducted professionally and to a high standard
- A commitment to ensuring that the ‘right to remedy’ is carried forward with energy and intelligence as a fundamental human right.
- A central commitment to the core values of accountability and transparency.

The values manifest themselves in a variety of ways. For clients, it means treating them first and foremost as individuals who are worthy of belief, consideration for their human predicament and all possible remedy available to them within the law. Practically for clients this means:

- Taking care to provide an environment which acknowledges their humanity: a pleasant interview room which guarantees confidentiality, equipped with toys for when children unavoidably accompany a woman to her appointment.
- Allowing clients time, space and support to engage with the asylum process
- Greeting and treating clients as if they are valued and welcome
- Informing and engaging the client as a key contributor to their case. It is made clear to clients that they are expected to participate in this process, explained to them why it is necessary, and though considerable allowances are made for trauma Department staff also make their expectations clear in terms of client honesty, attendance and communication.

Both clients, other professionals in the field and staff within LSA recognise and appreciate this conscious commitment to human rights and respectful treatment, often comparing it favourably to what they encounter elsewhere:

“I really received a great welcome. Everything was different. My expectations are based on treatment and experiences that I have had before I came in this country and even after I arrived here. I thought I would be intimidated, harassed but the language was a very cordial language. I would be asked if I wanted water, coffee, tea and even food.” (Client)

“Our workers get treated differently [at the Department]. I have had to complain to another agency for being dismissive and discourteous - one support worker was even told to ‘Shut up’ by a lawyer. But with [the Department staff] they are immediately on your side. Instead of us having to convince them, they are asking us questions and finding out what we know and can help with.” (External stakeholder)
Quality, supervision and staffing

Quality in the Department

Quality of the work is taken extremely seriously. Staff are regularly supervised as well as appraised every six months. There is also a weekly staff meeting which people said they found helpful. All staff interviewed said that they felt supported, involved and enabled to do their work, and that in spite of being busy the two project leads (Kirsty Thomson and Jennifer Ang) were always happy to review cases and answer questions.

The supervision and the regular communication leads to both passion and consistency in the work. “I think as a small team we make sure that we do what we do consistently. What I will do in any given case will be exactly what another colleague would do.” This ensures a major strength of the Department, which is that cases can be picked up on and taken over by others at short notice.

The key areas highlighted which help ensure quality in the Department’s model were:

- Recruitment which tests commitment and human rights awareness.
- Rigorous checking of written submissions
- Support and supervision to develop staff specialisms

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“It is a human rights approach which is so central to their work. That’s really, really important. That takes time and resources.” (External Stakeholder)

“Generally a secretary just sits there typing, but in the Department everything everybody does is appreciated. They show it by listening, by involving you. You feel appreciated.” (LSA staff member)
Transparency, sharing information and partnership

The Department recognises that their work is only possible by building good partnerships with other providers. The Department’s Advisory Group provides external scrutiny of its work, which helps inform partners. In addition they share their expertise through training, seminars, policy work, second tier advice and a well-developed volunteer programme which provides opportunities for students to gain experience and expertise. “A big part of [the Department’s] work is about being accountable and transparent to everybody else about their work and what they are doing. They are very transparent about their service and what they are doing and highlighting anything which may be useful to others.”

A commitment to proper use of public funds

Many spoke of how the Department staff will fight the corner of any client with passion. However, in spite of the absence of a merits test (as there is in England and Wales and for other types of legal aid in Scotland) they will not take on a client unless they consider they have a ‘stateable’ case which they feel that the client has a right to have taken forward.

Staffing in the Department

The culture of learning, professionalism, mutual respect and high standards means that staff feel invested in the success of the Department. One external stakeholder noted this: “I get no sense of hierarchy in the Department. Though Kirsty is clearly the Head, I never get a sense of pulling rank, or of others not feeling involved”.

We noted this inclusive feeling when we spent six days in the office during the evaluation. Though staff were working long hours and were clearly extremely busy, often with unexpected emergencies, they still took time to set up interviews, make files available for review, explain things and answer questions. We felt this showed a clear commitment to learning, a desire to be transparent about their work, and a respect for our time as evaluators.

Support is also provided in the form of a partnership arrangement with Freedom from Torture, which provides free clinical consultations to support staff who are dealing with often highly distressing and traumatic cases. Burnout is recognised as a real threat, and this is countered partly through these consultations and partly by ensuring that all staff have a balance of different tasks and activities, including training and policy work, to vary their working week. This has been enabled through the grant funding.

Concerns about staffing

The key concern expressed in relation to staffing was about capacity. Over the last 18 months the Department has been particularly affected by long-term staff absences through sickness which were not work-related, but which placed a hefty burden on the shoulders of those picking up the work. It is a testament to the professionalism of the Department that many have not noticed that at times the staff team was reduced to very low levels indeed. Some are aware of how much they do, and importantly how much they could do were they to have more staff: “Frankly, there should be twice as many of them” was one comment by an external stakeholder, whilst another noted that “They respond so quickly, and their provision is exceptional, but I have concerns about their ability to continue to do that. I would like to see an increased capacity”.

Another concern related to the central importance of the Head of Department. She has set the tone, and driven the work forward thus far, and there is a concern from some that without her the Department may not continue to be so successful. There were however many signs that the approach is becoming well embedded across the small staff team. Indeed some LSA staff have noticed the beginnings of a shift to a more engaged culture outside the Department as well. The ethos and practice is becoming well embedded.
However the current balance of work for the Head of Department does not allow sufficient time for her to plan and develop the work. Her time is currently too dominated by casework, and several noted that with less commitment to this she would be able to plan a broader strategy for the Department and put in place some internal structures and funding which would enable it to be more ‘future-proof’. One external stakeholder noted that: “I would like to find them a bit of funding to free time so that they could run with this model. It needs to be consolidated within the Scottish landscape in my view, perhaps expanded geographically – but all of that will take some strategic input”.

Finally, all staff reported that the Department is chronically short of administrative support. Though this is a common complaint of many staff teams, it is clear that at present valuable lawyer time is being spent on filing and basic administrative tasks which detract from other activities.

**Governance issues within the LSA**

The Department is one of three departments at the Legal Services Agency (LSA), a charity and law centre founded in 1989. The other two Departments are Mental Health Legal Representation Projects and Housing and General Court Department. The Women and Young Person’s Department is the youngest, having been set up in 2005.

Whilst the Department has gained from being located within the LSA, which has offices in Glasgow, Edinburgh and Greenock, a long track record of working with ‘the underdog’ and other legal experts which in some instances it may be useful for the Department to refer to, several interviewees also noted that the Department has brought benefits to the LSA. As one external stakeholder put it: “[The Department] is certainly punching above its weight in terms of capacity and the outcomes they are working to, and to me it looks as if the LSA as a whole gets a lot of benefit from that. I only really know the work of the Department, but I think now if somebody came to me and were looking for, say, welfare benefits advice I would probably go instantly to LSA assuming that they would be as good.”

**Suggestions for the future**

The Department participates at senior management level within the LSA, with two of its staff represented on the Senior Management Team. However, nobody within the Department is a partner and as a result nobody directly feeds into the LSA’s Board. Some interviewees (including funders) felt that there might be benefits in changing this to ensure that the Department is able to participate directly at Board level, and in particular to demonstrate commitment to the Department’s future role. “I think it would give more stability to the Department were it to be made a partner” and “I think we should make sure that there is proper reporting from the Department to the Board, and better support from the Board to the Department” were two comments made by external interviewees.

**The Department’s Advisory Group**

The Department has set up its own Advisory Group to help guide their work and inform stakeholders about developments. This currently has 15 external agencies represented on it and is also attended by two members of LSA’s Board, LSA’s Chief Executive Officer, and all solicitors in the Department. It is the largest sub-committee within the LSA’s governance structure, though it has no decision-making powers.

There were mixed feelings expressed about the benefits of the Advisory Group. The main benefits noted were that it helps its members learn information they might not otherwise come across, and helps build relationships by providing a regular meeting forum (though it was also noted there were a number of other forums where people regularly meet).

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7 The Refugee Legal Project, from which the Department has grown, was set up in 2000 and closed in 2005.
“People will share information which is sometimes very useful: how they have noticed the Home Office doing X or Y, for instance. That helps to get a handle on trends.” (External stakeholder)

“It’s a good link between the legal and the policy side. I hope it’s useful for them [the Department] as well.” (External stakeholder)

For the Department, the Advisory Group enables other benefits: funders are reassured by the transparency and oversight it enables, and in addition it enables a consistent and structured way of involving and informing the LSA Board. More broadly, it helps build relationships with those they work with closely on casework, and the fact that it is used by the Department to consult on internal developments contributes to the Department’s overall ethos of and reputation for transparency:

“It’s good to be part of very frank internal discussions. It never feels like they are putting on a show for us.”

“They open themselves up to scrutiny – I think that’s been useful. They even consulted with us about how they should go about the evaluation you are doing now!”

Having said that, some external stakeholders have concerns that the Advisory Group may be more useful for them than it is for the Department itself. “To be honest, they are doing so much better than everything else I am seeing in this sector. How is my opinion going to help them?” was one comment made, or another: “Sometimes it can feel rather one way – I think we can learn a lot from it, but I’m not sure they do”. Other concerns were that the discussions can tend to be quite legalistic: “It’s useful, but for me there’s a lot of jargon and I don’t often feel I can contribute much”.

Suggestions for the future

Overall there was a sense that the Advisory Group would benefit from a review in order to make it ongoingly relevant and useful to those attending as well as to the Department. The key suggestions made were to:

- Clarify the purpose of the Advisory Group, and in particular separate out the functions of ‘information-sharing’ from the function of ‘Departmental advice and review’.
- Take forward the ‘information-sharing’ element of the work by holding meetings less frequently, and having ‘Learning Events’ perhaps once or twice a year for those who want to have an inter-agency review of the main issues and topics which are emerging from the Department and which are of interest to a wide range of stakeholders.
- Take forward the ‘Departmental advice and review’ element of the work by having fewer members acting as a smaller Advisory Group, who are asked to comment, advise and input into specific elements of the Department’s work in a more proactive manner than is currently the case.

Funding issues

The Department’s ability to develop as a specialist legal provider has been made possible by the investment of three funders: The Scottish Government’s Violence Against Women’s Fund, Comic Relief and the Paul Hamlyn Foundation. This has funded enhanced casework for clients as well as engagement in policy work, second tier advice work, and development of the volunteer programme. The Department also earns some income through its training and seminar programme.

Other than this, the Department earns legal aid money in common with other legal aid providers. The most common activities of the Department for which the Scottish Legal Aid Board (SLAB) provides legal aid are immigration advice, asylum claims, Judicial Review and applications for criminal injuries compensation. The system works differently in Scotland than in England; in Scotland solicitors are
able to sanction ‘advice and assistance’ legal aid, which is immediately available once the application is completed. Applications are checked by SLAB, but an initial amount (usually £95) can be used immediately without reference to the Board. In some respects this system works better for solicitors and clients, in that it removes some of the complexity and uncertainty involved in applying for legal aid. However, the disadvantage is that in order to control the resources spent, the amounts payable for the various tasks involved in a case are limited, and often SLAB will reduce the payments for which a solicitor bills. This makes it extremely challenging for an organisation like LSA to provide a high quality, holistic service to a vulnerable group of people within legal aid fee rates.

In addition, a combination of staff shortages due to unforeseen staff sickness and delays in payments by SLAB has resulted in some pressure being felt by the Department internally in terms of being able to meet its fee earning targets. Delays in payments are caused by various factors including persistent challenging of all legal aid expenditure other than the minimum provided under the system and delays with the progress of cases ‘stuck in the system’ which have been opened but are as yet unbillable. We learnt that this is a particular feature of asylum cases at present.

“A real worry for us at present is the current rate at which the Home Office is turning round cases. It appears that they are practically at a standstill. It means the work grinds to a halt for the client, but it also means that there is no possibility of charging fees.”

Suggestions for the future

The main concerns expressed by interviewees were to do with the need to diversify the funding base, and potentially to start charging for services which at present are offered for free. “I think they need to grab with both hands all of the incredible energy and experience they have and say to somebody: ‘Rather than us scuttling around getting small pots of money, we need to get a five or ten year plan which enables us to concentrate on and develop the work. Their funding needs to be more strategic.’” The Department is aware of the need for this, and the need to package and market its work and services better, but it will require more time from the Head of Department in particular to do so.

Reputation and marketing

The reputation of the Department is clearly by now formidable. A selection of quotes from partners, funders, policy-makers and workers in the field illustrates this:

“We see them as experts who are going from strength to strength. The amount of times people refer to them is amazing - they are seen as the place to go to. Nobody ever seems to have a bad thing to say about them.” (External stakeholder)

“I think they are really viewed as the best really. If you can get your client to them you feel comfortable and that they have the best chance they can have.” (External stakeholder)

“They are very highly regarded. We all understand that the ethos of [the Department] is about working collaboratively and is in the interests of the young people.” (External stakeholder)

“They are regarded as going above and beyond what others would. I have great respect for their very specific expertise. They have a lot of integrity. They are honest about whether there is anything more they can do for a client, and if there is they don’t give up. But they have the expertise to know. That gives them integrity with all sides.” (External stakeholder)

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8 This is only true for ‘Advice and Assistance’ legal aid. Other types of legal aid require the approval of SLAB.

9 Subsequent to the evaluation this situation is resolving and cases are now progressing through the system again. However, it is worth noting that these internal changes and hold-ups at the Home Office are unpredictable, and result in, inter alia, financial uncertainty when they occur.
“They’re a great resource and Glasgow is really lucky to have them, even though they’re national. A really excellent resource to have on your doorstep.” (External stakeholder)

Suggestions for the future

It was felt that the Department needs to capitalise on these extensive informal networks of recognition, and become more proactive about promoting its role and services. One external stakeholder summed this up:

“The thing I have always wanted is for them to expand and get across Scotland. They are quite Glasgow-centric, though I know they do work elsewhere when they can. But this is constrained. We need them across Scotland. I sometimes think there is a bit of an undervaluing of what they do, and they don’t have sufficient awareness that they are dealing with the most complex areas in this sector, and are so very highly regarded.” (External stakeholder)

The physical environment and office infrastructure

The Department is located in central offices in Glasgow which are convenient for clients to access from across the City. The offices are spacious, with a good sized Board room for meetings, and individual client rooms which the Department has made as client-friendly as possible. There is some pressure on the client meeting rooms and it can be difficult to find a space to meet, especially with emergencies, but on the whole the room-booking system was felt to be well managed and working.

A couple of external stakeholders noted that the offices were not very child-friendly: there is a security desk and a lift in order to access them, and the stairs are not very inviting. “It is an adult orientated building, so that’s difficult sometimes”, was the comment made. However, the Department will go and see clients at other offices if they prefer this and feel safer there, so this can be dealt with on an individual basis.

Suggestions for the future

The only consistent criticism from clients were the toilets which were felt to be small, cold, unsuitable for women with children and babies and not sufficiently private given that they are not within the office itself, but across the corridor. It is acknowledged that this may be difficult to fix in the short term, but we raise it as a potential area to review in the future.

A more pressing concern is around the computer system, which clearly causes problems as we witnessed when in the office. The amount of time spent dealing with crashing systems, and the lack of a centralised record keeping system (including time recording) means that staff lose productive working time dealing with the problems. We learnt that documents can sometimes be lost, and on occasion the Department is out of email contact with clients and other stakeholders which is difficult for case progress. Investment in resolving this would seem to make sense for the Department (and more widely, LSA) both professionally and financially.
7. Critical success factors for the legal work

This section explores the elements of the service which seem most influential in bringing about positive outcomes for beneficiaries. This analysis seeks to identify what the Department does that is distinctive and different from the norm, and how the Department’s practice leads to the positive outcomes discussed in Section 3. These ‘success factors’ have been used as a basis for devising a model to explain the relationship between costs and outcomes in Section 8 of this report.

What is ‘success’?

‘Success’ for the Department is not only about legal outcomes. Staff members agree that they see success as helping their clients cope with the issues they have experienced and build a fulfilling life:

“So the most successful outcomes I would say are where the client has not only got status, but has also been assisted in moving forwards in their life. The [name] case was one of the most successful – integrated into school, in college, living independently in Glasgow, actually living his life as he wanted. Seeing the difference is wonderful.” (Staff member)

The Department also aims to ensure that their clients are fully informed about the process and their options, so that, even if their legal claims are unsuccessful, they are better equipped to make decisions about what to do in the future. For the Department ‘success’ is also about doing the most that can be done to assist a client: “So even if you don’t get refugee status, you did everything you could have, you did it well and you explained all you can, and the client understands what happened and why. If there is nothing more that can be done in terms of arguing for a person to stay the client understands that too.”

Overview of critical success factors

In the course of this evaluation we identified fifteen ‘success factors’ and we group them here by type.

Core principles and practice

There are five success factors which stand out above all others as being the reason why the cases taken by the Department are successful for clients.

1. **Partnership relationships and co-working.** Having good relationships with a wide range of partners is key not only to the legal outcomes for the client but also to the quality of support the client receives through the process. The Department works closely with specialist support agencies, statutory services and relevant experts, all of whom contribute to building a case and a network of support for the client.

2. **Getting early evidence which supports the client’s case.** The Department gathers as much evidence as possible to support a client’s case at an early stage, as well as pursuing further evidence if that is helpful to a case. Chasing evidence, and ensuring that expert reports give not only a diagnosis but also an analysis of what this means for the client’s ability to provide a consistent disclosure, is a key factor for success.

3. **Holistic support.** This is intrinsic to what the Department does and to the reasons why it achieves positive outcomes. In practice this means placing the welfare of the client at the heart of the process. Providing holistic support has the effect of helping clients trust the Department, removing barriers and obstacles to engagement and enabling clients to disclose their story in full. As well as helping them to make positive changes in their lives this is also important for successful progress of a client’s case.
4. **Frontloading.** The Department always pursues and investigates lines of enquiry early on, and submits evidence so that it is in front of the relevant authority as soon as possible. As well as helping the Home Office and judges understand a client’s case better, frontloading means that the Department has information that may help clients to cope with their circumstances; for example, specialist health reports are shared early with health professionals, which means that support can be given more quickly. Frontloading also enables successful challenges ‘down the line’: if evidence is submitted but ignored or not appropriately weighed it is easier to challenge the decision taken.

5. **Tenacity.** The Department is renowned amongst partner agencies and clients for never giving up on a case which they believe could potentially be resolved in the client’s favour. The Department has represented several clients for many years through numerous legal process stages and set-backs, with eventual success.

**Applying experience, skills and knowledge**

Four success factors concern the application of specialist knowledge and skills which Department staff have built up over time.

6. **Previous interventions: working out what has happened and redressing inaccuracies.** Sometimes when a client comes to the Department they have had another solicitor or have already come into contact with the asylum system. In some cases previous experiences have been negative and confusing for the client and there may be a range of mistakes or and staff try to ‘unscrew’ what has happened, bringing their particular expertise and experience to the case.

7. **Specialist legal knowledge enabling cases to be viewed from all angles and ‘chinks’ to be found.** Related to the preceding success factor, the Department has specialist knowledge in areas such as trafficking which enables staff to spot aspects of a case which ought to be pursued or to find new angles on a case.

8. **Being clear about legal boundaries.** Despite its tenacity in pursuing cases which have merit, the Department is clear that it will not take cases which are not stateable, or pursue cases ‘for the sake of it’. As a consequence it has built up a reputation for integrity and honesty, which enables its arguments in the cases it takes on to be taken more seriously.

9. **Checking records and interviews.** Attention to detail and thorough checking are key to the Department’s approach. For example, notes of all substantive interviews are always checked thoroughly, partly as a means of laying the ground for future action, such as Judicial Review, if necessary.

**Ensuring client engagement and understanding**

There were two success factors identified here, both of which relate to the time needed to ensure that the client is engaged, knows what is happening, makes their own choices, and as far as possible is helped by having the case ‘paced’ to suit their mental and physical capacity.

10. **The time taken up front for them and the client to consider options.** The Department takes time at the initial meeting to get to know the client and allow them to tell their story in their own time, often scheduling subsequent meetings within a week of the first. Staff are also careful to explain in detail how the legal process works, making sure that the client understands, and explain options to clients so that they can make their own choices about what course of action to take.
11. **Pacing the case.** Taking the case at the right pace for the client is a key element of an enhanced service. Department staff have to balance the desire to reduce uncertainty by getting an early decision with the risk that if a client is not psychologically prepared to go through the process they will jeopardise a legitimate claim. The additional consideration and time this entails involved, for example, seeking extensions of time for submissions or trying to ensure a more client-friendly environment in the court.

**Communication with clients and partners**

We found four success factors which are to do with the way in which the Department liaises with and is available to clients and subsequently liaises with them.

12. **Availability and accessibility.** Partner agencies and clients particularly value the fact that the Department is able to make a solicitor available to see someone quickly. This is particularly important for people experiencing the kinds of issues clients have experienced. In addition, the Department does not place unnecessary barriers in the way of clients being able to contact them when they need to.

13. **Regular liaison.** Partly because the Department has additional funding, it is able to build time into the model to be available to clients if they are worried or need to speak. They also make a point of phoning clients to remind them about, for example, appointments or forms they need to sign. Keeping in contact and reminding clients about appointments is a deliberate technique of the Department to give back control to people who have been disempowered, as well as to build up trust.

14. **Client reassurance and person centred approach.** The Department takes particular care to reassure clients throughout their involvement with the legal process. This reassurance takes a number of forms, both practical and emotional, including referrals to others where necessary and subsequent follow up.

15. **Backup following a decision.** Finally, ‘success’ is not just about ‘winning the case’, it is also about enabling the person to move on in their lives. This means that a certain amount of work is done in helping clients to understand where they are with their current situation and feel supported following their case.

**Looking at each success factor in more depth**

1. **Partner relationships and co-working**

Effective working with partner organisations takes time to build, and the majority of this time has to be spent outside of fee earning. However, Department staff feel that it is worth investing in liaison with other agencies working with their clients for the following reasons:

   - On a case basis to ensure the client is getting the best support and there is a holistic approach to individual, including from decision-makers
   - To improve broader outcomes for the client group
   - To input on the Department’s strategy and development
   - To shape and improve team members’ own knowledge

The Department has a wide range of stakeholders and has managed to build helpful working relationships with the vast majority of those we spoke with. A particular example is the Home Office in Scotland, with whom the Department might be expected to have an adversarial relationship. However, there is a culture of co-operation. For example, a member of staff explained: *“If a client has just come to us, in the past other people in the HO have asked us to make an access request. But*
recently, and really in the last few years and in the last couple of weeks, those people will just send it over. With complex cases and with all applications outside the immigration rules, I call the complex case department first and say ‘this application not going to you, it is going to England, but here’s the reference number’. They take a note of it. It is about sitting with groups of people and having them know our work and we know theirs."

We also saw evidence from the case files of constructive liaison with Home Office staff about the substance of clients’ claims. In one case we reviewed, the Home Office themselves suggested that the client put in a claim for ILR (the woman was not married to a British citizen, but had been the victim of domestic violence). The contact person at the Home Office has kept the Department up to date on what is happening and says they will liaise with the team making decisions on this; if they refuse it they will proceed to make a decision on the asylum claim. A decision is awaited, but it is clear that the partnership approach has enabled the Home Office to understand the whole picture for this client.

As previously discussed, one of the benefits for clients of the partnership approach is that they are spared from telling their story several times over. The Department is open to having partner organisations involved in meetings with clients, to ensure they are properly supported and that everyone supporting the client has the information they need. A partner who works closely with the Department explained:

“They are open for us to accompany women to the first meeting and if they agree to take the woman on, they take a detailed witness statement early on in their contact and a member of the team can sit in on that and offer reassurance to the women and make sure that the disclosure is OK and if there’s anything triggering the dramatic and traumatic response. It also prevents women having to repeat their story to us. [Department staff] have been incredibly open to that – both services have found real value in that. Not every solicitor is comfortable with that – I don’t know why. Sometimes organisations can be a little nervous about others witnessing their service.”

Conversely, there is evidence from some cases of how poor partnership working can have a negative effect on clients. One file contained several notes of instances where another professional had failed to turn up for scheduled meetings and an occasion where the person had taken the client to an interview with the police without telling his solicitor and giving her a chance to prepare him in advance.

Overall, a culture of information-sharing benefits clients and ensures they receive a holistic service, as this external stakeholder confirmed: “I regularly have the lawyer phoning me up to say ‘would you give permission for this report to be passed to TARA or her doctor?’ Really I am in favour of any way that information is passed on to create safety for the client and ensure that her needs are being properly met. Of all the lawyers I have ever worked with they are almost the only ones who do that. With other lawyers – they don’t bother. Especially for legal aid work, it’s the minimum: I will represent you in court, there we go, next client please. I abhor that way of working; if you are working with such vulnerable clients, you have a duty of care to ensure that he or she is receiving services.”

2. Getting evidence which supports the client’s case

Gathering evidence is not only important at the frontloading stage but throughout the case, and in many instances expert or objective evidence has been critical in achieving a positive decision.

Evidence which was routinely gathered in the 20 cases we reviewed includes:

- Letters from teachers, counsellors, support workers and social workers (Department staff give clear guidance on what it would be helpful to include)
- Psychiatrists’ reports highlighting, in particular, the impact of trauma on a client’s current behaviour and vulnerability
• Reports by experts on the social and political situation in a relevant country, corroborating clients’ accounts of what has happened to them. Often Department staff have to do considerable research to identify the right expert, and then work closely with them to help the expert understand how the information they provide can help a person’s claim.

The factor which seems to be particular to the Department is ensuring that expert reports go further than simply giving a diagnosis and also analyse what the diagnosis means, practically, for the client’s ability to provide a consistent disclosure. The Department asks experts for recommendations regarding giving evidence and, as a result, requests breaks, for example, or all women closed courts. It is also clear that experts themselves appreciate the way in which the Department presents their evidence. This has the knock-on effect of making valued experts want to work with the Department.

This account of the progress of a client’s case and the role of objective, expert evidence in helping to explain her circumstances is typical of the way in which the Department works to back up a client’s case:

**Client A: evaluator’s observations on the file notes**
The solicitor obtained both an independent psychological assessment and a report from the hospital and the GP. The file shows that there is a considerable amount of persistence to get the psychological assessment. The Department is clearly pursuing this as they feel that the HO’s refusal on grounds of consistency is challengeable. The report, when it comes, is a clincher for the client’s case and the HO phone to say that if this is going to be submitted they will withdraw their decision. The report basically says that the interview cannot be relied on. It concludes that the client has learning difficulties, looks at her attention span, ability to recall, ability to make connections, and language richness, and draws conclusions about the likelihood of her being able to answer questions accurately and honestly in the substantive interview. It is vitally important for challenging the refusal of her application and NRM as this was primarily done on the grounds of inaccuracies and inconsistencies.

3. Holistic support

The ‘holistic support’ the Department provides is intrinsic to the reasons why it achieves positive outcomes for clients, as many testified during the evaluation. In practice this means placing the welfare of the client at the heart of the process. The way in which Department staff demonstrate this is by, firstly, asking clients about themselves (rather than their case) and noting, and responding to, what they say about their physical and psychological situation. This might involve signposting clients to other services, helping them to access appropriate support, and getting people to support them through the legal process. Providing holistic support also is more likely to have the effect of enabling clients to disclose their story in full, and therefore to help their case.

As an interviewee from a partner organisation said: “They recognise for trafficked individuals it is not just about sorting immigration, there are other issues too. They take a holistic approach to that. So we would maybe get one of [the Department staff] saying ‘she was really distressed after that meeting – have you got anything in place for her, or can you have?’”

Often the practice of getting to know a client and finding out about their lives results in more than one case being taken; for example:

“The starting point is that we are here and we primarily do asylum advice. We will find a way of giving you an answer. That rapidly becomes at the beginning and end of each meeting – how are things generally. They often then have a list of things they need – feelings good or bad about the accommodation they have, or those looking after them, or the access to education – things like access to medical care or mental health services they have been offered. For example, somebody has said to me – I can go to counselling – what does it mean. Somebody said I had to move to this accommodation – what does it mean? Do I have to? What does it mean for my case? What if I am not happy? So what a holistic service looks like is a very long attendance note – and what it looks like is a series of meetings – I will see them every week for a while.” (Staff member)
An external stakeholder from an agency supporting the Department’s client group echoed this:

“They are far more involved in the general welfare of their cases than I have seen at other firms. With the majority of my young people only the asylum claim is deemed by the lawyer to be important. LSA is the only firm I work with who put any effort into challenging the age dispute. I’ve got a case now: the lawyer is sending letters to the HO questioning the age assessment, not because I phoned and chased but by them spotting it and coming to me. I don’t get that with other lawyers at all. With every other lawyer it is me who has to go back to them. ‘It’s not relevant or not within my remit’, I will often hear from others. [The Department] has a more cohesive overall picture of the young person’s needs. And they work hard to challenge.”

4. Frontloading the case

One of the most frequently-mentioned success factors was the Department’s practice of ‘frontloading’ a case (this is the term which is commonly understood by solicitors and referring agencies). Broadly, ‘frontloading’ means not waiting until a client has received a negative decision, or further down the line, but pursuing and investigating lines of enquiry early on, and submitting evidence so that it is in front of the relevant authority making the decision as soon as possible. As one member of staff explained: “The earlier decision is what we are looking at; it allows people to access services as quickly as possible and stops that uncertainty which really blights. It is also about gathering information that may help a person to cope with their circumstances – for example, specialist health reports are shared early with health professionals, which means that support can be given more quickly.”

In practice ‘frontloading’ comprises a number of elements.

**Taking a very detailed statement which tells the person’s story**

The Department takes a written disclosure which is unusually detailed, is taken in a way which is sensitive to the client’s circumstances and feelings, and, with the client’s permission, is sent to the Home Office. “Our experience is that Kirsty’s team is one of the few teams who take a detailed statement. Most provide a little bit of advice, go to screening, go to substantive, but what Kirsty’s team do by taking a statement and sharing it with the Home Office means they have that overview of the person’s circumstances.” (External stakeholder)

The importance attached to getting the detailed statement right is reflected in the time dedicated to working with the client to take the statement. The Department gives the clients as many appointments as they feel are necessary and they take the statements in the clients’ own words rather than in legal language.

These accounts from staff, clients and partner organisations illustrate the way in which the Department works.

“There were plenty, plenty of appointments. I used to come, we would talk about that, we don’t finish, we come back another appointment. They collect and contacted the police as well to give them the reports of what had happened and what I explained, and what the police get from the witness – they also get information from the domestic abuse because I had been with them. I told them everything which had been happening in the house. I was happy with the statement – they give me enough time – they give me all the time appointments, every time we had to go through this and go through that – and they know that my English is not good, not my first language – before we worked with interpreters. But now I am better.” (Client)

“I was writing a letter the other day and only when I started going through all the case notes and meetings attended with the lawyer I realised how many you do go to. Even that initial appointment,
some lawyers would just say ‘hello’ and then down to business, whereas [the Department] takes
the time to talk about legal aid and every single step; they are very careful to give advice and
information carefully. They don’t dive straight in to get the appointment. If a child is talking about
something pretty difficult and the time needs to be cut short they will finish and pick it up the next
time rather than letting somebody sit there just because they have paid for an interpreter for the
hour. You definitely see a difference when we go to different lawyers – we use several lawyers in
Glasgow – you get a good measure of different ones and you can see the difference. (External
stakeholder and partner organisation)

“His statement was the biggest one I have ever taken. He could remember very complicated family
circumstances – orphan street child, being exploited in places, leaving the country willingly, he had
a trusted friend, losing his friend on the journey. That was terrible, the only secure almost parental
figure he had died in a Russian Forest. He had seen horrendous things – he was basically held in a
mine and he saw children drowned in a mine when it collapsed. There were real concerns about
retraumatising him there – they were such significant events. He was at that age where he was so
worried about what was happening. We went well over the legal aid budget with the statement
just because it was necessary.” (Staff member)

Gathering objective evidence

The Department spends time collecting objective evidence to support the claim at an early stage. This
information helps the Home Office to take into account all the facts and reduces the chances of a
negative decision which might be overturned at appeal. When the HO looks at the risk of returning
someone to their home country they have to make a decision that is specific to that person, so it is
important that whoever is making the decision understands the person’s vulnerabilities. This
explanation from a member of the team sums up the rationale for and benefits of this:

“I don’t wait until it gets to the appeal stage to get psychological reports and so on. You are
looking to get them the best outcome at the earliest opportunity. You don’t want them at the
end of the day walking away with a refusal or a negative outcome and you haven’t done
something you could have done. If you can get somebody a positive decision at application
stage it is great.”

Detailed objective evidence usually comprises psychological and physical health assessments,
evidence from education and childcare professionals, support providers and country expert reports.
The Department deploys its volunteers to research and pull together some of this evidence. Several
people said that other solicitors they had been in contact with did not submit such detailed evidence
at the decision stage. “There seems to be a real difference in the level of evidence you are expected to
turn up at another solicitor’s office with, and the level of evidence which [the Department] is prepared
to help you seek or find for you. It’s a real difference.” (External stakeholder)

Setting out written arguments at appeal stage

It is the Department’s practice when dealing with an appeal case to set out written arguments. This is
not required as part of the process, but ensures that when solicitors go to a tribunal they are as well
prepared as they can be, having done the work in advance, and the case is made as clear as possible
to the judge:

“At a tribunal case you must put in a skeleton argument. We don’t, we put in a full case on
credibility and on points of law. These tribunals, you have one and a half hours if you are lucky
and the judge will only have a few hours to look at it. Time and time again we have been able to
take appeals and point to facts which we put in front of them. We cover the bases.” (Staff
member)
Pre-empting challenges

In addition to gathering and presenting detailed information at an early stage, frontloading involves spotting potential difficulties and doing work which averts crises later. As one external stakeholder put it: “they pre-empt things so much more than other lawyers.”

For example, a client explained that at one point she had changed address because she thought she saw her trafficker. The only thing necessary to do at this point was to alert the HO, but the Department sent in an additional submission explaining why she was moving address and the psychological impact this was having, as a way of reinforcing the point that she was a victim of trafficking and in fear for her safety.

5. Tenacity

One of the words most used by interviewees to describe the Department was ‘tenacious’. Many interviewees talked of the Department’s willingness to challenge persistently and at all levels to achieve the outcome they believe is right (including challenging clients to help them make the best decisions and maximise their chances of a positive outcome). One person summed this up:

“They just don’t give up. They give hope to their clients as they do everything they possibly can. They don’t back down, they stand by their convictions about what they think, about a challenge, that sort of keeping going. That sort of confidence comes through to the young person. You feel reassured even before they go to see them. I take a sigh of relief and think ‘thank goodness they are with the [Department].’” (External stakeholder)

Tenacity is sometimes evidenced by staff members being strong for clients who are on the verge of giving up or worse. It is also about not just limiting their involvement to the immediate legal issue, but taking the long view for clients. For instance, with a long-standing client of the Women's Project, the team could see that even when she got refugee status, she still had a negative decision on her trafficking status by the NRM. The Home Office tried to get the Department to drop a challenge to the NRM at this point but they persisted as being identified as a victim of trafficking can prove important in other ways, including potentially enabling a compensation claim. So the Department moved on this and eventually the client was identified as a victim of trafficking. The Department then lodged a compensation claim [this is client A below and you may wish to reference to this?].

The Department’s tenacious approach, not surprisingly, is not welcomed by all stakeholders, some of whom disagree with their perspective in some areas. The issue of age assessment is a particularly good example of this. The Department has often challenged age assessments by social services, as well as by the Home Office, and from the point of view of one external stakeholder: “They (the Department) are too ready to accept that clients are the age they say they are... It annoys me because I do give the benefit of the doubt, but there comes a time when you have to draw the line. They don’t let it go.” The same person acknowledged, however that “If I were a client I would go to [the Department].”

Finally, perhaps the best demonstration the Department’s tenacity is the following summaries of three complex and long-running cases where staff have had to be particularly persistent and challenging.

Client A: Asylum, victim of trafficking and criminal injuries compensation

Client A’s case involved firstly a challenge to the initial asylum decision, made before she came to the Department. In November 2009 the client’s appeal was allowed and she was granted refugee status. However, she was not accepted as a victim of trafficking and was refused legal aid to appeal the decision. In December 2009 the Department made an application to the Civil Applications Department Scottish Legal Aid Board for a ‘Review of Refusal of Application for Civil Legal Aid’ in which they challenged the refusal of the money. They made a lengthy submission challenging the reasons for
refusal, which were ‘Probable cause has not been shown and it is unreasonable to grant legal aid in the circumstances’. The determination of this decision was not received until late December. Civil legal aid was granted and the Home Office conceded the case after entering Judicial Review proceedings.

In April 2011 the Department made an application on behalf of A for criminal injuries compensation as a result of abuse and exploitative behaviour in the UK. This was refused. The Department appealed in August 2012, rebutting all the points made in the determination, and using an expert report obtained much earlier in the process (here the ‘frontloading’ approach proved its worth later on). They got the AIRE Centre involved and threatened to go to Europe.

The Tribunal Hearing for this CICA appeal was in June 2013 and the Department gathered in a bundle of evidence to support the appeal. KT attended the hearing for 2.5 hours. The appeal was successful. The woman has now received compensation, is settled in the UK and has set up her own business with the money.

Clients B and C: age assessment

These two clients, who were brothers, had been trafficked from Nigeria and had been issued with passports in the UK showing an age which was four and five years older than they claimed to be. They had been in contact with police, two social services departments and education, and had been put in accommodation for homeless people in another area. They came to the attention of the Department when they phoned 999 because they ran out of food and were referred by a partner organisation. The Department spent nine months getting to grips with what had happened to the boys in the past and deciding the best way to help them get the status and support they were entitled to.

The two boys were about to be evicted from their home and would have been sent to Glasgow, which would have been traumatic for them. The Department challenged the two boys’ age assessment. A petition for JR was issued in November 2010. At the same time the Department engaged a pro bono advocate to keep the boys in their home area and asked the Scottish Children’s Commissioner to contact the relevant council. In order to get legal aid the Department had to get an expert report. The Department contacted every hospital in Scotland to find a suitably qualified paediatrician. The council challenged the application for legal aid. It took until March the following year and about five files for each boy to get legal aid, and the council wrote to the legal aid board all the while opposing it. Meanwhile, the council had engaged a QC from the start.

The case was eventually heard in 2012 in the Court of Session, Scotland’s highest civil court. This case generated a huge amount of interest and publicity, as it essentially involved a challenge to a decision made by statutory agencies which showed up flaws in their procedures. The boys’ health was deteriorating and the experience of giving evidence in court was extremely difficult, despite the presence of the boys’ guardian and the Department asking to the court to be emptied and the judge to come off the bench to hear their evidence (permission which was refused). The judge took eight months to make a decision. The decision was that client B (the older brother) was in fact younger than his age assessment had determined and was a child.

Once that case was finished the asylum case was refused. The Department challenged this and brought in another psychologist to give expert evidence. By this point the case had been going on for four years and had generated an enormous amount of work and a big financial loss for the Department. In July 2014, after four years of challenging, the boys were granted leave to remain.
Client D: victim of trafficking and asylum

Client D had fled Nigeria to avoid having her daughter circumcised, after her first child had died as a result of FGM. In the course of trying to escape, D was trafficked. She managed to escape from her traffickers and claimed asylum. The Department put forward two claims, one on behalf of D, who feared re-trafficking, and the other on behalf of her daughter, for whom there was a fear of FGM. The Home Office decided to treat the two claims as one and gave a negative decision.

The Department made two appeals against the one decision, one on behalf of D and the other on behalf of her daughter. The appeal judge did not believe that the alleged trafficking had happened, but accepted they had fled FGM. He thought they would be safe if they went somewhere else in Nigeria (internal relocation) and refused the asylum claim. D’s mental health deteriorated badly, stemming from how the Home Office decision had been written and the suggestion that she was a bad mother.

The Department believed that the internal relocation decision was an error of law. They appealed and lost. The Department then decided to make a fresh claim for asylum on behalf of D’s daughter only, whose fear of FGM had been recognised as legitimate. This was refused. The Department began judicial review proceedings, but there was no hearing because the Home Office conceded.

Overall these cases involved extensive correspondence between the Department and HO to have the claims treated separately; asylum applications for D and her daughter; an application to appeal to first tier tribunal (refused); an application to appeal to the upper tier tribunal (refused); a fresh claim for D’s daughter only on the basis of risk of FGM previously accepted by the court, plus the deterioration in D’s mental health indicating need for support services in place in the UK (refused); and the initiation of judicial review proceedings. The Department carried on making submission after submission. Eventually the HO withdrew its refusals and agreed to make a decision based on new evidence submitted in appeals in 2010, so the JR did not proceed.

In June 2012 the Department sent updated evidence to support D’s daughter’s claim to the UKBA. The updated evidence was based on extensive work with other professionals to evidence D’s mental health and the impact of this if support systems were removed. The HO granted refugee status a week later. The entire process took six years.

6. Previous interventions: working out what has happened and redressing inaccuracies

Sometimes when a client comes to the Department they have had another solicitor or have already come into contact with the asylum system. In some cases previous experiences have been confusing or negative. Sometimes inaccurate or incomplete evidence has been submitted, or has been allowed to stand unchallenged as a result of interviews which the client participated in. At this point, the Department has to ‘unscramble’ what has happened. This involves:

- Establishing facts and a sequence of events (sometimes with sparse or non-existent paperwork)
- Dealing with inaccurate submissions which may be then at odds with the cases they want to put forward
- Dealing with the fallout with clients who have lost heart and hope from their previous lawyer experiences (this is also true of clients who have lost faith with ‘authority’)
- Explaining the asylum process and letting the client know why they have not been granted refugee status before. Many clients who have had previous legal representation have a poor understanding of the asylum system because no-one has explained it to them.
These case studies illustrate how the Department is able to pick up from where others have left off and redress inaccuracies.

**Client A**

‘A’ came to the UK in 2007. Her twins were born in England in August 2008. Her first application for leave to remain was made in March 2010 and refused in January 2011. A screening interview was held in April 2012 and a substantive interview in May 2012. A’s claim for asylum was considered but the credibility of her story was found to be wanting. However, the possibility that she had been trafficked was not considered, and the Department picked up on this. They took the case from another firm of solicitors in Glasgow and requested evidence and information from them. The previous solicitor sent 758 pages of documents, which the Department went through in detail. At the first assessment, the Department solicitor picked up on scars on A’s legs which were the result of abuse by a drug gang and established that A had been a victim of trafficking.

The Department lodged a fresh claim for asylum and set in motion a referral via the NRM. They referred A to TARA and worked with her to see if she would give information to the police. TARA assisted, got specialist medical advice and referred A through the NRM. Although the referral was originally rejected on the grounds of credibility, the Department picked up on obvious flaws in the decision and launched pre-action protocols of both the HO’s NRM decision and the HO’s asylum decision. Following this, both decisions were withdrawn.

**Client B**

B is an educated woman who came on holiday to the UK and was kidnapped and kept prisoner by an older man. She already had another lawyer when she first came to the Department. This lawyer had said ‘come back after you’ve had the interview and we’ll appeal it’. No work had been done prior to the interview. Because the initial meeting with the first lawyer was so negative, B felt everything was hopeless and wanted either to kill herself or go back to her trafficker. The Department worked hard to keep her engaged and stop her from giving up. After many twists and turns, B eventually got refugee status and was awarded criminal injuries compensation.

**7. Specialist legal knowledge enabling cases to be viewed from all angles and ‘chinks’ to be found**

The Department aims at best practice which involves continuous learning, evaluation and improvement. Its solicitors have in-depth knowledge of international, European and domestic legal standards in the sphere and sectors the Department is working within; the broader professional sectors the service works within (at an operational case level but also the broader political/policy environment the service is working within), and professional standards and ethics.

A service needs time and training to keep up with this. Legal aid does not pay for research, but there are always new developments in the field. Funding for an enhanced service enables the Department to do the research which makes them particularly knowledgeable and to attend external training.

External stakeholders recognise the Department’s expertise in a number of areas, which results in a service which is different from that of other providers. For example: “...in some cases we have managed actually to refer women who have no option at all or who have been turned down by previous solicitors - and the Department has given them a listening ear, and in some of the cases they have managed actually to start the cases again.” (Partner agency)

Specific expertise cited by external stakeholders was in relation to:

**Young people and children:** “They are almost unique in Scotland in terms of their expertise, for example in age assessment and VoT, linking people in to appropriate support when get
disclosures of sensitive issues. For example, when people have had difficulty getting mental health services they have been able to push for what they're entitled to.”

**Violence against women:** “Their approach is very informed and very sensitive. I don’t get any sense of them being on a time clock and they have a very good analysis of gender based violence. This isn’t common.”

**Trafficking:** “The Department is very aware and skilled about the pros and cons of the NRM and how to use it. My perception is that the Department has a far better understanding of what the NRM is about and for than other solicitors and they use it appropriately. We have had a referral from an immigration solicitor asking us to make a referral to the NRM as they think that that will involve a year’s leave – that’s wrong. Whereas the Department is really clear. What they will do which others don’t is talk women through the NRM and explain it to them. They have the expertise and knowledge about the NRM and the positive and negative consequences of going into that system.”

**Criminal injuries compensation:** “They have had excellent results around CICA. They have had quite significant pay outs as well, particularly in terms of criminal injuries for trafficking for sexual exploitation. They had a young woman – there was a real concern about that young woman having the money and being vulnerable with people around her – so they worked with her, the money was put into trust for her child. That was really great I thought, that was a good example of the holistic concern – they sat down and almost risk assessed and put mitigation in place.”

**Age disputes:** “They can give advice on how you go about challenging age assessments and what a good age assessment looks like. Some lawyers aren’t aware that there’s an age assessment guide and so on. There are a lot of our young people who may be claiming asylum but have been age assessed – there seem to have been complex cases everywhere. [The Department] is the lawyer of choice for us.”

The expertise staff have built up enables them to:

- **Spot aspects of a case which should be pursued,** especially indicators for trafficking. So, for example, if somebody says ‘works in a restaurant’, Department staff are aware this may be a cover, and in one particular instance it was and the client was eventually able to be identified as a victim of trafficking.

- **Approach cases from new angles.**

- **Understand how the interactions between various parts of the law have implications one for the other.** So for instance in one client’s case, the fact that she was going to prosecuted was serious; understanding and the getting criminal case dropped was key to the ultimate success of her claim.

- **Be brave in challenging in circumstances which may be politically sensitive** but where they think an error has been made. For example, one stakeholder said of the high profile age assessment case referred to in the previous section: “The care and attention and sticking their neck out in going to the Court of Session, that was really, really brave. The solicitor’s reputation was at stake and the Department really did put their heads above the parapet. They gave those young people a gold standard service, whereas other solicitors very quickly ditched them.”

- **Make confident challenges,** for example in the case of ‘Client A’ cited in the previous section. The Home Office withdrew their decision once they saw the letter before action. So now waiting for new decision on both trafficking and asylum claims. In that case the Department were confident about a reasonable grounds decision on trafficking.
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- Know when to pursue an issue or not. This has happened, for example, over age assessment, where the consequences of not being believed can be devastating for a young person and the suggestion that they have lied can cast doubt over their whole credibility.

- Reassure clients. One young person told us that his solicitor’s obvious knowledge of young people and the law was in and of itself reassuring to him: “When I first came here they said that they had many experience with young people like me and a lot of knowledge and they can help me a lot and give me advice and say that things are good for my future. But they didn’t force me to do everything, and every decision was up to me, so I am very comfortable. I met the lawyer roughly 30 times and each time lasts for one hour.”

- Achieve better than expected outcomes, for example: “She got refugee status. Utterly against all the odds. Hers were really difficult circumstances; she got a good service and I think if she hadn’t come to ourselves, she would not have got refugee status. I don’t always think that – every step of the way needed specialist working with her – that approach, knowledge of the law, how to challenge, the evidence collecting (and good evidence) and then knowing how to navigate the system – all that was key.” (Staff member)

8. Being clear about boundaries

The Department aims to work in areas where there is greatest unmet legal need. This means that sometimes, and depending on capacity, they will not take on cases which are more straightforward and do not need specialist legal input or the Department’s approach to working with clients. For example, the Department deals mainly with children separately from parents or on their own; a child in an intact family might fit the remit in certain circumstances, for example if they were at risk of forced marriage or FGM, particularly where the parents have also had these experiences.

The team also maintains boundaries around not taking on or appealing cases which they do not think are ‘stateable’ (that is, that there are legal grounds that are arguable in court). However, this happens in only a few cases and any decision not to take an appeal must be approved by the Head of Department. Crucially, this does not involve ‘cherry-picking’ winnable cases, indeed the Department takes on many cases which have been rejected, sometimes several times, by other lawyers.

The Head of Department explains the team’s stance on this in her annual report to Comic Relief:

“It is not correct to say that the Department does not take cases because they are not winnable. The situation with legal aid is different in Scotland to that in England and Wales. In England and Wales, a solicitor can only proceed with an appeal or fresh claim for asylum if it is stateable. If the case has no merit, proceeding with it is not fair to the client who will have expectations that cannot be met. The client may then not explore other potential avenues that may be open to them (i.e. looking at assisted return instead of enforced removal). He or she will require to go through a hostile process for little success. Secondly, this practice diminishes the credibility of the organisation for a couple of cases that are not stateable which has an impact on future clients with claims that are potentially stateable. The Project is of the opinion that its cases should be looked at with serious regard at all times by the Home Office and the courts because it does not proceed with cases ‘for the sake of it’. The Project believes that this happens in practice and in part explains its rate of successful outcomes.”

External stakeholders value the ability to be able to get impartial and objective professional advice from the Department. This may be, for example because their own client has no lawyer or it could also be that somebody is not happy with their current lawyer: “The advice they give you is impartial and fair; they certainly never try and say anything at all about any other company.”
Finally, as another external stakeholder told us: “They have a lot of integrity. They are honest about whether there is anything more they can do, and if there is they don’t give up. But they have the expertise to know. That gives them integrity with all sides”.

9. Checking records and interviews

Department staff always go through documents to see what has happened in substantive interviews. This can be particularly time-consuming if the interview happened with an interpreter at the HO, and then it has to be checked back.

“I get it tape recorded in case there’s an interpretation. Sometimes I will spend 1 to 2 hours on this afterwards. We have uncovered circumstances where the interpreter has taken the interview into their own hands. That's why tape recording is crucial. When you are dealing with a child it increases the chances that they will say something even though they don’t know.” (Staff member)

Alongside detailed statements, interview notes and records are given to the Home Office, so that they have as much information as possible on which to base a decision and make it harder for the HO to make a negative decision based on incomplete information. Checking notes and records “can also pave the way for JR”, as a staff member noted. Having detailed records enables the Department to point back and show that the information was in front of decision-makers, and makes challenging decisions therefore easier.

10. Giving time up front for them and the client to consider options

Time allowed for the client to get to know and trust the solicitor and tell their story

Usually the time allowed for a first appointment with a client is one hour, for which SLAB will pay £95. In the majority of cases there will be an interpreter present, costing £35. At the initial assessment the solicitor will explain confidentiality, legal aid, the project, and the purpose of the meeting, all of which can take up to 40 minutes. Part of the process of building up trust is giving out information so that the woman or young person can become familiar with the situation and begin to talk about their own circumstances when they are ready.

“Everything is explained in thorough and minute detail. The real skill is in every single case people are taken through in bite-sized chunks. The lovely approach [of the Department] which is absolutely unique is that there is a lot of explanation and taking time to explain the importance of credibility, getting all the details right, telling people how inaccuracies can cause mayhem down the line. Again, it’s the funding which allows them to do that – a lot of solicitors are template and you need the funding to take a little bit longer and get the trust built up.” (External stakeholder)

Some clients will not be able to articulate why they need help, and the remaining 20 minutes allocated for the appointment is not enough to help them to begin to talk. It is often the case that when a client is particularly traumatised, the initial meeting goes over an hour and a second appointment is arranged within a week.

Department staff are clearly very skilled at building trust, getting to know the client, letting the client consolidate information for themselves and taking a statement slowly and surely. A partner representative confirmed this: “I have been with other solicitors and seen them immediately picking up their pen, not making eye contact; immediately the young people are very guarded and inconsistent. I have seen [Department] staff stop them, pace them, build trust before any story telling.”

A member of staff in a partner organisation which works closely with the Department observed:
“They very much explained the process clearly. The young people were very much involved in terms of information sharing – given the information they needed to make the decisions, in terms of who would have the information, encouraged to keep their statements safe, who they were advised to share it with, advised to share with relevant professionals. They are very client-centred which other legal services were not in our experience. [The Department] definitely helped them tell their stories. There was a lot of thought about using the same room within the Department offices, making it sure it was safe, no disturbances, explaining why they need to ask questions, acknowledging that they were difficult questions. We felt that the Department fitted very nicely with what we were doing with the young people.”

**Giving the client as much information as possible and checking they understand**

Making sure clients understand the legal process is a critical success factor both in achieving high success rates in asylum claims and in helping clients to feel more empowered. As one member of the team explained:

“I think you need to have a sense of the level to speak to somebody at. Some people can cope with the full details, others can’t. You’re trying to give the information as an overview at the start to make the client feel more comfortable and take away the fear of the unexpected. They know what is going to happen at certain stages rather than being anxious. We take each different stage as it comes and keep checking that they do understand. You ask, you check with questions, you say ‘can you say to me in your own words?’ I say sometimes ‘do you remember what it is that I am helping you with?’ I will explain, as they are complex processes – the Home Office, the NRM and asylum. I just think the repetition of that stuff is really vital. And also people feel more in control if they understand what is happening and why it is happening.”

The team has found that one of the main benefits of taking time to explain the process thoroughly is that the client’s disclosure is then better and more relevant. At the same time having an understanding of the process helps the person to deal with uncertainty: “having an understanding of where they are day to day can help them to survive and keep up.”

The team also makes sure clients are prepared for the court environment. They explain “what is going to happen, when to get there, you’ll wait here, I’ll waiting somewhere else, this is where the judge stands, when the judge comes in you have to stand up, this is the HO person, these are the kinds of questions they might be asking. Just so they understand the layout of the room I sometimes take them into our board room and say ‘it will be no bigger than a room like this’. Then they won’t feel that there is a whole process going on around them that isn’t about them.”

**Going out to clients**

Staff are often required to travel to see clients; for example, some of the project’s young clients have come to the Department because they have been arrested for cannabis cultivation and they are in prison. Going into prisons with an interpreter can be very time consuming and the legal aid fee rates do not cover the full cost:

“It is time consuming. By the time you go through security and are taken to a secure location in the building, you might be seeing one client for an hour, then have to wait two hours to see another client. We are also making sure the young person is OK, trying to sort out a bail address for them so they have somewhere to go if they’re released from prison; setting up times to meet with the guardian. That just doesn’t reflect in the fee.”

**Finding options and explaining choices to the client**

A key strength of the Department is that its members have, in the words of an external stakeholder “an unbelievable working knowledge of extremely complicated stuff”. Clients and external partners
told us that the team will find options, they are creative, they think ‘out of the box’, and they take on cases which nobody else would be able to because they are complicated and require unravelling. In part the funding for an enhanced service enables the team to spend time unpicking a case and working out options, which other lawyers may not have, but a culture of being willing to do that is also a critical success factor.

These accounts illustrate this:

“[Name] is an example of somebody who was a ‘hidden client’, not a separated child. She came on a family reunion visa to her brother and then she suffered DV at the hands of her sister in law. So she is somebody who wouldn’t normally need immigration advice, but did. When she came to see me she really wanted not only immigration advice but also to find somewhere to stay. Her case highlighted a gap in the accommodation rules. She was 16 and social services wanted to deal with her as a homeless young person. But because they had doubts about her immigration position they were not sure they had the power to accommodate. That really combined the role – it was not really asylum immigration work, it was more child law and social work immigration I suppose. In the end she did claim asylum, but only after a lot of discussion about the options. The challenge for her was that it was a set of difficult and nuanced options. I scheduled about three or four screening interviews with her before she actually went for one.” (Staff member)

“There are some situations where you sit down with clients with some solicitors and you ask them ‘so tell me what has happened, what has your lawyer done for you?’ and some people are not sure. But people who go through [the Department] always have that benefit of people explaining things and knowing the options.” (Partner organisation)

Working from the client’s point of view

Team members are very aware of the importance of pursuing a case from the client’s point of view. One external stakeholder said: “I don’t see that with other legal representatives. I do sit in other meetings and it feels like they expect the client to be able to engage, and have decisions described only once, and make decisions about complex things in a foreign language using complex words which have only been explained once.”

Working from the client’s point of view follows from taking the time to explain options and check understanding. However difficult a decision may be, the Department makes sure that clients understand the pros and cons of their choice and own it. We were told that other lawyers were known to be more prescriptive, telling clients they will represent them to make asylum claims without doing the pre-action meetings and understanding sessions which the Department routinely puts in.

Seeing a case from the client’s perspective sometimes means that where other agencies may say ‘there’s no case here’, the Department recognises that where there is a human rights issue, there must be a case. A particular example is around the issue of FGM, where it is often decided that it is safe to send women with very young daughters back to country X because the average age of FGM is 15 so they are not immediately at risk. But in specific cases the Department has listened to what the client has to say and presented the argument that the woman leaving the country in the first place and then returning would be a transgression of social norms which may well put her daughters at risk of immediate mutilation if they were to return.

11. Pacing the case (taking client’s capacity and situation into account)

Taking the case at the right pace for the client is a key element of an enhanced service. Department staff have to balance the desire to reduce uncertainty by getting an early decision with the risk that if a client is not psychologically prepared to go through the process they will jeopardise a legitimate claim. Choosing the right course of action involves fine judgement, experience and close working with other professionals, as well as extensive consultation with the client themselves, making sure that they understand and are able to make their own decisions.
These testimonies illustrate the Department’s skill in pacing cases:

“We felt that [the Department] made a big effort to get an extension to enable them to prepare better for the interview. A lot of them don’t acknowledge that they have been trafficked, but obviously they need the extra time to prepare for the case properly and take in the NRM process and all that. Previous lawyers didn’t take into account that they should have the procedures explained clearly, and know what is expected.” (Partner organisation)

“In the [name of client] case they put the court hearing off and off and off because of the psychological state of the two clients, who were at suicide risk. They got a medical expert to testify to this fact, and also say they were unfit to appear in court.” (Partner organisation)

“And also there’s this time the HO was asking me to come with my children – it was so tough for me to get them to miss school to get them to the HO. My lawyer wrote to them that it wasn’t convenient for this woman to be doing this, but the HO didn’t really agree with them. So we took it to court and the HO has now withdrawn.” (Client)

“We spent a lot of time getting the substantive interview held off and rescheduled until [name of client] was ready. It was held it in guardianship office, which was the only place he was comfortable. Eventually we started his statement again because we wanted the claim decided before he was (officially) 18. He couldn’t talk about what had happened. We did the statement and left out one part about what had happened to his older brother. We spent a lot of time preparing him to talk about it so we could put it in the statement. We often had to give him a break or cut appointments short.” (Staff member)

12. Availability and accessibility

Partner agencies and clients value the fact that the Department is able to make a solicitor available to see someone quickly. This is particularly important for people experiencing the kinds of issues clients have experienced.

“There seems to be an availability which responds and which is really helpful. I don’t know whether that’s built into the structure. So for example, if I ring up for advice about something, or say ‘can I ask this young person to come to you’, there’s an availability there which happens even though they are busy.” (External stakeholder)

“You can get an appointment in the near future. That is good because while you are trying to arrange an appointment with a client, you are also liaising with another organisation about the accommodation; if you know when they are going to get a solicitor appointment it is easier when you are advocating for them. This is one of the areas where they have really made a difference to the way we work here. It has really been a lifeline in some of the situations – that’s no exaggeration – sometimes you are faced with clients with very difficult stories. If they are women with gender based violence – the first people you can go to are [the Department] and you know that when you pick up the phone they will hear you.” (External stakeholder)

Availability also extends to being visible to refugee groups and agencies working with refugees – “being seen ‘out and about, when other solicitors are more cagey and won’t go to refugee-led events”, as one person put it - and to making themselves more accessible through drop in sessions:

“The drop in service is really really good. When there are no appointments, you can refer to the drop in. When you phone other solicitors you are told there may be a long waiting time.” (External stakeholder)

The Department’s policy of giving people an initial appointment quickly is part of its internal ethical standards. This is done partly to manage people’s expectations by finding out as much information as
possible early on so that the person knows what their options are and whether the Department can take their case forward or not. It is also about being fair to someone who has already endured bad experiences.

However, the Department’s ability to do this is affected by what is happening elsewhere. Recently the Department has had to turn away some non-urgent cases because it would have been impossible to offer an appointment for nine days, which they regard as too long and potential prejudicial to a person’s case. As one person explained, this situation has come about because of a Home Office reorganisation, which has resulted in new relationships having to be built and poor decisions and poor interviewing practice had to be dealt with.

The Department does not place unnecessary barriers in the way of clients being able to contact them when they need to, although their accessibility is coupled with a sense of maintaining appropriate boundaries. One client said:

“When I called to speak to the previous lawyer (at another firm), I never managed to speak to the lawyer. And they never called me – they never contacted me if they got a letter. But here is not like that – whenever Kirsty receives any letter she would give me a call immediately. I speak to so many people there - I speak to the receptionist – I know everyone.”

**Being accessible**

A young client needed to contact a solicitor quickly because he was in a crisis situation. His parents had run out of money and were going to be deported. The parents claimed asylum, but the client had already decided, due to domestic violence and the breakdown of his relationship with his parents, that he wished to make a separate claim. The young man had been accommodated by social services. The social worker involved was going to send the young man back to his parents. The young man telephoned his solicitor on her mobile number over a holiday weekend and she acted quickly, writing a letter challenging the decision and managing to get him accommodated separately. This would not have happened if the solicitor had not been closely involved and accessible. Eventually the client’s claim for asylum in his own right was successful.

13. Regular client liaison

Partly because the Department has additional funding, it is able to build time into the model to be available to clients if they are worried or need to speak. They also make a point of phoning clients to remind them about, for example, appointments or forms they need to sign.

A worker from a partner organisation said:

“Capacity is an issue for them but they try to keep in contact with clients regularly. We seldom have women coming here saying ’I’m worried, I haven’t heard’, whereas women with other immigration solicitors often say ’I am worried’. I am thinking of an example of a woman whose case was complex; her solicitor did nothing for over a year because she felt that while she didn’t prod the HO she wasn’t going to wake the sleeping dog. But what that woman needed was some closure. The case ran for 5 or 6 years. The Department don’t sit back and wait to hear – they chase and keep their clients informed all the time.”

Clients explain why they value this approach:

“If I want to meet my lawyer here anytime I can. I have no problem with that. I can get in touch with my lawyer and I can send a message to my lawyer in this office to make an appointment, and anything if I want to discuss about some issues. That’s why I am so happy. If we want any time we can meet each other.”

“My God I think she is just an angel. Sometimes she would make an appointment for me to see people and maybe one or two times she called me to remind me you have to see your psychiatrist.
And it’s not just that they are doing it – at every step they are doing it she explained to me; she would say ‘I’m going to do this, I’m going to do that’. She carried it along. Although most of it I didn’t understand she still told me. I felt human.”

“I did feel very free to talk to my solicitor. She was friendly and she made me feel comfortable and I can trust her – whatever she said. So many times she said ‘do not get tense’ - she knew I was a panic type – and of course most of the other solicitors never called me. His assistant did. But my solicitor always called me ‘this and this I have done today, and this and this has happened’. So I knew she would call me, so this is one relationship where there was trust. And I told so many people like my friends, I never heard of this kind of solicitor – she is so busy, but she is still maintaining the communication – whenever she said she would contact me she did contact me. This is trust.”

Keeping in contact and reminding clients about appointments is a deliberate technique of the Department to give back control to people who have been disempowered, as well as to build up trust. So for instance, Department staff are trained to tell clients what they are going to do at every step of the way and then show that they are doing it. Therefore, when it comes to bigger decisions, clients know they can trust the Department because its staff have demonstrated their trustworthiness through a series of smaller actions.

Being in regular contact and building a relationship is also valuable from the lawyer’s perspective:

“He does call me and come to the office when upset. So the other day in the guise of telling me about an appointment with the neurologist he told me this story about the police coming, and something odd happened. I think that’s a value added thing – we certainly don’t get paid for it – we get paid for the medical situation, but the way I see it I don’t think it is just about being nice – I do genuinely feel that if you look at the detail you put in in the end, I will write better representations for my client than I can for those who I don’t know. What you know about the way they react actually does go into a more detailed legal approach. That’s the upshot. For example, the police incident – nothing will come of it I am sure, but if that should come I will know to look.”

14. Client reassurance/person-centred approach

The Department takes particular care to reassure clients throughout their involvement with the legal process. This reassurance takes a number of forms, both practical and emotional.

Creating a safe environment for clients

The Department’s own offices are designed to be welcoming and the Department’s meeting rooms look very different from the rooms used by other solicitors. They are painted yellow and there are toys for children to play with. The Department encourages other agencies to make adjustments to be more client friendly; for example, they have in the past asked the Home Office to come and interview people in the LSA offices (other organisations tend not to know this is possible). Care is taken when a client arrives in the office to welcome them, make sure they are comfortable and offer them a drink.

Preparing clients for what to expect

A key feature of the Department’s work with clients is the detailed yet sensitive questioning to unearth the person’s story. This approach ensures that clients are well prepared for the level of questioning the Home Office will use in interviews. However, Department staff also ensure that the client has support to deal with their feelings after making disclosures and leaving the office. A professional supporting young people explained: “We would be in touch with the lawyer about what they talked about, making sure the staff in the residential units were aware about what was talked about so that the next day we would be able to deal with any fall out.”
In another case a client who had been trafficked was frightened of the police, because she had had bad experiences in Nigeria. Her solicitor got two plain clothes female detectives to come and speak to the woman in the LSA offices so she would understand they weren’t like Nigerian police. She also ensured that specialist police were used to question the woman, who suffered from trauma related mental health issues.

**Concern for clients’ emotional welfare**

Team members are extremely sensitive about how they communicate information to clients. This extract from a client’s file epitomises this. The client received a negative judgement from the competent authority on victim of trafficking. In the letter communicating the decision the competent authority essentially calls the woman a liar. The Department anticipate the effect this will have on the woman and make arrangements to deliver the news in a way which ensures she has support. They do this face to face, making sure the client’s son is at nursery and the TARA worker is also present.

**Extracts from Attendance Notes on client’s file showing sensitive handling of case**

**From Attendance Note 1**

“Client clearly stunned and deeply affected by this news. Client not making eye contact and very quiet. Attempting to reassure client, as her responses indicate that she feels to some extent that this may be the end of the process or that there is no point in going on with this case. Explaining at length that it is natural for client to feel that this is a difficult time, but appropriate support is available to her. Also explaining that it is common to have negative decisions at this stage in a case, but that this is by no means the end of the process from a legal point of view.”

“...The client appears very beaten and defeated by everything that has happened to her. She is taking things in but it would be a good idea to have short meetings and to take things slowly. Time needs to be taken out and things should be repeated. [TARA worker] noting that she thinks that the department’s approach will really work with this client.”

**From Attendance Note 2 (subsequent appointment)**

“[TARA worker] rang to say that [name of client] rang her last night. She was looking over the UKBA letter granting her 45 days temporary admission and worried that a decision will be made on Friday, we will not have submitted enough evidence, she will be removed. [Name] had spent 2.5 hours with her today explaining that this is not the case but she also needs to hear it from us. Solicitor rang client and assured her about various things, including the fact that even if trafficking decision is adverse, there is lots that can (and will) be done. Client says she feels better following conversation.”

**Knowledge of the impact of trauma**

Part of the rationale for the Department’s practice of extensive checking of a client’s understanding of the process they are going through is to help the solicitors to identify cognitive problems, which can be linked to age, mental health and trauma. A member of the team gave an example:

“One client came to us who was the most distressed young person we had ever met. He could hardly answer a question about anything, he burst into tears, constantly scratching his back pack. We spent 3 hours that day going into the processes, trying to work them out. Every person he met immediately got his back up; he thought somebody was going to hurt him. So we spent some time introducing him to different people and going through what the role of each person was. As we went on it became clear it wasn’t a cognitive issue, or he was uneducated – he could answer questions even though it was causing extreme distress. So that allowed us to make health referrals to Freedom from Torture and the bridging team. We could identify that it was traumatic experiences which were the problem. He is now placed in child-appropriate accommodation, but also his asylum application has been delayed because of a letter from Freedom from Torture. If we
had done the normal thing there is no way he would have understood the substantive process and his claim would have failed.”

Several external stakeholders testified to the Department’s expertise in dealing with people with trauma:

“It’s about knowing what to ask and how to ask it. Some lawyers might be highly motivated but they might be all over the clients and terrify them. The [Department] staff take a lot of time to understand the terrifying story which may lie behind the client’s claim, but it doesn’t become voyeuristic – some people can become entranced and ask questions which are not relevant – it’s asking the right questions at the right time for the right reason.” (External stakeholder)

“What I like about them is that although they are obviously interested in the results of psychometric testing which is objective evidence, they won’t highlight idiosyncratic behaviour which doesn’t support the case. So for instance in the case of a young Vietnamese woman who had been trafficked, with Vietnamese women it is very bad manners to show emotion. But though she sat with impassive face her hands danced and trembled and shook. So they said ‘OK, her face is impassive, but look at her hands’ – and I don’t know many lawyers who are that sensitive and aware and use that effectively. But they do and do it regularly, and they asked me ‘is there anything in particular you notice about this client because if so please put it on your report’.” (External stakeholder)

“For me as a clinical psychologist who specialises in VAW, women in the early stages of help seeking are fearful, are suffering from PTSD, they are afraid of being shamed and humiliated, and particularly women from Africa who may have been trafficked are terrified of being rejected and scapegoated because of their experiences. [The Department] will take the time to work respectfully with those women, most importantly to give them time to process information. When people traumatised they don’t take things in, or dissociate, or are afraid to ask what it means. The more distress, the more likely they are to answer questions at random – I think the Department take their responsibilities to profoundly traumatised women very seriously. They repeat instructions, check understanding, follow up with ‘don’t forget that’ things, give a phone number in case she gets lost. They really understand the needs of very vulnerable clients in the way that most legal professionals don’t.” (External stakeholder)

15. Backup following decision

As noted earlier, ‘success’ is not just about gaining status, it is also about enabling the person to move on in their lives. This means that a certain amount of work is done post-result in helping clients understand their current situation and feel supported following their case.

A member of staff explains this in relation to a young man who has recently got refugee status:

“I told him if there’s ever anything you are concerned about, if there’s anything that happens or you are unsure about something then you can contact us. The advice line is more for professionals but it is important that they can phone up with a problem – maybe we can’t help them but maybe we can signpost them. Because we don’t just work to legal aid funding, we have that time to think – is there something I can help you with? When he came to me yesterday he obviously wanted to ask me something. He was meant just to sign the forms, but we talked for a little while and he said he had a girlfriend, she is an asylum seeker and he was thinking about marriage to make her situation better. I said ‘look, if this is something you are worried about come back’. Having that is important. Like somebody who is getting refugee status coming back to me with a housing problem, or somebody having problems with the university fees – having the space and time to work on that is really important. The housing and education issues which come up are things that help them to integrate and move forwards when settled here.”
8. The cost of an enhanced legal service

This section presents an analysis of the cost of providing an ‘enhanced’ legal service for refugee and asylum seeking women and young people who have experienced violence.

Overview of costing issues

The findings from this evaluation show that the Department provides a service to this client group which could not be achieved within Scottish Legal Aid Board fee rates alone. The project also achieves unusually high success rates in terms of quantifiable outcomes such as successful asylum claims, positive conclusive victim of trafficking decisions and criminal injuries compensation claims resulting in awards.

In addition, qualitative feedback from evaluation participants demonstrates that the Department is achieving a range of less easily measurable outcomes, including increased awareness of the needs of this group, improved practice and soft outcomes for beneficiaries themselves. The evaluation has found that there are a number of ‘success factors’ which contribute to these outcomes, outlined in Section 7.

Although our work has been primarily qualitative, we made an attempt to quantify the amount of time which is spent on the activities which are not possible to deliver within SLAB fee rates and which contribute most to achieving the desired outcomes. For example:

- We found that one of the reasons why clients’ asylum claims are more likely to succeed is the way the Department helps clients to tell their story in full, spending as much time as is necessary to enable this to happen. While present in the office we observed that the writing up of these lengthy and complex accounts tends to happen ‘out of hours’ and the real cost of solicitors’ time is not reflected in the SLAB accounts.

- We also note that the Department has a policy of working collaboratively to ensure consistent practice, with important letters being checked by a colleague. SLAB pays £7.25 per 125 words for a letter, which goes nowhere near covering the cost of the thorough approach the Department takes.

Our analysis of the cost of an enhanced service is not an exact science and has necessarily involved a high degree of judgement. Our analysis is based on:

- A review of 20 case files, with particular emphasis on what constituted an ‘enhanced’ service in each case and how much time this took
- A review of fee accounts prepared for SLAB and comparison of these with the estimated amount of time actually taken
- Qualitative evidence of success factors gathered through interviews with staff, external stakeholders and beneficiaries and our review of documents supplied by the Department
- Records supplied by the Department of cases taken by the Women and Young People’s teams from 1 April 2012 to 31 March 2014
- The Department’s income and expenditure budget for the financial year ended 31 March 2015

The principal limitation on the costing exercise has been the fact that the Department does not keep electronic time records and operates a manual billing system, with paper files being sent to an external firm of law accountants for fee accounts to be prepared. We have therefore had to rely on our own analysis of a small sample of case files, where the time taken on various aspects of working with a client is recorded in individual notes throughout the file.
Theory of change

Figures 1 and 2 below show a ‘theory of change’ model for the Department. It includes the resources committed to the project (the ‘inputs’); the activities undertaken; the outputs delivered (for example clients accepted, other organisations given advice); the change effected as a result of these activities for beneficiaries, partner organisations, policy and practice (‘outcomes’), and the overarching and longer term change the project is aiming to bring about (‘project outcomes’).

This model provides a starting point for understanding how the project activities and outcomes relate to one another, and how the resources deployed have enabled both client and wider outcomes to be achieved. As has been set out earlier in this report, the Department aims to achieve the best legal outcome for clients, but also to contribute towards improving the wellbeing of clients; ensuring that other organisations are better informed about and able to meet the needs of refugee and asylum seeking women and young people; improving policy and practice on RASW and YP issues, and; initiating changes in the law to uphold clients’ rights into the future.
Figure 1: Theory of Change for the LSA Women and Young Person’s Project

**Inputs**
- 5 solicitors
- Administrative staff
- Volunteers
- LSA organisational infrastructure
- SLAB fees

**Activities**
- Casework: specialist legal advice to refugee and migrant women and children who have experienced violence
- Helping clients to access appropriate emotional and practical support services
- Providing free second tier advice to solicitors and other organisations working with women and children

**Outputs**
- 212 women and 119 young people assisted in the period from April 2012 to March 2014
- The Department is able to take on and resolve complex cases requiring specialist expertise/knowledge
- Referrals to other organisations able to support RASW and YP
- Range of organisations given advice, and nature of advice offered

**Outcomes**
- RASW and YP have an increased understanding of the asylum process
- Clients are better able to engage and participate within the asylum process
- Number of cases which result in a successful outcome for the client (78% of all concluded cases March 12 – April 14)
- Organisations have a better understanding of the needs of RASW and YP and how to realise them

**Project Outcomes**
- Women and young people who have experienced violence are afforded legal status and protection in the UK and are better able to cope with the trauma they have experienced
Figure 2: Theory of change (continued)

<table>
<thead>
<tr>
<th>INPUTS</th>
<th>ACTIVITIES</th>
<th>OUTPUTS</th>
<th>OUTCOMES</th>
<th>PROJECT OUTCOME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grant funding</td>
<td>Contributing to policy groups, consultations and strategic initiatives around violence against women and children</td>
<td>Membership of policy groups and forums, and strategic links with relevant organisations</td>
<td>An improvement in the asylum system and supports available</td>
<td>The law and public policy do not discriminate against and uphold the human rights of RASW and YP; organisations supporting RASW and YP understand and are able to meet their needs</td>
</tr>
<tr>
<td>Legal expertise of the Department and LSA</td>
<td>Using the Department’s expertise to influence changes in the law</td>
<td>Strategic litigation undertaken as a result of the Department’s work</td>
<td>Change in law and policy relating to RASW and YP, where the law is inadequate or discriminatory</td>
<td></td>
</tr>
<tr>
<td>Holistic, human rights based approach</td>
<td>Training solicitors and other organisations on the law relating to violence against women and children</td>
<td>Number and type of training courses delivered</td>
<td>Organisations have a better understanding of the asylum process and how to work with RASW and YP</td>
<td></td>
</tr>
<tr>
<td>Advisory Group</td>
<td>Delivering seminars on aspects of the law relating to RASW and YP</td>
<td>Number and topic areas of seminars delivered</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Capacity to work in partnership</td>
<td>Structured engagement of volunteers in the work of the Department</td>
<td>Trained, knowledgeable volunteers; quality research to support casework</td>
<td>Volunteers have increased skills, knowledge and career opportunities; more trained people in the field</td>
<td></td>
</tr>
</tbody>
</table>
Quantifiable outputs and outcomes

**Casework undertaken**

The Department supplied us with records of all clients assisted in the period from 1 April 2012 to 31 March, including reason for referral, advice and representations provided and outcomes for the client within the period. During this time the Women’s Project assisted 212 clients and the Young Person’s Project 119 clients.

Figure 3 below includes a breakdown of the issues with which the Department assisted clients. As the figures show, many clients needed help with more than one issue; in total the Department provided 328 types of advice or representation for women and 238 for young people. Many of the cases involved initial claims followed by appeals.

<table>
<thead>
<tr>
<th>Case type</th>
<th>Women’s Project</th>
<th>Young People’s Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asylum claim</td>
<td>90</td>
<td>67</td>
</tr>
<tr>
<td>Immigration advice / application</td>
<td>82</td>
<td>51</td>
</tr>
<tr>
<td>Trafficking</td>
<td>41</td>
<td>38</td>
</tr>
<tr>
<td>Family Reunion Appeal</td>
<td>29</td>
<td>14</td>
</tr>
<tr>
<td>CICA</td>
<td>24</td>
<td>5</td>
</tr>
<tr>
<td>Fresh Claim</td>
<td>22</td>
<td>-</td>
</tr>
<tr>
<td>EU</td>
<td>9</td>
<td>-</td>
</tr>
<tr>
<td>Forced Marriage</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>ILR DV</td>
<td>6</td>
<td>-</td>
</tr>
<tr>
<td>Housing</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Judicial Review</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>Welfare/Support</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>Age Assessment</td>
<td>2</td>
<td>18</td>
</tr>
<tr>
<td>Community Care</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Nationality</td>
<td>-</td>
<td>4</td>
</tr>
<tr>
<td>Bail</td>
<td>-</td>
<td>4</td>
</tr>
<tr>
<td>Reporting</td>
<td>-</td>
<td>5</td>
</tr>
<tr>
<td>Deportation</td>
<td>-</td>
<td>3</td>
</tr>
<tr>
<td>Access to healthcare</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>Contact</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Education</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Entry clearance appeal</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Other</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>Total</td>
<td>328</td>
<td>238</td>
</tr>
</tbody>
</table>

Figure 4 below shows the ultimate outcome for each client assisted in the period. 92 clients still had ongoing cases at 31 March 2014.
Figure 4: Client outcomes for the period April 2012 to March 2014

<table>
<thead>
<tr>
<th>Outcome (Outcome)</th>
<th>Women’s Project</th>
<th>Young People’s Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Client given advice</td>
<td>31</td>
<td>16</td>
</tr>
<tr>
<td>Refugee status granted</td>
<td>21</td>
<td>24</td>
</tr>
<tr>
<td>Positive conclusive VoT</td>
<td>10</td>
<td>26</td>
</tr>
<tr>
<td>Criminal injuries compensation awarded</td>
<td>12</td>
<td>-</td>
</tr>
<tr>
<td>DLR granted</td>
<td>7</td>
<td>3</td>
</tr>
<tr>
<td>Settlement / humanitarian protection granted</td>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>Family reunion successful</td>
<td>3</td>
<td>-</td>
</tr>
<tr>
<td>ILR granted</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>Citizenship</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Right of residence</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Refused / Department advised client not to pursue case as not stateable or no grounds</td>
<td>11</td>
<td>10</td>
</tr>
<tr>
<td>Not recognised as VoT</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>Voluntary return</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Client moved, absconded or decided not to pursue</td>
<td>34</td>
<td>7</td>
</tr>
<tr>
<td>Ongoing cases</td>
<td>67</td>
<td>25</td>
</tr>
<tr>
<td>Total</td>
<td>212</td>
<td>119</td>
</tr>
</tbody>
</table>

According to Department staff, more cases are now being won on appeal than was the case in the past. In the period from 1 April 2012 to 31 March 2014, 21 appeals were made on behalf of clients of the Women’s Project, of which 15 were successful (see figure 5). Nine appeals were made for young clients, of which six were successful (figure 6).

Figure 5: Asylum appeal outcome, Women’s Project

<table>
<thead>
<tr>
<th>Appeal outcome</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allowed – grant of 30 months limited leave on basis of article 8/best interests of child.</td>
<td>1</td>
</tr>
<tr>
<td>Allowed and discretionary leave to remain granted.</td>
<td>2</td>
</tr>
<tr>
<td>Allowed and refugee status granted</td>
<td>7</td>
</tr>
<tr>
<td>The case was successful the second time round in the first tier and the Home Office appealed unsuccessfully to the Upper Tribunal.</td>
<td>2</td>
</tr>
<tr>
<td>This was initially unsuccessful at the First Tier. We appealed to the Upper Tribunal Successful and the case was heard again.</td>
<td>1</td>
</tr>
<tr>
<td>Yes – allowed on health/best interests grounds and he and his family obtained limited leave to remain in the UK.</td>
<td>1</td>
</tr>
<tr>
<td>We withdrew instructions due to production of further information.</td>
<td>1</td>
</tr>
<tr>
<td>Decision withdrawn by the Home Office.</td>
<td>1</td>
</tr>
<tr>
<td>Refused</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>5</td>
</tr>
</tbody>
</table>

Figure 6: Asylum appeal outcomes Young Person’s Project

<table>
<thead>
<tr>
<th>Appeal outcome</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appeal dismissed</td>
<td>3</td>
</tr>
<tr>
<td>Granted Humanitarian Protection</td>
<td>1</td>
</tr>
<tr>
<td>Granted refugee status</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>9</td>
</tr>
</tbody>
</table>
Key points from these figures are:

- A total of 157 asylum claims were made (90 for women and 67 for young people)
- Of these, 40% of the claims for women and 33% of those for young people were ongoing at 31 March 2014
- 7% of the claims were closed before a decision was made, usually because the client decided not to pursue it or new information came to light
- Of the asylum claims decided in the period, either at the first stage or on appeal, 63% of the claims made by women and 64% of those made by young people were successful
- Around one fifth of successful asylum claims across both projects were successful not at the first stage but on appeal (15 for the Women’s Project and 6 for the Young People’s Project)
- This compares with a UK average of 33% of all claims resulting in asylum being granted in 2013, either after the first claim or on appeal (source: Scottish Refugee Council)
- The figures show that the Department neither pursues all cases as a matter of course nor selects those cases which are more ‘winnable’.

Resources committed

The Department has a total expenditure budget of 2014/15 of £365k. This comprises staff salaries (72% of the total cost) and organisational overhead costs, including, for example, premises costs, legal outlays and office equipment.

Currently the costs of the Department are funded by a combination of legal aid fees, grants and income from events put on by the team (see figure 7).

<table>
<thead>
<tr>
<th>Budget 2014/15</th>
<th>Women’s Project £</th>
<th>Young Person’s Project £</th>
<th>Department Total £</th>
<th>% of total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fees</td>
<td>75,141</td>
<td>86,169</td>
<td>161,310</td>
<td>44%</td>
</tr>
<tr>
<td>Seminar income</td>
<td>3,500</td>
<td>7,000</td>
<td>10,500</td>
<td>3%</td>
</tr>
<tr>
<td>Grants:</td>
<td></td>
<td></td>
<td></td>
<td>53%</td>
</tr>
<tr>
<td>Scottish Government</td>
<td>100,000</td>
<td></td>
<td>100,000</td>
<td></td>
</tr>
<tr>
<td>Comic Relief</td>
<td>51,253</td>
<td></td>
<td>51,253</td>
<td></td>
</tr>
<tr>
<td>Paul Hamlyn</td>
<td>42,557</td>
<td></td>
<td>42,557</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>229,894</td>
<td>135,726</td>
<td>365,620</td>
<td></td>
</tr>
<tr>
<td>Expenditure</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salaries</td>
<td>170,589</td>
<td>93,998</td>
<td>264,587</td>
<td>72%</td>
</tr>
<tr>
<td>Overheads</td>
<td>59,305</td>
<td>41,728</td>
<td>101,033</td>
<td>28%</td>
</tr>
<tr>
<td>Total</td>
<td>229,894</td>
<td>135,726</td>
<td>365,620</td>
<td></td>
</tr>
</tbody>
</table>

Allocation of project cost and income

One of the aims of this evaluation was to determine the cost of an ‘enhanced’ service. As noted earlier, the main obstacle to being able to do this accurately is that the Department does not keep electronic time records. As a result our costing model has to be based on a best estimate of how the solicitors engaged in casework spend their time. This best estimate is derived from observation, an in
depth review of 20 cases, and qualitative interviews with staff, Advisory Group members and external stakeholders.

**Success factors**

In the course of this evaluation, we explored the factors underpinning the Department’s success in achieving both legal outcomes and systemic, organisational or individual outcomes, summarised in the previous section. Through our review of case files and discussions with staff, we made an estimate of the proportion of staff time spent on each activity that would be likely to be delivered under a standard SLAB fee agreement, and the proportion representing an ‘enhanced’ service, achievable only because the Department has additional funding from Comic Relief, Paul Hamlyn and The Scottish Government.

Figure 8 below contains our estimate of the proportion of time allocated to each success relevant factor (some success factors relate to approach rather than time input) which is attributable to SLAB and to other funding.

**Figure 8: Estimated percentage of staff time attributable to each success factor**

<table>
<thead>
<tr>
<th>Success factor identified from the evaluation</th>
<th>Percentage achievable within SLAB fee</th>
<th>Percentage of input requiring additional funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frontloading the case</td>
<td>70%</td>
<td>30%</td>
</tr>
<tr>
<td>Giving time up front for them and client to consider options</td>
<td>70%</td>
<td>30%</td>
</tr>
<tr>
<td>Unscrambling previous legal inaccuracies or failures</td>
<td>70%</td>
<td>30%</td>
</tr>
<tr>
<td>Specialist legal knowledge enabling cases to be viewed from all angles and ‘chinks’ to be found</td>
<td>80%</td>
<td>20%</td>
</tr>
<tr>
<td>Regular client liaison</td>
<td>70%</td>
<td>30%</td>
</tr>
<tr>
<td>Checking records and interviews</td>
<td>70%</td>
<td>30%</td>
</tr>
<tr>
<td>Client reassurance /person-centred approach</td>
<td>70%</td>
<td>30%</td>
</tr>
<tr>
<td>Ability to deal with trauma</td>
<td>30%</td>
<td>70%</td>
</tr>
<tr>
<td>Getting evidence which supports client’s case</td>
<td>60%</td>
<td>40%</td>
</tr>
<tr>
<td>Partner liaison and pulling in</td>
<td>70%</td>
<td>30%</td>
</tr>
<tr>
<td>Pacing case (taking client’s capacity and situation into account)</td>
<td>70%</td>
<td>30%</td>
</tr>
<tr>
<td>Holistic support</td>
<td>60%</td>
<td>40%</td>
</tr>
<tr>
<td>Backup for client following decision</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>Being accessible when clients need them</td>
<td>60%</td>
<td>40%</td>
</tr>
<tr>
<td>Tenacity</td>
<td>30%</td>
<td>70%</td>
</tr>
</tbody>
</table>

Overall, we estimated that it is possible to provide the enhanced service comprising the above success factors with a contribution of between 35% – 40% from other funders, on top of funding available from SLAB (this excludes the funding the Department receives for its policy and second tier work). It is important to note that this is time for which staff are actually paid. All staff in the Department work long hours and contribute additional resources which are effectively not recognised in the budgeted costs of the Department.
As figure 9 illustrates, we estimate that the fees received from SLAB fund around 63% of the time actually spent on providing a casework service for clients. The remaining components of the Department’s annual budgeted costs constitute an ‘enhanced’ service, funded by grants totalling £193,810 and comprising:

i) 37% of the time spent by staff on casework
ii) Policy and strategic work, for example contributing to strategic groups, forums and consultations (15% of project time)
iii) ‘Free’ second tier advice to help other organisations to better understand the needs of and legal issues relating to RASW and YP (7% of project time)
iv) Delivering training for other solicitors and professionals in the field (5% of project time), plus
v) Running seminars (3% of time, funded by charges to participants)
Figure 9: The cost of critical success factors

Success factors:
1. Frontloading the case
2. Allowing time up front for client and Dept to consider options
3. Helping clients engage and open up with important information
4. Unscrambling previous legal inaccuracies or failure
5. Specialist legal knowledge enabling thorough review of all angles
6. Regular client liaison
7. Checking records and interviews
8. Client reassurance / person centred approach
9. Ability to deal with trauma
10. Obtaining evidence to support client’s case
11. Partner liaison
12. Pacing the case
13. Holistic support
14. Back up following decision
15. Being accessible when clients need them
16. Tenacity

Quantifiable outcomes:
- 64% asylum claims resulted in refugee status/LR/HP (nat. avge 2013 = 33%)
- 77% of all VoT claims resulted in positive conclusive decision
- 151 cases (78% of all concluded cases) resulted in a successful outcome for the client
- 212 women and 119 young people better able to understand and engage with the system

Qualitative outcomes:
- Organisations better understand the needs of RASW and YP
- RASW and YP are better able to cope with trauma due to specialist input
- Policy and practice are influenced on a range of topics
- Professionals are supported to work with RASW and YP
- Specialist practice among those working with RASW and YP is developed
- Strategic cases result in law change
9. Overall conclusions

Finally, this section draws some high level conclusions about the work of the Department overall.

This evaluation looked in detail at the work of the Department from a range of perspectives. It is usual in evaluations of this nature to find a range of perspectives and divergent views. The findings and conclusions from this evaluation are, however, exceptional in that the evidence gathered was overwhelmingly positive about the Department’s approach, performance and achievements.

Reading this report, it may therefore feel that the picture presented is overly endorsing of their current strategy and performance. This is not the case: we simply were given virtually no negative feedback. In our extensive evaluation experience, this is unusual.

Where the occasional criticisms emerged we went out of our way to pursue them further with others who may have a view on the issue raised. This invariably resulted in the criticism being either put in a context which explained the informant’s negative take or being balanced with a positive finding. We have mentioned all criticisms in this report.

1. **Unique model of uncompromising professionalism, specialism and client care.** The Department’s model of work is unique in the UK and provides a best practice example to others in the field. It brings uncompromising standards of professionalism, specialism and client care to people who otherwise, by virtue of their vulnerability and lack of money, would struggle to find legal advice and representation at all. By so doing it provides a service which many think of as ‘gold standard’ to marginalised people who are the most in need of such a service.

2. **Values-driven, human-rights approach.** The Department’s model relies on a thorough understanding and implementation of a human rights approach along with a commitment to learning, accountability, specialism and inclusion (of both partners and clients) in all its work. All of these elements take not only commitment but time, and the contribution of funders to ‘enhance’ current levels of legal aid funding has been and will be essential in allowing the model to develop and flourish.

3. **Legal success a result of approach, not selecting cases.** Though there are a range of helpful contextual factors in Scotland which have enabled the Department’s work to grow, including the relative nearness of Government, strong partner relationships, statutory specialist services for this client group and relatively positive political context for refugee and migrant work, the success of the Department is not reliant on these, particularly in relation to its client (as opposed to policy) work. The Department does not cherry-pick cases, and indeed many of the cases it takes on are those which others have rejected as being too difficult, complex or challenging. In addition, the Department is dealing with the same decision-making bodies (Home Office and National Referral Mechanism) as other lawyers throughout the UK. Success in its client work is therefore attributable to its approach, rather than context.

4. **Supports all clients equally, irrespective of origin or background.** Equally, the approach would seem to be universally accessible and applicable, with no evidence of bias of nationality, background or type of case. The only selection criteria applied are that firstly, clients are refugee or migrant women who have experienced gender-based violence or young people and secondly, the case is ‘stateable’. If those are met as criteria then the Department will take on the case and success in taking fresh claims, appeals, judicially
reviewing procedures and taking legal claims for clients in areas of law other than asylum happens with all types of clients with no discernible pattern.

5. **Commitment to partnership and sharing spreads expertise widely.** The ripple effects from the Department’s accumulation of experience, skills and specialisms are felt by many in the field at both practice and policy level as a result of the Department’s commitment to sharing their learning and funders investing in allowing them to do so. At a practice level, there is a range of work which is supported and enabled by the Department acting as adviser and ‘back up’, as well as a range of work which is enhanced by the Department’s proactive programme of information-sharing, training and seminars. There is clear evidence that professionals (and the clients they work with) are gaining from the Department’s commitment to sharing its specialism and expertise across the sector.

6. **Policy contribution is unique and vital.** There is evidence from a range of sources that the Department is bringing a unique contribution to work at policy level in Scotland by instigating, planning and developing change in the policy and legal framework. Its contribution is felt to be particularly valuable given ongoing experience of direct and complex client work (allowing up to date insights ‘from the frontline’), a sophisticated understanding of the way in which policy and legal change come about, and a challenging but respectful engagement with others working in the policy field.

7. **Punching well above its weight legally.** The Department has by now gained a formidable reputation for achieving positive outcomes for clients and achieves rates of success, particularly at appeal, considerably above the national average. Many of these cases are challenging and ‘end of the line’, so how does it manage this? The evaluation identified 15 critical success factors which contribute to some extent in all cases to achieving positive legal, practical and personal results for clients.

8. **Key success factors are inter-dependent.** The critical success factors identified are interdependent and no single one is possible without the others. However, five emerged as underpinning all else. These are partnership working (and taking time build relationships with others); obtaining expert evidence to support the client’s case; providing holistic support to help the client with other important aspects of their life (for instance housing, benefits, health); front-loading the case to enable the client’s story to be unravelled, set down and submitted to decision-makers as early as possible and finally; tenacity, or the determination to keep coming back on the client’s behalf no matter what knock backs are received.

9. **Critical combination of values, specialism and professional legal work.** The critical success factors of the Department’s client work show a combination of practical tasks (evidence gathering) with a values-driven approach (tenacity). This is an important stand alone point as the Department’s model shows that it is when there is a ‘perfect storm’ of hard work, skill, specialism and values-driven commitment that such successful outcomes for clients are reached. The driving values are as important as the commitment to specialism or the practical tasks undertaken.

10. **Wide range of significant outcomes gives funders value for money.** Funders are getting considerable ‘value for money’ by contributing to the work of the Department if one considers the impressive range of outcomes being achieved not only for their extremely marginalised clients, but also for others in the field. Best practice is being established, learning disseminated widely to others, and causes of disadvantage – for example policy and practice gaps – addressed.

11. **Increasing need for existing services provided.** The work of the Department in supporting the extremely vulnerable client groups they currently work with is regarded as essential. Many report that the need for such services is increasing, partly because more
clients (such as victims of trafficking) are being identified, and partly because more and more professionals are becoming aware of the Department and the specialist service it provides and making referrals.

12. **Clear need and potential for expansion in client, second tier and policy work.** The potential for the Department to develop its work further is considerable, both within Scotland (by expanding its geographic scope and client remit to other groups) and internationally (by using its by now considerable experience to inform international practice development. It is to be welcomed that this work is already underway.

13. **Current model and approach is ‘gold standard’.** The approach and standards built up by the Head of Department have resulted in significant gains for the Department (and the LSA, in which it is based) in terms of standing, reputation, partnerships, funding and learning. After 10 years development there have also been lessons learnt but the evaluation revealed little, other than a need for increased capacity, which needs much development.

14. **Critical funding moment for the Department.** This is a critical time for the Department. It has got where it has by intensive individual commitment and the investment of the three funders who have supported its development. However, this funding cannot continue indefinitely, and it needs to transform its extensive informal endorsement and recognition into more formal commitments to ensuring its future. Future funding needs to be sought from those who benefit from its work.

15. **Increased support internally would benefit the work.** Alongside a more formal recognition of its role and contribution by external stakeholders, the Department could also benefit from greater internal recognition from the organisation in which it is based. Reflecting its importance at partner level, as well as more practically addressing some of the more prosaic but important barriers to its development such as sub-standard IT and insufficient administrative support is important if the Department is to play the full part it could in developing its own work, earning fees, and continuing to enhance the reputation of the LSA overall.
Appendix A: Methodology

The overall purpose of this evaluation was to establish the essential elements of the specialist enhanced legal service provided by the Women and Young Person’s Department, an overview of its achievements, and the costs of providing a service of this nature.

The evaluation was commissioned in late March 2014, and fieldwork took place from April – mid-July. Fieldwork involved a mixed methods approach, including:

- Development of an evaluation framework setting out the outcomes the project is seeking to achieve, indicators of progress, and how data would be gathered through the evaluation to inform these. The evaluation framework is available as a separate document.

- Preliminary scoping interviews with senior staff and external partners who work closely with the Department (the data gathered was used to inform the evaluation framework and questions asked in the evaluation).

- A desktop review of information supplied by the Department, comprising:
  - LSA audited accounts 2012 and 2013
  - Income and expenditure budget for the Department for the financial years from 1 April 2012 to 31 March 2015
  - Management accounts for the period to 31 January 2014
  - Example SLAB fee accounts
  - LSA memorandum and articles of association
  - LSA annual review 2013
  - Minutes of Advisory Group meetings
  - Funding applications and progress reports to funders
  - Client evaluation forms
  - SLAB peer reviews for all LSA solicitors, including the Department
  - Records of clients assisted in the period from 1 April 2012 to 31 March 2014 and the legal outcomes achieved.

- 32 in depth, semi-structured face to face and telephone interviews with:
  - Department and LSA staff
  - Members of the Department’s Advisory Board
  - Representatives of referring agencies, specialist organisations working with refugee and asylum seeking women and young people, governmental agencies and funders.

- Detailed reviews of the case files of 20 clients (10 clients of Young Person’s Project and 10 clients of the Women’s Project). All clients gave written consent for this to happen, as well as to be interviewed by the evaluators.

- Interviews with 17 beneficiaries, all of whom had also had their case files reviewed. All were interviewed in the office apart from two people who were interviewed by telephone. Three of these interviews required an interpreter to be present, and in one the young person was also accompanied by their guardian.

When analysing the data collected through this fieldwork, we have used an approach to data analysis known as ‘open coding’, which is defined as:

10 Two of these interviewees inputted in writing only as it was impossible to fix an interview in time in the timeframe available.
“A non-mathematical process of interpretation, carried out for the purpose of discovering concepts and relationships in raw data and then organising these into an explanatory scheme...The key idea of grounded theory is that the processes of data collection and data analysis are intimately connected, each informing and guiding the other.”\(^{11}\)

Open coding is used in academic qualitative research to develop typologies and theoretical frameworks. However, for the purposes of this evaluation we have tried to use it to draw out lessons which will be practically useful for the Department and its funders.

# List of those interviewed

N.B. This list excludes the names of beneficiaries interviewed

<table>
<thead>
<tr>
<th>Name</th>
<th>Organisation/Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alan Reekie</td>
<td>Skills Development Scotland</td>
</tr>
<tr>
<td>Alison Davies</td>
<td>Saheliya</td>
</tr>
<tr>
<td>Amy Edwards</td>
<td>Rape Crisis Glasgow</td>
</tr>
<tr>
<td>Amy Roch</td>
<td>Voluntary Action Fund</td>
</tr>
<tr>
<td>Bronagh Andrew</td>
<td>TARA (Trafficking Awareness Raising Alliance)</td>
</tr>
<tr>
<td>Bruce Sutherland</td>
<td>Scottish Government (Equality, Human Rights and Third Sector)</td>
</tr>
<tr>
<td>Catriona MacSween</td>
<td>Scottish Guardianship Service, Aberlour Child Care Trust</td>
</tr>
<tr>
<td>Chris Perkins</td>
<td>Glasgow Social Services (Asylum Support)</td>
</tr>
<tr>
<td>Clare Tudor</td>
<td>Independent Consultant (formerly IAS, Scottish Refugee Council, Scottish Guardianship Service)</td>
</tr>
<tr>
<td>Eileen McDade</td>
<td>Sandyford Counselling and Support Services (specialist NHS Sexual Health service)</td>
</tr>
<tr>
<td>Esther Muchena</td>
<td>Scottish Refugee Council (Operations)</td>
</tr>
<tr>
<td>Graham O'Neill</td>
<td>Scottish Refugee Council (Policy)</td>
</tr>
<tr>
<td>Helen Murray</td>
<td>LSA Administrator</td>
</tr>
<tr>
<td>Ian Spittal</td>
<td>The Mungo Foundation</td>
</tr>
<tr>
<td>Iona Stewart</td>
<td>LSA Administrator</td>
</tr>
<tr>
<td>Isabella de Wit</td>
<td>Scottish Government (Looked After and Accommodated Children)</td>
</tr>
<tr>
<td>Jean McFadden</td>
<td>Chair of Departmental Advisory Group; LSA Board</td>
</tr>
<tr>
<td>Jennifer Ang</td>
<td>LSA Women and Young Person’s Department</td>
</tr>
<tr>
<td>Jennifer Symington</td>
<td>British Red Cross</td>
</tr>
<tr>
<td>Karen Ciantar</td>
<td>Barnardos (previously manager of Hamilton Park Children’s Unit)</td>
</tr>
<tr>
<td>Kirsti Hay</td>
<td>Violence Against Women Project, Community Safety Glasgow</td>
</tr>
<tr>
<td>Kirsty Thomson</td>
<td>LSA Women and Young Person’s Department</td>
</tr>
<tr>
<td>Lyn Ma</td>
<td>Glasgow Clyde College (Senior Lecturer ESOL)</td>
</tr>
<tr>
<td>Mairead Tagg (Dr.)</td>
<td>Expert Psychologist, previously affiliated to Women’s Aid</td>
</tr>
<tr>
<td>Meghan Rothnie</td>
<td>British Red Cross</td>
</tr>
<tr>
<td>Moira McKimmon</td>
<td>Child Protection Team, Glasgow City Council Social Work Services</td>
</tr>
<tr>
<td>Nico Juetten</td>
<td>Scottish Commissioner for Children and Young People’s Office</td>
</tr>
<tr>
<td>Nicola Underdown</td>
<td>LSA Women and Young Person’s Department</td>
</tr>
<tr>
<td>Paul Brown</td>
<td>LSA Chief Executive Officer</td>
</tr>
<tr>
<td>Rachel Billett</td>
<td>Comic Relief</td>
</tr>
<tr>
<td>Rachel Morley</td>
<td>Compass (Specialist Mental Health Team for Refugees and Asylum Seekers)</td>
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<tr>
<td>Rob Bell</td>
<td>Paul Hamlyn Foundation</td>
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<tr>
<td>Roy Farquharson</td>
<td>Freedom from Torture</td>
</tr>
<tr>
<td>Ruth Gillilan</td>
<td>DCI, National Rape Taskforce and Human Trafficking Unit, Police Scotland</td>
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<tr>
<td>Sarah Zadik</td>
<td>British Red Cross, Refugee Services</td>
</tr>
<tr>
<td>Sheila Chaza</td>
<td>Govanhill Women’s Project; Community Worker; Ex-Client</td>
</tr>
<tr>
<td>Stewart MacLachlan</td>
<td>LSA Women and Young Person’s Department</td>
</tr>
<tr>
<td>Victoria Pearson</td>
<td>LSA Women and Young Person’s Department</td>
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