

Civil legal aid: Towards a Sustainable Future: Consultation Response

March 2025

The Helen Bamber Foundation (HBF) is a specialist clinical and human rights charity that works with survivors of trafficking, torture and other forms of extreme human cruelty and believes that all survivors should have safety, freedom and power. Our multidisciplinary and clinical team provides a bespoke Model of Integrated Care (MOIC) for survivors which includes medico-legal documentation of physical and psychological injuries; specialist programmes of therapeutic care; a medical advisory service; a counter-trafficking programme; housing and welfare support; legal protection support; and community integration activities and services.

Introduction

The scope of this response is discreet and relates to HBF's experience of:

- Supporting clients in the London and Greater London area who are represented by, or eligible for representation by,¹ Legal Aid representatives in respect of their asylum and/or immigration matters under the Standard Civil Contract;
- Access to justice following the increase to civil legal fees for Housing and Debt work, and Immigration and Asylum work;
- Anticipated challenges and recommendations in relation to the proposed principles, especially in relation to our primary concerns of our particular client group and their need to access a high quality of representation.

Our response is written in conjunction with, and in addition to, our previous submission of February 2024 to the Review of Civil Legal Aid (RoCLA).² As with that submission, in drafting this response, we have drawn on our experience and data at HBF including client data and testimonials from our Ambassadors for Change – a group of survivor activists in the UK – supported by HBF in campaigning for change. The testimonials of survivors below are in their own words – many have been deeply

¹ As detailed further in this response, some HBF clients do not have access to the Legal Aid representation to which they are eligible.

² Helen Bamber Foundation, [Review of Civil Legal Aid Consultation Response](#), February 2024

impacted by negative experiences of the Legal Aid system and so have as a group chosen it as a campaigning priority.

We further recommend the Ministry of Justice (MoJ) consider the updated findings of Dr Jo Wilding on the rising deficit in legal aid provision in England and Wales – with her latest figures from November 2024 showing that at least 57% of applicants claiming asylum or appealing an asylum refusal before the First-Tier Tribunal are unable to access a Legal Aid representative.³

HBF welcomes the recognition of Legal Aid as a crucial cornerstone of the justice system and the significant increase to the rates proposed. We hope that this will represent an important first step forward in the creation of a more equitable system for all immigration and asylum clients accessing Legal Aid.

HBF's client group are among the most vulnerable within the Immigration and Asylum system – their cases often complex with overlapping legal issues – particularly in the case of those who have concurrent trafficking (national referral mechanism) and asylum matters. Access to good quality legal representation is critical for our client base to be fairly represented and Legal Aid is a crucial component to this. We hope that any future amendments to Legal Aid will bear those within and with similar needs to our client group in mind.

HBFs interaction with legal aid

HBF interacts with the Legal Aid sector in two main ways – through the provision of Medico-Legal Reports (MLRs) and through supporting clients with their legal protection claims.

Survivors of torture and trafficking are likely to require legal assistance with and disbursements to cover expert reports as a component of progressing their asylum and/or claims. HBF clinical experts are instructed to provide MLRs⁴ - the vast majority of which are provided on a legally aided basis. In an internal audit of the work-in-progress for 2025,⁵ it was noted that approximately 79% of those reports are funded through Legal Aid with the remaining comprising approximately Pro Bono (13%) or approximately Private (9%) undertakings.

Our Model of Integrated Care (MOIC) also offers legal protection assistance to clients – we do not legally represent clients but instead legally support them. Such support can range from one off-advice, advocacy on clients' behalf to their legal representatives and, if applicable, referring clients for urgent Legal Aid assistance. In undertaking this work, the gaps in the Legal Aid system and the scope of the crisis are stark. Of all clients accepted to the MOIC in 2024, currently 83% are represented by a Legally Aided representative, with 6% of clients unrepresented and 11% privately represented. Of unrepresented clients, all were eligible for Legal Aid. Yet, despite this, they had been unable to secure publicly funded representation. A large number of the clients who had sought private representation for their immigration and asylum matters (often out of a sense of desperation

³ Jo Wilding, [Stemming the Tide: The Case for Demarketising the Legal Aid Sector](#), 6 November 2024

⁴ Helen Bamber Foundation, [Medico-Legal Reports](#)

⁵ These figures are accurate at time of writing and comprise all outstanding reports in 2025.

over long Legal Aid waiting times) would have, in fact, been eligible for Legal Aid. HBF experience also has shown that, sadly, Legal Aid representation is by no means a guarantee of high-quality representation and a key component of our support over the past year has been advocacy to solicitors on our clients' behalf where they have substandard representation – on occasion even assisting in the complaints process to protect their position.

The HBF Legal Protection team have also often experienced clients losing their only legal representation at the point of a refusal of an asylum or immigration matter. At this point, some clients who had Legal Aid representation were unable to continue with their previous providers and so would be supported in finding new providers. Referral at the appeal stage was particularly difficult for the HBF team. As set out in previous submissions for the RoCLA, the referral process can be time-consuming and difficult.⁶ HBF staff have observed a marked difficulty in successfully referring cases over the past year causing us to need to pause acceptance of referrals from un-represented clients for a brief period. This was owing to the longer time taken to make referrals to legal representatives and to the knowledge that for existing clients whose cases might need to go to appeal, there was a greater degree of likelihood that their existing representatives would not continue to represent them at appeal stage⁷.

Consultation questions

We appreciate the invitation to feedback on the steps taken as a result of the RoCLA and have given feedback on questions within our expertise. Where certain queries fall outside that expertise (namely those more applicable to contracted providers) we have indicated as such. We note that thus far there does not appear to be a process of systematic review of RoCLA proposed actions. Given that any benefits of these are likely to take time to be felt,⁸ a more systematic cycle of review would be beneficial in order to get a true gauge of the impact and sustainability of the actions.

1. Do you agree with our principles for setting fee levels within civil legal aid? Please state yes/no/maybe/do not know and provide reasons.

Yes. HBF welcomes the principles put forward and has given more detailed responses to each principle as below.

“Ensure a sustainable housing and immigration legal aid market by remunerating at a rate which allows providers to attract and retain legal aid professionals and enables providers to innovate and try different delivery models.”

⁶ Helen Bamber Foundation, [Review of Civil Legal Aid Consultation Response](#), February 2024

⁷ Meaning that they too would require support to find new legal representatives from the already limited pool of available representatives.

⁸ As has been noted by Public Law Project and Young Legal Aid Lawyers in their 2023 report, [‘Overstretched & unsustainable: a case study of the immigration and asylum legal aid sector’](#), slow Home Office processing times made it particularly hard for Legal Aid work to be financially sustainable in the area of immigration and asylum. As such, it is likely that the results of RoCLA proposed actions are unlikely to be felt in the immediate future.

HBF endorses calls for a truly sustainable approach to Legal Aid provision. Raising rates and investment in the sector is undoubtedly a core component of this and one which HBF has advocated for in the past.⁹ It is gratifying to see the focus given to this area by the MoJ and the evident gravitas with which the crisis is being treated. That said, sustainable remuneration, whilst significant, will likely only be one part of the process.

On this point, we would like to highlight the evident crisis in Legal Aid provision, one which is acutely felt by charities supporting vulnerable clients. This crisis demands that Legal Aid is not only made sustainable but also accessible across England and Wales. As noted by Jo Wilding in November 2024, there continues to be a net decline in the number of Legal Aid providers – including offices whose contracts were suspended owing to them not having supervising casework staff.¹⁰ Wilding stated that this degree of “churn” was concerning – showing a decline in experienced providers. Public Law Project (PLP) has noted the concerning trend of Legal Aid providers opting to leave the profession. Per their findings, issues of remuneration were just one part of a complicated list of reasons for leaving.¹¹ The evident churn of practitioners and offices is highly concerning for supporting charities such as HBF who take care to ensure our clients are referred to experienced providers with the expertise to conduct complex cases in a “trauma-informed”¹² manner. Remuneration should not be explored at the expense of other urgent areas affecting retention. In setting fair wages, we believe focus should be given not just to making a Legal Aid career financially viable for providers but also to enabling long term retention of staff.

The scope of the Legal Aid crisis and closing providers has been keenly felt by HBF. Often immigration and asylum supporting organisations find themselves needing to help with referrals as it is not something which can be done easily by the individuals they are supporting. Knowing what is of relevance/importance to Legal Aid providers in writing or calling for a referral can be difficult for any layperson – especially those for whom English is a second language. People looking for legal representatives may send messages stating things like, “I need help” or “this is urgent” but leave out the important information such as where they are up to in their asylum or immigration matter, what evidence has been gathered or even basic details such as their nationality. HBF has also noted that the referral process can be incredibly confusing for our vulnerable client base and have come across clients more than once with the mistaken impression that they “have a lawyer” because they spoke with a provider on the phone (who had not taken on the case) for an investigatory call about the facts of their case.

Delay in finding a provider can be overwhelming for our clients and it appears that, for some, Legal Aid has become a ‘dirty’ term – one associated with long waiting times, a lower quality of work and a

⁹ Helen Bamber Foundation, [Review of Civil Legal Aid Consultation Response](#), February 2024

¹⁰ Jo Wilding, [Stemming the Tide: The Case for Demarketising the Legal Aid Sector](#), 6 November 2024

¹¹ Public Law Project and Young Legal Aid Lawyers, [Overstretched & unsustainable: a case study of the immigration and asylum legal aid sector](#), 2023. Issues include problems of capacity, working conditions and vicarious trauma/burnout amongst others.

¹² Helen Bamber Foundation, [The Trauma-Informed Code of Conduct](#)

slower process. The following are accounts from HBF Ambassadors for Change¹³ which speak to this experience. These are just some of the accounts of this kind and HBF Legal Protection caseworkers have also experienced it day to day with client reluctance to be referred to Legal Aid Providers. We note that each of the following examples were from London or Greater London – an area with a greater degree of coverage for Legal Aid providers – not marked as a Legal Aid “desert”.

Ambassador 1 “Legal Aid seems to be stuck on “no capacity”

“My asylum journey began in 2016. I first met someone who claimed to be a solicitor but wasn’t—he took £800 from me just for a screening interview without informing me about Legal Aid. Later, I approached [a new private law firm] before my final interview, but they also failed to advise me about Legal Aid. Their mishandling of my case led to a refusal, costing me nearly £3,000.

In 2019, my GP referred me to HBF, who helped me secure a Legal Aid solicitor. However, it wasn’t easy—HBF initially referred me to another solicitor who refused my case due to “no capacity.” After finally getting Legal Aid, it took three years to prepare my case, and I waited two more years for an outcome. Although the Legal Aid solicitor I had made me feel supported, we were meeting only once per month to work on my case which I believe was because Legal Aid cases are not prioritised as much as paying customers are.

After my fresh claim was refused, I had just 14 days to find another solicitor for an appeal. My Legal Aid solicitor couldn’t take it due to “no capacity,” so they referred me elsewhere. Unfortunately, the new solicitor also said “no capacity.” Eventually, HBF spoke to first Legal Aid solicitor – explaining the urgency, and she made an exception to take my case.

*From my experience, **Legal Aid seems to be stuck on “no capacity.”** It’s extremely difficult to get because many solicitors don’t want to take such cases, and even if you do get it, the process is painfully slow. **If I could afford to pay, I wouldn’t have had to wait five years for a decision.** Most importantly, before 2019 and HBF, I had no idea what Legal Aid even was.”*

¹³ Where sections are in bold in accounts – this emphasis was added by HBF.

Ambassador 2 - "Sad discouraging stressful and even traumatic"

"It is very difficult to get a Legal aid Lawyer after claiming asylum, despite the long list of lawyers given to me by [a supporting organisation]. I had a list of more than 50 phone numbers, but I couldn't find a lawyer—everyone was busy and had no available spots.

Some ask you to call back in six months or three months, and when you do, they tell you there are no more spots. It is sad, discouraging, stressful, and even traumatic."

Ambassador 3 – "Uncertainty and anxiety"

"While I haven't experienced this delay myself, I've witnessed how much it affects my friends who are also asylum seekers. The delay in accessing Legal Aid creates a lot of uncertainty and anxiety. Many of them feel stressed, unsure about their future, and lost during the waiting period. This delay can also lead to missed deadlines for submitting necessary documentation, which ultimately weakens their case.

Additionally, without legal advice, some may unknowingly make mistakes in their applications. This not only slows down their asylum process, but also affects their well-being and confidence

I recommend that legal aid be made more accessible to asylum seekers by reducing delays." This will reduce stress and help individuals understand their rights more clearly."

"Ensure high quality provision is available to those who are eligible and encourage early resolution where appropriate."

HBF fully supports a focus on the quality of Legal Aid provision. A key component of the work of our HBF Legal Protection team has been assisting our clients when Legal Aid work has been sub par – this can include, where appropriate, participating in the complaints process. Even there though, clients can be reluctant to make a formal complaint because of the fear of making the existing poor representation even worse and the lack of alternative provider to move to. In part, the problems in this area are caused through the closing of providers and the struggles of retaining staff (as set out above). It would be a lot simpler for clients to leave a poor provider if they knew there were other options on the table. We have also found that often (owing to the difficulties of the referral process), clients have resorted to "community solicitors"¹⁴ and clients are cautious to move outside that arena even if representation there is poor.

Problems of quality can go hand in hand with sustainability and difficulties in referring cases out. Some of the cases we find the hardest to refer are ones where there has been substandard

¹⁴ As set out in our previous consultation response, we mean by this, someone from their local community, usually of the same nationality or cultural background – often with the same mother tongue. Whilst there is no issue with this on the face of this, in our experience there are some unscrupulous individuals who are wont to take advantage of their community and there can be additional pressures to "stick with" such a solicitor if there are community links.

representation early on – for example in an initial asylum claim - and the work of a new provider will involve not only unknitting problems created in earlier legal submissions but also rebuilding rapport with clients who have developed a general sense of distrust with lawyers. We share here a particularly harrowing account from one ambassador for change – illustrating the particular harm caused in such a relationship with a provider.

Ambassador 2 – “It is better to have no lawyer than to have a bad one”

“90% of asylum seekers in this country face problems—they are stressed, sick, and mentally unstable. Many are being treated by doctors, some by psychologists and therapists and even people in this position can struggle because of bad legal aid lawyers. These lawyers are not only incompetent, but they also lack consideration for their clients. They are dismissive and unprofessional, as if they never studied law. I was a victim of this—I suffered for three years. It is better to have no lawyer than to have a bad one. Some examples from this experience are:

- ***She never used a French interpreter** in three years. I was the one who had to find friends to interpret. When I asked for an interpreter, she would always tell me that she didn't have one. When it came to my story, I had to find someone to translate it into French. We never had proper working sessions like I do now with my new lawyer.*
- ***For three years, I never met her face-to-face.** I learned later (she did not tell me this) that she in fact lived in Northern Ireland.*
- *There was **a lack of communication.** When I left her a message sometimes she wouldn't respond at all. When I called, she wouldn't answer. I complained in vain. She changed law firms without informing me. I called and her previous firm that told me she was no longer there.*
- *There were **many problems with evidence.** I discussed evidence with her which we had agreed to be sent to the Home Office – it was not sent to them. She discussed preparing a Medico-Legal Report with me but that never happened.*
- *When an interview is scheduled, lawyers usually work with their clients a week before, and some even two weeks before, with an interpreter. But I didn't have that privilege. **My lawyer called me the night before my interview at 8 PM, without an interpreter, for a 10-minute conversation.** I didn't even understand what she was saying.*
- *My asylum claim was refused in December 2023, in May 2024, my lawyers said they could not represent me anymore – they communicated this to me in a very unclear way. They asked HBF to communicate this to me first and when they eventually told me about it they just sent me an email translated by Google Translate.*

I now finally have a new solicitor who agreed to take on my case in January 2025. I was supported by HBF in finding a new solicitor and making a formal complaint against my previous ones. When the complaints process started, my lawyers treated me like I was being manipulated by HBF into choosing to file a complaint. I was very shocked. When I think about it, I feel deep pain. It still hurts when I remember this. They accused me unjustly. I was always accused in my home country, and now, instead of being protected by my lawyer, she accused me too.”

Quality is a key component of a sustainable legal profession and the impact of low-quality advice and assistance can have a clear knock on affect on many other parts of the Legal Aid structure – not least by impacting future representatives who may need to work through the previous mistakes in cases.

We agree with this focus within the principles but believe that for it to be realised in practice will require considerable reform. One part is investment and development in the sector to ensure providers have an understanding of providing trauma-informed care¹⁵ to clients. Asylum and immigration matters can delve into some of the most personal parts of an individual's background. The hostility of the processes can cause further harm to the mental health of those going through them.¹⁶ Many Legal Aid practitioners are acutely aware of this and HBF has on many occasions worked collaboratively with quality providers who even resemble mental health providers in the considerate approaches to our vulnerable client-group. However, this is by no means a guarantee¹⁷ and our Legal Protection team have encountered many clients – such as in the case above, who have evidently been retraumatised through their experience with lawyers.

A core component of monitoring Legal Aid work must not only be what is undertaken but *how* it is done given the vulnerability of so many of those within the asylum and immigration systems. There are a number of ways in which this could be managed. As advocated for by HBF previously,¹⁸ quality could comprise an element of the Legal Aid auditing process – to ensure it is not primarily focussed on financial provision. Funding, fee waivers or discounts could be supplied to Legal Aid providers for training to practitioners on a range of areas including trauma informed conduct. There could also be a greater encouragement to develop specialisms –it can be especially hard to locate providers experienced in the areas of trafficking or domestic violence if those comprise a core element of a client's case. For example, whilst it can hugely benefit a client to have the same provider represent them in trafficking and asylum issues,¹⁹ a number of HBF clients have at least two lawyers assisting them owing to the complexity of their cases.

We further note that an improved system of complaints will likely comprise a core part of quality maintenance. Whether the complaint be progressed through the Solicitors Regulation Authority, Legal Aid Agency or Legal Ombudsman, it must be accessible to those whose second language is English and for those supporting them. There must be a single and clear pathway/process which

¹⁵ Helen Bamber Foundation, [The Trauma-Informed Code of Conduct](#)

¹⁶ See Helen Bamber Foundation [submission to the Office of the High Commissioner for Human Rights comprehensive report on mental health and human rights](#), October 2024

¹⁷ We note that in the current accreditation process for legal aid providers – whilst there is a degree of prevalence to professional conduct with some exploration of safeguarding – this is largely focused on questions of work ethics within the Solicitors Code of Conduct and could not be said to extend to truly trauma informed care. Law Society, [Immigration and Asylum Accreditation](#)

¹⁸ Helen Bamber Foundation, [Review of Civil Legal Aid Consultation Response](#), February 2024

¹⁹ Both for client ease (reducing the risk of traumatizing redisclosure to two separate people and confusion over which lawyer is handling what) and owing to the common overlap in asylum and trafficking issues in particular. One lawyer representing a client in both matters might have the added benefit of reducing costs overall and the risk of duplicating work. See HBF data on the overlap at Helen Bamber Foundation, [Leave in Limbo: Survivors of trafficking with uncertain immigration status](#), August 2023

clients can navigate without third party support. Without effective systems of review of this kind – so many client concerns go un-addressed and substandard providers continue within the sector.

“Reduce the number of different rates being paid, paving the way for future simplification of the fee schemes which will make it easier for the LAA to maintain their digital systems and reduce the complexity of submitting claims for providers. This is intended to streamline and accelerate the processing and payment of bills.”

HBF agrees with this aim and in general with aiming to simplify the process of billing for contract holders. We suggest that any development in this area is led by the recommendations of contract holders primarily as they have billing experience and that greater technical support be provided to providers to reduce the administrative burden of billing.

We continue to recommend that all cases be billed on the basis of uncapped hourly rates²⁰ with increased options for stage billing during a case – reflecting the long duration of many immigration and asylum matters and allowing for increased cashflow options for providers. We maintain that Upper Tribunal work should not be done at risk and instead brought under the scope of CLR.

We continue to advocate for all immigration, asylum, citizenship and National Referral Mechanism (NRM) work to be within the scope of Legal Aid – including areas that were removed from scope following the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (family reunion, applications based on Art. 8 etc.). We further endorse that scope be expanded to include asylum support matters (so that Immigration providers need not refer to those with Housing Contracts for this provision).

“Pay a fair price to incentivise efficient delivery models whilst delivering value for money for the taxpayer.”

HBF agrees with this approach but note that (as detailed above) with the slower pace of movement in Home Office decision making in general – any lack of efficiency cannot purely be attributed to the providers.

2. Do you agree that we should increase the fees paid for Housing and Immigration work? Please state yes/no/maybe/do not know and provide reasons.

Yes. As detailed in the commentary on question 1 above, HBF endorses the increases to fees paid for Immigration work. We are unable to comment on the area of Housing as this is outside the legal expertise of our Legal Protection team. However, we note that a key component of MOIC support is Housing & Welfare advice – as many of our clients are at ongoing risk of destitution. A sustainable system of civil legal aid for housing is in the best interests of our clients.

²⁰ Rather than the scheme of fixed rates with the potential for losses if matters do not escape.

3. Do you agree that fees for Housing and Immigration work should be increased to a minimum hourly rate of £65.35/£69.30 (outside London/inside London)? Please state yes/no/maybe /do not know and provide reasons.

No. We fully support an increase to Legal Aid hourly rates but as HBF does not hold a Legal Aid contract we are unable to advise on what exactly a sustainable, viable price would be. We again suggest that any decision on the setting of fees is lead by experienced providers and contract holders – not only taking a financially viable approach but one which is sustainable for providers and assists with staff retention. See our commentary under question 1 above. We note that others in their response to this consultation²¹ have disagreed with the proposed increase, advocating that the fees should be increased by a higher percentage, or entirely rethought.

4. Do you agree that the minimum hourly rates for Controlled and Licensed Work should be the same? Please state yes/no/maybe /do not know and provide reasons.

See question 3.

5. Do you agree that our proposed rates will enable legal aid providers to undertake increased volumes of legal aid work? Please state yes/no/maybe /do not know and provide reasons.

Maybe. As we have reiterated in these submissions, we welcome the increase and see many benefits to the profession of it. That said, as stated under question 1 above, the issues of sustainability and quality of Legal Aid in the Immigration and Asylum sector are myriad – not just limited to the rates of pay. We further note our recommendation that further review of the increase is undertaken as it may take some time for any benefits of it to be felt. We restate our comments to quality – a major issue remains not just the availability of providers but the availability of *good quality* providers of the kind able to provide support which HBF clients need.

6. Do you agree that increases to Immigration should be implemented first? Please state yes/no/maybe /do not know and provide reasons.

Do not know. HBF does not have the expertise to comment on Immigration and Asylum in comparison to other Legal Aid sectors.

7. Do you agree with simplifying the fee system by harmonising the fees identified? Please state yes/no/maybe/ do not know.

Do not know. HBF cannot comment on this specific area as we are not contract holders.

In relation to this question, we wish to note that broader urgent simplification to the contract is needed. The Immigration Law Practitioners Association (ILPA), in commentating on the most recent proposed revisions to the Standard Civil Contract 2024, outlined in broad terms:

²¹ Shared with members of the [Legal Aid organising group](#) coordinated by Migrants Organise.

“A theme that runs through our comments is our view that the complex and administratively burdensome immigration and asylum contract, which is already unmanageable for providers, should only be further complicated where absolutely necessary. The unreasonable amount of unbillable, unpaid work that providers must undertake to ensure their files are at a standard fit for adequate remuneration is a factor in the financial unviability of legal aid work. In our view, the unchargeable work which would be created by the administrative hurdles and contractual nuances in these proposed amendments would be disproportionate and unjustifiable.”²²

As a supporting organisation without a contract, HBF experiences much of the shortfall of “unchargeable” matters first-hand. Our Legal Protection team often finds ourselves filling the gaps of contracted Legal Aid work. Recent examples include: drafting letters to representatives to justify clients’ travel expenses to meet with medical experts; the repeated work to remind our clients of urgent appointments; supporting our clients with the practicalities of attending a Visa Application Centre abroad; helping them with steps to integration if they have reunited with their family; or helping them to take trauma informed steps to prepare for their assessment for their medico-legal report. All these tasks might be work commonly written off as administrative, unchargeable or not “legal work” – some of which might cause providers to be challenged at the billing stage if they have charged for it. However, these tasks still comprise key components of clients’ cases. Without them, when vulnerable people are being represented, the actual case might not move forward. Providers should be trusted to do the necessary work to progress cases – taking the steps they need to in supporting vulnerable people in the process.

8. Do you agree that we have correctly identified the range and extent of the equalities impacts for the increases in fees for providers set out above? Please state yes/no/maybe/don’t know and give reasons. If possible, please supply evidence of further equalities impacts as appropriate.

Do not know. HBF is not a contracted provider and is unable to comment on this question.

9. Should we remove or reduce limits to the number of Controlled Work Matters where the client does not attend the provider’s office to make an application for Controlled Work? Please state yes/no/maybe/do not know and give reasons.

Do not know. HBF is unable to comment on what percentage of Controlled Work Matters may be suited to an initial remote appointment (perhaps, for example, where there is extremely urgent work to be done immediately). That said HBF work with a number of clients (particularly those with a marked distrust of legal providers) where even the first appointment, if done face to face, represents a crucial building block in establishing their relationship with a representative. We should like to comment on the need for a cautious approach to remote provision in general – particularly for those with similar needs to our client group – as this must be borne in mind with any developments to this area. In commenting on this, we have drawn heavily on the report, ‘Remote immigration and asylum

²² Immigration Law Practitioners’ Association, [Legal Aid Agency Consultation- Proposed changes to 2024 Standard Civil Contract and Supporting Guidance Documents](#), November 2024

advice: what we know and what we need to know', written by Dr Jo Hynes from Public Law Project, in partnership with the Helen Bamber Foundation, Asylum Aid and A&M Consultancy.²³

HBF does see some benefits to remote working with clients in certain settings. We note, for example, the difficulties which the current limitations on controlled work may provide for those specialising in work with clients abroad – such as in a range of Entry Clearance cases. It can on occasion be 'more convenient' for providers, particularly where consultations are only intended to be short, clients are unable to travel easily or a remote call provides a sense of comfort. This is more likely to be the case where there is an established relationship with a representative and so do not need to undertake important work building rapport.²⁴

However, we have an overall concern about the impact on clients who might require face-to-face contact – something which many in our vulnerable client group desperately need. We point to the example of Ambassador 2, above, who did not meet with his lawyer in three years and Dr Hayes broader findings that remote advice is unlikely to be appropriate for those with significant mental health issues.²⁵ Our Legal Team have encountered many MOIC clients who desperately require face-to-face contact but are unable to obtain it.

The risks in remote advice provision have long been raised by HBF. In our submission to the RoCLA, we highlighted the many practical and communicative barriers faced by our client group in remote communication.²⁶ We believe these barriers continue to apply. Those with mental and physical trauma might struggle greatly in remote rather than face-to-face communication. Much can be lost when not in the same room with one another and even videocalls cannot facilitate subtleties in body language.²⁷ An illustrative example of this came from an HBF clinician who recently shared that a common anxiety response in MLR assessment is an individual "snow-flaking" – tearing up a tissue out of anxiety into tiny pieces under a table. Without the clinician being in the room with the person, he noted that he would have been unable to see this anxious response and could well have been entirely unaware of it.

A recent report, published by the Nuffield Project, details the ongoing challenges of remote provision; noting that the vulnerabilities of Legal Aid clients might make them less suitable for remote provision and might be more liable to digital exclusion owing in part to their lower socio-economic status²⁸ - a problem exacerbated by cost-of-living crisis. The problem of digital poverty was also noted by Dr Hynes²⁹ and is an issue HBF knows all too well. Of the many actions taken to support

²³ Public Law Project, Helen Bamber Foundation, Asylum Aid, A&M Consultancy, [Remote immigration and asylum advice: what we know and what we need to know](#), September 2024

²⁴ Ibid

²⁵ Ibid.

²⁶ Helen Bamber Foundation, [Review of Civil Legal Aid Consultation Response](#), February 2024

²⁷ Paul Hamlyn Foundation, [How the remote delivery of immigration advice evolved during Covid: The digital and capacity implications of this change](#), June 2022

²⁸ Nuffield Foundation, [Where has my justice gone? Current issues in access to justice in England and Wales](#), March 2024

²⁹ Public Law Project, Helen Bamber Foundation, Asylum Aid, A&M Consultancy, [Remote immigration and asylum advice: what we know and what we need to know](#), September 2024

²⁹ Ibid.

our MOIC clients, a relatively common recent one has been facilitating calls with legal representatives remotely. This can be where a client has been told that a representative will “only” meet with them online but they are unsure of how to use the video-platform their representative has requested or do not have a private space to take a call (an issue common in trafficking survivors). HBF will need to set these individuals up in a private space to facilitate contact.

We advocate a cautious approach to the use of remote appointments and urge the MoJ to be mindful of making any changes that could result in some providers only taking on the simplest and most profitable cases, thus reducing access to legal representation for those with more complex cases.

There may be some vulnerable people for whom a remote initial appointment of this kind is entirely appropriate and some for whom it is not. It is a question which is case dependent and it can help to ensure clients are given choice in the matter.³⁰ That said, we do not want developments to Legal Aid to deprioritise cases of the latter kind. Providers being able to make informed decisions on what is most appropriate for their clients in relation to this is likely to come in part from an increasingly trauma-informed approach to Legal Aid as we have advocated elsewhere in this response.

10. RoCLA evidence included feedback that providers are best placed to determine when clients need face-to-face advice, and where remote advice is appropriate. However, there is a risk that providers may move towards remote advice provision in a way that leaves clients who need face-to-face with difficulty finding a provider. When ensuring greater flexibility to provide remote advice, what measures or safeguards would help ensure that clients are not turned down or de-prioritised, because they require face-to-face?

It is our concern about this very issue that leads us to recommend a cautious approach to decreasing the limits on remote advice (see our response to question 9). In terms of appropriate measures and safeguards to reduce harm, we point to our response in question 1 in relation to “quality” and the need for more trauma-informed trained providers. Greater education in this area would entail providers be better qualified to comment on the appropriateness of remote advice in a given case. However, we firmly believe that even with safeguards there is a significant risk that face-to-face services would be deprioritised, and more vulnerable clients disadvantaged as a result.

11. Which categories or areas of law do you practice in (or have experience in), that you have drawn from when answering questions 9 and 10?

Asylum and Immigration Law.

12. Would you want the contractual requirement for permanent office locations to be reduced or removed? Please state yes/no/maybe /do not know and provide reasons.

No. Our primary reasons for this relate to the issues we have set out in our answer to question 9. For many of our clients, an in-person space should be provided to assist their facilitation with

³⁰ Ibid.

providers. We have concerns that if the requirement for permanent office locations is removed, as with provisions pertaining to remote advice, a greater burden will be placed on supporting organisations such as HBF to facilitate contact with solicitors. Equally, for those individuals who are navigating the system without any supporting organisation, they risk having no possibility of engaging with their legal representative face to face in a safe and confidential space.

13. Does the requirement for a permanent office provide sufficient flexibility for the availability of civil legal aid advice based on your experience of client need in any category of law

Unable to comment. HBF is not a contracted provider and cannot comment on this question.

14. If there were a change to the requirement for a permanent office, what measures or safeguards would help ensure we meet the need for clients to have access to face-to-face civil legal advice in a safe, private and accessible environment be ensured?

We cannot see how this would be met apart from by broader supporting organisations, community groups, friends or family. Many of our clients would simply not have any private space to meet with their solicitors if not for their solicitor's office or the HBF offices. Even where HBF does offer to facilitate our clients meeting with their representatives, sometimes those representatives may refuse to make the journey to our offices due to anxiety that this will not be remunerated through Legal Aid. Many HBF clients do not have private safe spaces of their own, they are in shared accommodation, they may live with family/friends who are unaware of their full immigration history or trauma and some are even still subjected to coercive control in their home life. People in this position are not uncommon in legally aided asylum and immigration cases – it is in the nature of the work. As such, we cannot see how the need for clients to have face-to-face advice can realistically be safeguarded. A result might be that the most vulnerable clients face a further barrier to access the urgent legal help they need.