



QUALITY INITIATIVE PROJECT

KEY OBSERVATIONS AND RECOMMENDATIONS

February 2007 – March 2008

**UNHCR Representation to the United
Kingdom in London**

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1. INTRODUCTION

The UNHCR Representation to the United Kingdom has been working with the Home Office to improve the quality of first-instance asylum decisions since 2004 through the Quality Initiative (QI) project. To date, four confidential reports have been presented to the Minister for Borders and Immigration, detailing UNHCR's observations and recommendations as to how the quality of first instance decision making could be improved in the United Kingdom. The majority of the recommendations made by UNHCR have been accepted by the Minister in a series of published responses.

This Fifth Report of the QI Project covers the period from February 2007 to March 2008. This period has seen the completion of an audit of first instance asylum decisions made in the Detained Fast Track (DFT) process at Yarl's Wood and Harmondsworth Immigration Removal Centres (IRCs). An audit of asylum decisions in the regions of Solihull and Leeds has continued as part of the evaluation of the Solihull Pilot process. Additionally, UNHCR has actively supported the development of particular initiatives which have the potential to improve the quality of first instance decision making. These initiatives include the drafting of a decision template, the creation of an internal Quality Audit Team and the introduction and evaluation of the Solihull Pilot process. Finally, the Office has continued to work closely with UK Borders Agency (UKBA)¹ in the implementation of previously accepted recommendations.

The following is a summary of the observations and recommendations flowing directly from these activities.

2. KEY OBSERVATIONS AND RECOMMENDATIONS

2.1 Overview

The report provides an update on the activities of the QI Project from February 2007 to March 2008. Unless otherwise stated, all findings relate to Asylum (formerly NAM) rather than the Case Resolution Directorate. Unless updated in this Fifth Report, all recommendations made by UNHCR in previous reports remain relevant and current. While those recommendations still stand, the Fifth Report focuses on reiterating recommendations where it is felt particular attention is still required whilst outlining new recommendations resulting from the QI Project's activities to the present date. Whilst the present document does not seek to repeat all recommendations made in the Fifth report, a summary of some key recommendations appear in bold in the relevant sections below.

2.2 QI Activities since the Fourth Report

Solihull Pilot

The Office continues to support the Solihull Pilot. The Pilot introduces a process whereby applicants receive early and interactive legal advice with the aim of ensuring that all information and evidence relevant to the case has been put forward before the initial decision. The Pilot as designed addresses a number of concerns highlighted in UNHCR's previous reports. UNHCR accepted an invitation to take part in the evaluation of the Pilot,

¹ While this 'Key Observations' document refers to the UKBA, the full Fifth Report refers to the Border and Immigration Agency (BIA) due to the name having changed just after the Fifth Report was completed.

and continues to assess the impact of Pilot procedures upon the quality of interviews and decisions. UNHCR presented an interim report on its findings to the Solihull Pilot Evaluation Group in September 2007 and highlighted the fact that, where Pilot procedures were adhered to, further material evidence was available to the decision maker at the point of the initial decision resulting in several examples of better quality decisions.

A final report of UNHCR's findings is due to be presented to the Evaluation Group in the course of 2008.

- **UNHCR recommends that the evaluation of the Solihull Pilot place due emphasis on the quality of decision making as set out in the Pilot's Evaluation Strategy.**

Decision Template

UNHCR has supported UKBA's renewed efforts to develop and pilot a decision template for use by Asylum Case Owners when making initial decisions on claims for international protection. The decision template is designed to act as an aide-memoire throughout the decision making process, requiring decision makers to clearly establish the facts of a claim before applying the relevant Refugee Convention or ECHR criteria to those facts. UNHCR has provided comments on various draft versions of the template and has participated in workshops aimed at introducing the decision template to a small group of Case Owners who are currently piloting the template. UNHCR hopes that the template will assist Case Owners in appropriately structuring their decisions and in taking the correct approach to assessing credibility, two key concerns highlighted in UNHCR's previous and ongoing audits.

UNHCR notes that the template cannot serve as a substitute for thorough training on asylum decision making. If the decision template is to succeed in its aim of improving decision quality, Case Owners must be able to understand and apply key refugee law concepts correctly.

- **UNHCR recommends that the introduction of the template to Case Owners be accompanied by in-depth training on problematic areas of asylum decision making, particularly in the area of credibility assessment and establishing the facts of the claim.**
- **UNHCR recommends that sufficient time be dedicated to piloting and evaluating the template, with a focus on the quality of decisions made using the tool.**
- **The Office further recommends that the final version of the decision template should serve as a point of reference for all other UKBA guidance on drafting and structuring asylum decisions.**

Quality Audit Team

The Office welcomes the creation of the Quality Audit Team (QAT) as a first step towards establishing a system of quality assurance across Asylum. The team has responsibility for auditing asylum decisions and interviews, providing direct feedback to Case Owners and producing monthly reports on the outcome of its quality audits. These reports are

presented to senior management based both centrally and in the regions with a view to improving the quality and consistency of decision making across the asylum business. A peer review mechanism is currently being put in place, whereby UNHCR will periodically review QAT assessments and hold feedback discussions with each auditor.

- **UNHCR recommends that peer reviews should continue as a means of facilitating dialogue between the QAT and QI and sharing best practice approaches to quality assurance.**
- **UNHCR recommends that measures be put in place to enable effective communication between relevant training and policy units and the QAT to ensure that quality concerns identified through the QAT's audits are addressed through the provision of training and guidance.**
- **UNHCR emphasises the importance of the QAT and QI using common assessment tools and recommends that any amendments to the tools be agreed jointly between the two teams.**
- **UNHCR recommends that ongoing efforts be made to ensure that a minimum level of “live” interview sampling take place for each Case Owner (in addition to conducting assessments on the basis of interview transcripts).**

2.3 Detained Fast Track

Following an invitation from the Minister, UNHCR began an audit of the quality of decisions made in the DFT process at Yarl's Wood and Harmondsworth Immigration Removal Centres (IRCs) in the latter half of 2006. The audit continued until the end of 2007. In all 112 first instance decisions were randomly sampled². The Office welcomes the spirit in which feedback from the audit has been received by staff in the DFT.

Whilst noting some examples of good practice, UNHCR reports a number of serious concerns with the quality of first instance decision making in the DFT. In UNHCR's view, DFT decisions often fail to focus on the individual merits of the claim. Particular concerns highlighted in this report include an incorrect approach to credibility assessment, a high prevalence of speculative arguments and a lack of focus on material elements of the claim. There is also evidence that an excessively high burden of proof is being placed on applicants. Some Case Owners demonstrate a limited understanding of refugee law concepts. Although many of these issues have been highlighted in previous QI reports, they appear to be particularly accentuated in DFT decisions.

- **UNHCR recommends that only more experienced Case Owners work within the DFT.**
- **UNHCR recommends that Case Owners working within the DFT should receive training that covers, at a minimum:**
 - **the correct approach to assessing credibility**

² This includes 64 decisions sampled from Harmondsworth and 48 decisions sampled from Yarl's Wood. All decisions were refusals of refugee status.

- **key refugee law concepts identified as problematic in UNHCR’s DFT audit**
- **identification of ‘complex’ claims not suited to the DFT processes**
- **how to correctly identify and assess gender issues in asylum claims**

The Office further notes concern regarding the assessment of claims of torture and ill-treatment in the DFT. There is limited understanding of the purpose of medical evidence in decision making evidenced by frequent use of standard wording to the effect that medical evidence would not assist the applicant in substantiating a claim of ill treatment: UNHCR has also observed some cases of DFT decision makers making medical judgments in decisions. Decision makers are not qualified to make such assessments and UNHCR considers it clearly inappropriate for them to do so.

- **Guidance should make clear that it is inappropriate for Case Owners to suggest that medical reports will have no evidential value in deciding the asylum claim.**
- **Guidance should make explicit that it is not appropriate for Case Owners to make medical judgments under any circumstances.**

In addition UNHCR has examined the assessment of gender specific issues in Yarl’s Wood decisions. UNHCR notes that some Case Owners do not appear to possess the necessary skills and expertise to ensure that the full range of gender related claims are recognised in asylum decisions. UNHCR recommends that all DFT Case Owners receive training on the correct identification and assessment of gender issues in asylum claims.

UNHCR’s audit also examined the application of procedural safeguards in the DFT which aim to ensure that the speed of the DFT process does not affect the quality of decisions produced. UNHCR considers that the screening of asylum applicants and procedures for the application of flexibility and the removal of unsuitable cases from the DFT are often not operating effectively to identify complex claims and vulnerable applicants. As a result, UNHCR is concerned that inappropriate cases are being routed to and remaining within the DFT.

- **The Office recommends that the parameters of those cases considered suitable for the DFT (i.e. those cases considered amenable to a “quick” decision) should be clearly set out in guidance for all relevant UKBA staff. All decisions to route cases to the DFT should be accompanied by clear reasoning on the file indicating why the claim meets these published criteria.**
- **DFT Case Owners should be required to proactively consider, at regular intervals, whether fair and stringent consideration of the claim requires the exercise of flexibility or removal of the case from the DFT – particularly in the case of vulnerable applicants. Guidance should explicitly require that these safeguards be considered whether or not an express request has been made by the applicant or their legal representative.**
- **In UNHCR’s view, lessons can be learnt from the frontloading of legal advice in the Solihull Pilot Project by taking advantage of the presence of legal**

representatives at DFT interviews to facilitate evidence gathering at an early stage in the process.

Finally, given the number of refusals of refugee status produced within the DFT, there is a danger of decision makers becoming “case hardened”.

- **UNHCR recommends that DFT Case Owners be rotated off DFT decision making duties in order to be exposed to a wider range of cases or to other areas of the asylum business.**

2.4 Implementation of Previous Recommendations

Attention is drawn to five key areas where UNHCR believes further efforts should be made with respect to the implementation of previous recommendations as a matter of priority. The areas identified are: (1) improving credibility assessment in asylum decisions; (2) developing and improving training for asylum Case Owners; (3) introducing an accreditation system for asylum Case Owners; (4) addressing the impact of increasing workloads and targets on decision quality; (5) improving provision of information to asylum applicants.

Credibility Assessment

Whilst welcoming some positive UKBA initiatives that go towards addressing concerns about credibility assessment such as the Solihull Pilot and decision template, this continues to be an area of serious concern to UNHCR.

- **UNHCR strongly recommends that in-depth, facilitated training on assessing credibility should be provided to new and existing Case Owners. Such training should seek to raise awareness of the Asylum Instruction on Credibility and the concepts outlined therein.**

Training & Accreditation

In its ongoing audits of asylum decisions, UNHCR continues to identify very serious and significant concerns with the approach to credibility assessment. UNHCR is pleased to note that the decision-making module of the Asylum Foundation Training course (AFT) is currently being revised. The Office has provided initial comments on the content of this module and intends to observe the revised module when it is next delivered. UNHCR looks forward to providing further advice and input into the content of Foundation training in the coming months.

- **UNHCR strongly recommends that in-depth, facilitated training on assessing credibility should be provided to new and existing Case Owners. Such training should seek to raise awareness of the AI on Credibility and the concepts outlined therein.**
- **UNHCR again repeats its recommendation that trainee Case Owners should be required to pass a formal competency assessment of decision making and interviewing skills prior to being exposed to live cases.**

- **UNHCR also reiterates the importance of effective, close monitoring and supervision of trainee Case Owners and recommends that UKBA should make every effort to ensure that adequate resources are in place to facilitate this. UKBA should further ensure that measures are put in place to ensure consistency in access to and quality of supervision across the Asylum regions.**

UNHCR hopes that the decision template (see para 2.2.4 above) currently being piloted within Asylum can provide Case Owners with guidance on structuring an asylum decision.

- **Following the pilot of the template, UNHCR recommends that all initial and Consolidation Training on decision making should make appropriate reference to the template. All AFT workbooks should also refer to the template, which should be used as a training tool for facilitated training on structuring and drafting a decision.**

In a number of previous reports, UNHCR notes that significant progress has been made with respect to putting in place an accreditation system for Case Owners³.

- **The Office recommends that accreditation of existing Case Owners should be pursued as a matter of priority and additionally recommends that consideration be given to incorporating an independent element to the marking of accreditation exams.**

Workloads & Targets

UNHCR has recommended in previous reports that output targets and workloads be kept to a reasonable level, with a sufficient degree of flexibility built into the decision making system⁴.

- **Given UNHCR's understanding of increased workloads and production targets in some asylum regions, the Office reiterates this recommendation.**

UNHCR is concerned that increased workloads and production targets may have a detrimental impact on decision quality, stress levels and staff turnover levels.

- **UNHCR recommends that UKBA carefully monitor the potential impact of increased targets and the recruitment of large numbers on new Case Owners on decision quality and stand prepared to take remedial action if necessary.**
- **UNHCR further suggests that additional consideration be given to the previous recommendation that staff be rotated from decision making duties for a short period of time (recommendation 28, Second QI Report) to guard against staff "burn out".**

UNHCR is further concerned that workload pressures may lead to a breakdown in the Asylum Case Owner model.

³ Recommendations 22-24, Second Report; Section 2.3.48, Fourth Report.

⁴ Recommendation 45, Second Report.

- **UNHCR reiterates the importance it places on ensuring that the same interviewing officer and decision maker are responsible for the same case.**
- **UNHCR recommends that the distinctions between the various Case Owner roles, i.e. as an objective fact finder at the decision making stage as opposed to an advocate at appeal, be emphasised through training and subsequent supervision in order to prevent any negative effect on the quality of decisions.**

QI has observed that UKBA's emphasis on performance targets appears to be increasingly measured with reference to quantitative standards, with the result that less emphasis appears to be given to qualitative concerns.

- **In UNHCR's view both qualitative and quantitative targets should be given equal emphasis by BIA when assessing individual and regional performance. Where qualitative targets are not achieved, adequate steps should be taken to address these concerns at both the individual and institutional level.**

Provision of Information to Applicants

UNHCR reiterates its recommendation that UKBA introduce information for applicants on the drafting and interviewing process. In this regard, UNHCR stands ready to assist in the drafting of UKBA's planned adult "point-of-claim" leaflet.

3 CONCLUSION

UNHCR welcomes UKBA's continued commitment to improving the quality of first instance asylum decisions, demonstrated through ongoing progress in implementing a number of previous recommendations.

UNHCR urges UKBA to take note of some particularly serious concerns with the quality of decision making in the DFT and stands ready to support UKBA in the implementation of its recommendations relating to the DFT.

In the next phase of the project, UNHCR considers that further work is required with respect to the mainstreaming of quality considerations across the asylum business and ensuring that concerns with respect to quality are acted upon appropriately and effectively. To this end the Office looks forward to working closely with UKBA on revising and improving the quality of training provided to Case Owners. It further anticipates close collaboration with the QAT with a view to embedding the team's quality assessment function within Asylum.

Once more, UNHCR wishes to thank and commend BIA for its high level of transparency and continued cooperation with UNHCR throughout the lifetime of the QI Project. The Office remains committed to ongoing collaboration with the Home Office to raise the quality of asylum decisions in the United Kingdom.