



QUALITY INITIATIVE PROJECT

KEY OBSERVATIONS AND RECOMMENDATIONS

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1. INTRODUCTION

1.1 UNHCR has consistently stressed the importance of having a high quality refugee determination procedure at the initial stage. High quality systems assist Governments to better meet their international obligations and are beneficial to refugees. UNHCR recognises the challenges inherent in conducting refugee status determination. These are faced by all states providing international protection in the global context of forced migration.

1.2 Since 2004 UNHCR has been working with the Home Office to achieve an improvement in the overall quality of first instance decision making, through auditing existing practice, and providing recommendations. To date, UNHCR has sampled over 500 first instance asylum decisions. UNHCR's activities have also included regular meetings with relevant Home Office counterparts in the asylum directorate of IND. A number of fact-finding visits, including to Harmondsworth and Yarl's Wood, have also been made.

1.3 The most recent Phase of the Project focused on the assessment of substantive asylum interviews. During this Phase UNHCR observed 49 substantive asylum interviews in the Asylum Casework Directorate (both in Croydon and Liverpool), Harmondsworth and Yarl's Wood.

1.4 The following is an update on the Project to date and a summary of the key observations and recommendations arising from the latest Phase of the Project.

2. PROGRESS ON RECOMMENDATIONS FROM THE SECOND REPORT

2.1 UNHCR's Second Report was presented to the Minister of State for Immigration and Citizenship in October 2005. UNHCR's welcomed the formal response from the Minister in which the majority of recommendations were accepted.

2.2 UNHCR is particularly pleased with the commitment, in principle, to introduce accreditation for caseowners in the New Asylum Model.

2.3 The establishment of an 'implementation panel' – with UNHCR acting in an advisory capacity – to take forward and oversee the implementation of those recommendations that have been accepted is also a particularly welcome development. This panel draws together relevant senior Home Office colleagues and has recently begun the process of identifying those recommendations that are a priority for implementation. UNHCR is confident that this process will deliver on some of the key changes it sees as necessary to raise the quality of first instance decision making and looks forward to its involvement in this process.

2.4 UNHCR remains of the view that its recommendations should be viewed as a package, which, taken as a whole, will make a substantial contribution to raising the quality of first instance asylum decision making in the Home Office. The ongoing audit of decisions continues to highlight a number of concerns which UNHCR has previously identified. The recommendations made in UNHCR's Second Report therefore remain current and valid.

3. KEY OBSERVATIONS ARISING FROM PHASE 3

Decision making

3.1 UNHCR is pleased to be able to report that its ongoing audit suggests there has been some improvement on key indicators of decision quality. It remains clear however that serious problems remain both in the quality of individual decisions and the context in which they are made.

3.2 A comparative analysis of UNHCR decision assessments of Phases 3 and 4 suggests there was a fall in the proportion of decisions in UNHCR's sampling in which the assessment of credibility was considered to be flawed. However, this remains a problem area for a significant proportion of decision makers. UNHCR's sampling also suggests a slight improvement in the proportion of decisions which correctly apply the concepts of internal relocation and sufficiency of protection.

3.3 While this improvement is welcome, UNHCR's continuing audit suggests misapprehension of key refugee and human rights law and principles remains common. Particular concerns include a lack of understanding of the concept of persecution, confusion between the Refugee Convention and the European Convention on Human Rights, continued reliance on speculative arguments, and failures to properly consider relevant evidence provided by the applicant and/or their representative prior to the initial decision.

Interviewing

Overview

3.4 In UNHCR's experience, effective interviewing for refugee status determination requires a number of elements to be present. Interviewers should be appropriately trained and possess key interviewing skills. At the same time, interviews and interviewers should be monitored and supervised to ensure that standards are maintained and training put into practice. Interviewers should prepare adequately prior to interviewing an asylum applicant, and clear guidance should be available on procedures and best practice. Where interpreters are needed, their involvement in the interview should be managed effectively by the interviewer, and should be limited to interpretation.

3.5 In its assessments of substantive asylum interviews, UNHCR is pleased to have found evidence of some good practice amongst individual caseworkers on, for example, maintaining the appropriate interview environment¹. However UNHCR's observations suggest that a significant number of interviews are poorly prepared, lack focus and do not properly establish the facts of a claim. UNHCR is also concerned by some caseworkers' inability to manage the involvement of the interpreter effectively.

Preparing for the interview

¹ For the purposes of this report, by 'interview environment' UNHCR means the tone and attitude of the interviewer and/or interpreter, as well as the set-up of the interview (including gender-appropriateness).

3.6 UNHCR is pleased to observe that it is rare for caseworkers not to carry out *any* subjective (i.e. information specific to the applicant available from his/her file) or objective (country of origin) research prior to conducting a substantive interview. Nevertheless, in UNHCR's opinion the majority of interviews sampled demonstrate *insufficient* preparation and prior research by the caseworker. Research appeared to have been done *particularly* poorly in about a quarter of the interviews sampled to date. UNHCR's view is that where interviews are not properly prepared for they are less effective – they are less likely to be focused on the material facts of a claim and to identify all salient points, such as apparent inconsistencies.

Interview environment

3.7 While UNHCR has observed a number of interviews where the interviewer adopted an appropriate, neutral and professional tone, establishing eye contact where appropriate and observing, and responding to, any distress of the applicant, a significant number of interviews were observed where a poor interview environment was created, such as through the adoption of an inappropriate tone (by the interviewer and/or interpreter) or line of questioning. Where this is the case, it may inhibit disclosure on the part of the applicant.

3.8 In particular, UNHCR is concerned to note that its sampling suggests little importance is attached to ensuring that interviews are gender appropriate, even if the subjective evidence available prior to the interview indicated a claim raised gender-sensitive issues such as rape, sexual assault, forced marriage or domestic violence.

Conducting the interview

3.9 A small number of interviews were found to be appropriately focused. However, lack of focus is one of the main weaknesses of the interviews observed so far by UNHCR, with nearly half of the interviews observed to date found to be poorly focused.

3.10 UNHCR's assessments also show that in a significant proportion of interviews, the interviewer either failed to identify or give an opportunity to the applicant to explain apparent inconsistencies.

3.11 UNHCR has also observed a wide variety among the questioning techniques employed by caseworkers – a number of caseworkers use open and closed questions ineffectively, while some pose questions which are inappropriate.

Use of interpreters

3.12 UNHCR's assessments of interviews reveal some serious concerns about the role of interpreters and how effectively they are managed by the interviewer. In a significant number of cases, UNHCR noted that the interpreter was allowed to engage in exchanges with the applicant that were not translated.

3.13 UNHCR is also concerned to have observed a number of interviewers where the disruptive behaviour of the interpreter had a negative impact on the interview environment.

3.14 UNHCR notes that there is no training on working with interpreters for caseworkers and that the first time new caseworkers will work with an interpreter is in a real asylum interview. UNHCR regards such training as essential.

Guidance

3.15 UNHCR's audit of substantive asylum interviews suggests that comprehension of, and adherence to, the existing Home Office guidance on interviewing is inconsistent. UNHCR also believes that the guidance itself could be improved. This includes filling current gaps by providing more specific guidance on a number of potential difficulties faced by interviewers (such as on dealing with further evidence identified during the course of the interview and controlling interpreters).

4. KEY RECOMMENDATIONS ARISING FROM PHASE 3

Training and supervision

4.1 UNHCR's observations suggest a need for a formal assessment of the competency of caseworkers to conduct asylum interviews and specific training on working with interpreters.

4.2 UNHCR recommends that training for conducting interviews include observing interviews conducted by an experienced and competent interviewer, and that new interviewers be subject to 100% live interview sampling until they are considered to have acquired the necessary skills and competencies

4.3 UNHCR also recommends that caseworkers receive more in-depth training on the 1951 Convention and the ECHR to improve their ability to identify and focus their interviews on the salient aspects of the claim.

4.4 UNHCR's Procedural Standards for Refugee Status Determination reiterate the importance of regularly monitoring interviews to ensure compliance with relevant standards. UNHCR recommends that current supervisory arrangements within IND are strengthened, with a minimum number of live substantive asylum interviews per caseworker observed and assessed per year by Senior Caseworkers with the requisite training and experience.

Preparing for and conducting the interview

4.4 UNHCR believes it is essential that Home Office procedures allow for adequate preparation prior to an interview by ensuring timely availability of files. Relevant Home Office guidance should prescribe what such preparation should entail. At a minimum this should include a review of the applicant's file and relevant country of origin information research, even in the absence of a SEF and/or statement.

4.5 UNHCR recommends that an aide mémoire to interviewers should be developed to facilitate the structuring of asylum interviews ensuring that all the relevant key elements of the refugee definition and the ECHR are covered during the interview. Such an aide mémoire may also be a useful tool in decision making.

4.6 UNHCR also recommends that procedures for opening and closing the interview be revised. In particular, all relevant introductory information, instructions and biographical data checks should be conducted by the interviewer and translated where necessary by the interpreter. The purpose, structure and the next steps in the application process should also be more clearly explained to applicants.

4.7 UNHCR recommends that where further evidence or the need for further evidence (such as a medical report) has been identified during the course of the asylum interview, applicants *must* be given a reasonable number of working days to produce it.

Gender-sensitive interviewing

4.8 Gender-sensitive interviewing and interpreting should be automatic and introduced with immediate effect, subject to genuine operational constraints. Where an interview has been arranged that is not gender appropriate for whatever reason, a mechanism should be in place to allow for the postponement of the interview.

Interpreters

4.9 UNHCR recommends that guidance on working with interpreters should be incorporated into existing guidance on interviewing. Such guidance should make it clear that an interview should be stopped if problems with an interpreter persist, provide advice on managing the involvement of the interpreter in the interview and make it clear that proactive exchanges between the interpreter and the applicant are not acceptable.

4.10 UNHCR also recommends that caseworkers provide feedback on the quality and conduct of the interpreter after each interview.

4.11 UNHCR recommends that any shortage of female interpreters in a particular language should be identified and relevant recruitment conducted sufficient to facilitate its recommendations on gender-sensitive interviewing.

Guidance and procedures

4.12 UNHCR recommends that the guidance and procedures on interviewing be improved.

4.13 Specific recommendations include: reintroducing Statement of Evidence Forms for all asylum applications as they have the potential to be a useful tool in preparing and focusing an interview; ensuring caseworkers make use of the option of a further interview of either the applicant or his/her family members where this is necessary; audio-tape recording all substantive asylum interviews as a matter of course and finding alternatives to the interviewer taking a verbatim note of the interview be found; discouraging the practice of caseworkers only conducting interviews over a sustained

period of time and introducing a system of effective decision 'ownership' across the business.

4.14 UNHCR recommends that procedures for formal complaints about services of caseworkers should be clearly explained to all applicants. Such procedures should cover the conduct of the interview and should also be applicable to interpreters.

5. CONCLUSION

5.1 UNHCR acknowledges and welcomes the UK Government's commitment to raising the quality of first instance asylum decision making as demonstrated by its continuing partnership with UNHCR through the QI Project.

5.2 UNHCR believes the implementation of its recommendations to date will make a substantial contribution to raising the quality of first instance asylum decision making in the Home Office, and looks forward to continuing its work with the Home Office in helping raise the quality of initial decisions.