



Home Office

Evaluation of the Early Legal Advice Project Final Report

Research Report 70

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Disclaimer

The views expressed in this report are those of the authors, not necessarily those of the Home Office (nor do they represent Government policy).

All references to UK Border Agency were correct at the time of writing. As of the 1 April 2013 the UK Border Agency was reintegrated into the Home Office and the Legal Services Commission became the Legal Aid Agency.

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Executive summary

This report was commissioned by the Home Office to evaluate the Early Legal Advice Project (ELAP), operational within the Midlands and East of England (MEE) region of the UK Border Agency between November 2010 and December 2012. The objectives of providing free early legal advice to asylum seekers was to:

- increase the quality of decisions;
- reduce the volume of appeals (including those receiving legal aid);
- improve the efficiency of the asylum system (improving working relationships and confidence in decision making); and
- create savings across government.

The report is drawn from a range of quantitative and qualitative research. Quantitative research included analysis of UK Border Agency and Legal Services Commission (LSC) data for cases receiving publicly funded legal aid before and after the project's introduction, for the MEE region and all other UK Border Agency regions. The qualitative research was based on interviews with asylum applicants, case owners and legal representatives relating to 83 individual asylum cases ('GVA case reviews').¹

Key findings

Applying the ELAP process to asylum applications increases the overall grant rate of cases by seven percentage points and reduces the number of refusals against intake (in turn reducing the total number of cases that might go to appeal).

However, the ELAP process increases the time taken to make a decision on an asylum application and increases the average costs of a case receiving publicly funded legal aid.

ELAP did not have an impact on the asylum grant rate or on the grant rate for humanitarian protection (HP) but it did lead to an increase in the grant rate for discretionary leave (DL).²

ELAP reduced the rate of refusals against intake but did not impact on the appeal rate against refusals, or on appeal outcomes (the allowed appeal rate or the onward appeal rate).

1 These focused on 83 separate cases but in some instances included the same individual case owners and legal representatives.

2 Grants of DL are defined as per the Immigration Rules prior to 9 July 2012. Following this date the definition of DL changed. Grants of private or family leave to remain (LTR) are included in this category of grants of DL for the purposes of this analysis. Further information can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumpolicyinstructions/apis/discretionaryleave.pdf?view=Binary> Accessed 14/05/13

A review of ELAP cases showed no discernible impact of ELAP on decision and interview quality although ELAP was reported to improve decision making for complex cases.

Cases in the ELAP process took longer to reach an initial decision but ELAP did not have a statistically significant impact on the number of cases concluded within 6 or 12 months, nor did it have an impact on the number of cases removed within 6 or 12 months.

Publicly funded legal aid cases going through the ELAP process cost more on average than other cases in the MEE region (£222 or £538 more per adult single cases depending on the method of calculation).

Quality of decisions

Based on a sample of cases in the MEE region, an audit of ELAP cases from the Asylum Quality Audit Team (AQAT) showed that ELAP had very little impact on decision and interview quality. The impact of ELAP on the decisions made (and used for the assessment of quality) was varied.

ELAP did not have a statistically significant³ impact on the rate of asylum grants or grants of HP when controlling for nationality, religion, sex and age, despite a positive increase in the overall numbers of grants. ELAP led to a statistically significant increase in grants of DL and a reduction in refusal rates.

Case owners, applicants, and particularly legal representatives suggested that the process increased confidence levels in initial decisions and enabled better quality decisions to be made (particularly for more complex cases).⁴

Volume of appeals

ELAP did not have a statistically significant impact on the rate of appeals against refusals. However, due to the decrease in refusals at initial decision there was an overall lower volume of appeals. Similarly, while ELAP did not have an impact on the rate of LSC-funded appeals (those granted controlled legal representation – CLR), the lower volume of overall appeals meant that there was a lower volume of LSC-funded appeals.

Although ELAP appeared to lead to a lower number of appeals, there was no statistically significant impact on the allowed appeal rate (the number of decisions overturned at initial appeal) or the onward appeal rate (cases appealed at the First Tier Tribunal and subsequently granted permission to appeal at the Upper Tribunal).

3 When referring to statistically significant differences, these are statistically significant at the five per cent level.

4 An explanation of 'complex cases' is provided in the Glossary of this report.

Efficiency of the system

ELAP led to a statistically significant increase in the time taken to reach an asylum decision – a 17 percentage point fall in asylum decisions made within 30 days of the asylum application and a 20 percentage point fall in decisions made within 60 days compared with cases not receiving publicly funded legal aid.

The lengthened process was partly due to the design of ELAP (and reflected in the altered performance indicator⁵) but delays also occurred due to evidence not being presented at the earliest opportunity,⁶ late witness statements, cancelled substantive interviews and time taken to engage applicants in the process.

Although conclusion rates increased slightly through the ELAP process (most likely linked to reduced refusal rates), the process did not have a statistically significant effect on conclusion and removal rates when factors including nationality, religion, sex and age were controlled for.

Savings across government

Cost analysis using the results set out above suggest that ELAP cases cost between £222 and £538 more on average than cases receiving publicly funded legal aid in the MEE region prior to the implementation of ELAP (depending on the method of calculating asylum support costs).

Whilst a reduction in the number of refusals (and therefore a lower volume of appeals) reduced costs at the appeal stage, these savings were exceeded by the additional costs at the initial decision stage of the process. These additional costs were mainly due to additional legal support payments for the LSC, but were also linked to higher asylum support costs for the UK Border Agency as cases took longer on average for the initial decision to be served.

Other findings

Other findings from the evaluation, mainly relating to the process of ELAP, are outlined below.

- Although the take-up rate of publicly funded legal aid was higher under ELAP than the take-up of publicly funded legal aid in other regions (see p 36) it remained below 50 per cent of all eligible applicants, indicating a large proportion of applicants who did not access free early legal advice at all.
- The process appeared to contribute towards improved working relationships between legal representatives and case owners. Witness statements added credibility to the asylum system, ensuring that a minimum level of information/evidence was available at the earliest opportunity for all cases. Benefits of witness statements were realised when they were submitted within the set timescale (at least 72 hours before the substantive asylum interview).
- Applicants in the ELAP process on the whole reported feeling better prepared than applicants in the national asylum process (in the MEE region) for their substantive interviews and better able to explain their reasons for claiming asylum.

5 Given the longer timescales a performance indicator was set to decide 20 per cent of ELAP cases within 30 days. Overall, 15 per cent of cases were decided in 30 days.

6 Known in the ELAP process as 'front-loading', this refers to all relevant and available documentation/evidence being produced prior to the substantive asylum interview as opposed to historically being presented for appeal.

- However, the project's pre-interview stage appeared to provide benefits in only a minority of cases. This was due to a lack of front-loaded evidence, pre-interview meetings being held too close to the start of the substantive interview,⁷ and relatively straightforward cases having minimal available evidence to discuss.
- Evidence from case owners and legal representatives suggested the need for more evidence to be front-loaded to benefit fully from the process. Front-loading would enable the disclosure of all available evidence for ELAP cases at the earliest possible opportunity (rather than waiting until the post-interview stage).⁸
- Although the findings suggested that the active involvement of legal representatives in substantive interviews varied, their greater involvement (through ELAP) was regarded as particularly beneficial for complex cases (defined in the Glossary).
- The post-interview stage of ELAP provided an opportunity for case owners and legal representatives to discuss the case and the initial decision. It was particularly welcomed by legal representatives, who could respond to the initial thoughts of the case owner and then use the discussion to inform their decisions to grant appeal funding.
- Case owners and legal representatives reported that ELAP User Group meetings⁹ were beneficial for improving both the process and working relationships between case owners and legal representatives.
- Overall, there were different levels of effectiveness resulting from the ELAP process on a case-by-case basis. This was due to many factors but case complexity was the most common. The ELAP process appeared to offer greater benefit for more complex cases. There could be merit in enabling greater flexibility within the ELAP process for straightforward cases as parts of the process appeared less effective for straightforward cases. Specific elements of the process (for example, the witness statement) could be utilised for these cases to reduce time and resources.

7 There would be benefit to the meeting occurring at least 24 hours, and ideally 48 hours, prior to the substantive interview to assist with preparation rather than on the day of the substantive interview.

8 Additional communication of this message took place at an ELAP workshop in April 2012. It led to the introduction of some local practices (specific pro-formas) to encourage legal representatives to front load evidence.

9 User Group meetings were designed to increase collaboration between legal representatives and case owners and provided a forum for both parties to address any issues with the operating of ELAP.

1. Context

This report was commissioned by the Home Office to evaluate the Early Legal Advice Project (ELAP), operational in the Midlands and East of England (MEE) UK Border Agency region between November 2010 and December 2012. It is based on research activities carried out between the start of the project in November 2010 and November 2012.

In March 2006 the UK Border Agency and the Legal Services Commission (LSC) developed a joint proposition paper entitled Improving Asylum Decisions through Early and Interactive Advice and Representation, (UK Border Agency, LSC, 2006). The proposal was to improve claimants' access to information and advice from legal advisers at the earliest stages of the asylum process in order to enhance the quality of asylum decisions. This led to an initial pilot – the Early Advice Pilot (EAP) – based in Solihull. One of the main aims of the pilot was to ensure that all material facts and relevant evidence were in front of the decision maker at the time they made the decision. Due to limited cases running through the new process at this point, it was not possible to establish fully the pilot's effectiveness.

The pilot was expanded and developed into ELAP (including a geographical expansion to cover the whole of the MEE region) to allow the suitability of the process for national rollout to be tested. ELAP aimed to provide free early legal advice and representation to asylum applicants across the entire MEE region.¹⁰ Its objectives were to:

- increase the quality of decisions;
- reduce the volume of appeals (including those receiving legal aid);
- improve the efficiency of the asylum system improving working relationships and confidence in decision making; and
- create savings across government.

The evaluation team gathered quantitative and qualitative data to review the ELAP process and to provide evidence to assess whether the above objectives had been met.

Emerging findings identified a need to distinguish between complex and straightforward cases. The United Nations High Commissioner for Refugees (UNHCR) uses the term 'manifestly well-founded', which was appropriate to use for straightforward cases (UNHCR, 2011). UNHCR has proposed a stream within the asylum process for such cases¹¹ and refers to country-specific, group-specific, evidence of trauma and factual evidence as criteria for determining such cases.¹² It should be noted that defining a case as straightforward is difficult, as is defining complex cases. 'Complex' cases are defined here as cases that would fall on the opposite end of the continuum to those that are 'manifestly well-founded', perhaps cases involving complex case law, or situations without readily available evidence (specific case law, operational guidance notes) or claims concerning family groups.

10 Some of the caseworkers and legal representatives piloting ELAP will also have had experience of the EAP process.

11 On a European level, the EU Procedures Directive (Article 23(3)) provides the option to States of creating a procedure for manifestly well-founded cases.

12 For example, in the case of non-Arab Darfuris, whereby clear proof of falling within this group means that asylum should be granted, the core issue is to determine nationality and ethnicity see UK Border Agency (2011) Operational Guidance Note – Sudan. Case owners are, however, obliged to make findings on all 'material facts' of the claim, which may include other matters or issues.

The Early Legal Advice Project

The Minister of State for Immigration referred to the ELAP process in the House of Commons in December 2010, stating that its aim was to improve asylum decisions through the provision of early legal advice.¹³ After initial application and screening interviews asylum cases are routed to different regions of the UK prior to their substantive asylum interview. Following the substantive interview, carried out by a UK Border Agency case owner, an initial decision is made. The ELAP process was available to all asylum application cases routed to the MEE region (prior to their substantive asylum interview), including single adults, families and unaccompanied asylum seeking children (UASC) providing they accepted publicly funded legal representation from organisations in the MEE region that held contracts with the LSC to provide publicly funded advice in immigration and asylum matters. Applicants who instructed a privately funded legal representative or who did not want a legal representative had their applications considered in line with the national asylum process. Appendix A sets out the key components of the asylum process, including how applications using the ELAP process differ from applications considered under the national asylum process. The main differences are also outlined below. For applications being considered in the ELAP process:

- there is active emphasis on providing all evidence at the earliest possible stage and the production of a witness statement by the legal representative on behalf of the applicant (prior to the substantive asylum interview);
- a pre-interview discussion takes place between the legal representative and UK Border Agency case owner to discuss the witness statement and evidence;
- the substantive asylum interview is attended by the legal representative¹⁴ and takes place between Day 23¹⁵ and Day 25 to allow sufficient time for the above stages to take place (in national asylum cases this typically takes place between Day 7 and Day 10);
- there is a post-interview discussion between the legal representative and case owner to discuss the claim and any further evidence required; and
- the decision is made and served between Day 26 and Day 60 (compared with between Day 16 and Day 30 in national asylum cases).

Publicly funded legal aid is normally available in cases in other regions, as it was prior to the ELAP process in the MEE region. However, from the point of asylum application through to the initial decision, there is limited time for the applicant to access advice prior to the substantive interview (as this takes place between Day 7 and Day 10). The intention of the ELAP process was to allow greater time and opportunity for applicants to obtain legal aid. This is achieved through delaying the point at which the substantive interview takes place (between Days 23 and 25). For cases outside the MEE region (and prior to the ELAP process) funding was also available for legal representatives to prepare a statement, although in practice it can be difficult to complete statements within the national asylum process timescales.

¹³ Available at: www.parliament.co.uk (14 December 2010) Written Answers to Questions, Home Department.

¹⁴ Under the national asylum process legal representatives could attend a substantive interview but were unable to play an active role in the interview.

¹⁵ Days stated relate to calendar days since the asylum application.

The design of the ELAP process incorporated most of the recommendations provided in the evaluation of the initial EAP (Aspden 2008). For example, the ELAP process was developed in the MEE region (the EAP evaluation recommended it should incorporate the pilot location, Solihull) and ran its own User Group meetings.¹⁶ It also included the mandatory submission of a witness statement,¹⁷ the undertaking of pre-interview meetings at least one day before the substantive interview, and the completion of a post-interview meeting. The EAP evaluation recommended that substantive interviews took place on Day 14. This was considered when designing the ELAP project but the interviews were scheduled between Days 23 and 25, to allow applicants greater opportunity to benefit from full legal advice.

Policy context

UK Border Agency

The process of ELAP aims to support the delivery of several of the performance improvements that the UK Border Agency's Asylum Improvement Project (AIP) was designed to achieve, including a reduction in decision waiting time, improved quality of decisions, and cost reduction and efficiency improvements. The AIP progress report (Home Office, UK Border Agency, 2011) reiterated the need for the UK Border Agency to continue its programme of innovation and reform. Continuing to assess the impact of providing early legal advice to asylum seekers represents a key element of this programme.

Another change was the adoption of a new cohort management system for UK Border Agency case owners within the MEE region from October 2011. This incorporated three cohorts of case owners, each cohort overseeing a month's worth of cases and then using the following two/three months to complete their caseload before taking on another month's cases. Some strategic UK Border Agency staff suggested that it had an initial positive effect on case ownership and reduced the time taken to make a decision. This was supported by internal data from the UK Border Agency indicating that in the 6 months prior to the cohort system, 4 per cent of ELAP cases were concluded within 30 days (27 out of 602 cases) compared with 18 per cent (97 out of 533 ELAP cases)¹⁸ during the operating of the cohort management system. A lack of resources within each team to manage a full cohort was reported by caseworkers and other UK Border Agency staff and, as a result, this system came to an end in July 2012 without impact to performance.

In March 2012 the UK Border Agency awarded new contracts to external suppliers for the provision of accommodation and transport services to eligible asylum applicants, replacing existing contracts due to expire during 2012. This meant close working with the Initial Accommodation team to check dates set for substantive interviews to reduce cancellations following dispersal.

16 User Group meetings were designed to increase collaboration between legal representatives and case owners and provided a forum for both parties to address any issues with the operating of ELAP.

17 ELAP required submission of the statement at least three days before the substantive interview rather than six days after the initial meeting of the legal representative and applicant in EAP cases

18 See Excel Table D20 Accessed 14/05/13

Legal Services Commission

A number of changes were made to the management and delivery of ELAP throughout the evaluation period. These included the adoption of the LSC's online Voluntary Appointment System (VAS) at the Asylum Screening Unit (ASU) in Croydon in June 2011. The system provided initial appointments for applicants with organisations in the MEE region that held contracts with the LSC to provide publicly funded advice in immigration and asylum matters. This was (from January 2012) rolled out for use by the Refugee Council at initial accommodation¹⁹ in Stone Road, Birmingham and operated until December 2012 for the purposes of ELAP (referrals to representatives are still made).

The Immigration Advisory Service (IAS) was the largest LSC contracted provider of publicly funded immigration legal advice in the MEE region, and was particularly important in the East of the MEE region where there were fewer ELAP-contracted legal representative firms (although it is worth noting that the East of England region contained a relatively small proportion of the MEE regions' asylum intake). The IAS entered into administration in July 2011. Despite an inevitable period of reduced ELAP legal representative availability, the LSC responded by re-tendering its ELAP contracts within this part of the region (and in other areas) and providing appropriate ELAP specific training for new contractors.

It is also important to note that a range of other factors may have affected the asylum process over the period since ELAP commenced. These factors include pilots taking place in other regions (for example, the Family Key Worker Pilot in North West England), changes to resources in the UK Border Agency and case law, and external factors affecting the composition of asylum seekers (for example, by nationality, religion, sex and age).

National picture

Home Office immigration statistics²⁰ provide data on asylum decisions and appeals for all cases, including those not covered by ELAP. Comparing the fourth quarter of each year since 2008 shows that the rate of grants of asylum decreased initially from 20 per cent of initial decisions in the fourth quarter of 2008 to 13 per cent in the fourth quarter of 2009. Since then the asylum grant rate has increased – to 21 per cent at the start of ELAP in late 2010 through to 33 per cent in the fourth quarter of 2012. These trends are also consistent annually.²¹

In line with the trend for asylum grants, the overall grant rate (includes asylum, discretionary leave, humanitarian protection and indefinite leave to remain under family and private life rules) for the UK as a whole also decreased prior to ELAP, from 32 per cent of initial decisions in the fourth quarter of 2008 to 23 per cent in the fourth quarter of 2009. Since the start of ELAP, when the overall grant rate was 28 per cent, it has increased to 36 per cent in the fourth quarter of 2012.

19 Initial accommodation is provided by the UK Border Agency for homeless or 'destitute' asylum seekers during the first two to three weeks of their application.

20 Home Office (2012) Immigration Statistics, July to September 2012. Available at: <https://www.gov.uk/government/publications/asylum-data-tables-immigration-statistics-july-to-september-2012-volume-1> Accessed 23/04/2013.

21 The exception to this was the first quarter of 2009 with a peak in asylum decisions. This followed a judicial review where it was ruled that any national of Zimbabwe who could not demonstrate loyalty to the Mugabe regime could not be lawfully removed to that country and almost two-fifths of grants at initial decision were to Zimbabweans.

Home Office statistics also show that the number of appeals received increased by 18 per cent from the fourth quarter of 2008 to the start of ELAP in late 2010 (from 2,714 to 3,209 in the fourth quarter of 2010), although the highest number of appeals received in a fourth quarter between 2008 and 2012 was in 2009 (4,405). Following the commencement of ELAP the number of appeals received fell by 37 per cent (to 2,006) in the fourth quarter of 2012.

The proportion of appeals allowed prior to the ELAP in the fourth quarter of 2008 was 27 per cent. This had decreased slightly to 26 per cent by the fourth quarter of 2010 and the start of the ELAP. The proportion of allowed appeals has continued to decrease slightly following the commencement of ELAP to 25 per cent.

It is difficult to review these statistics against the findings of the ELAP evaluation and there are a number of caveats here. For example, the two datasets used are not identical; the data for the evaluation of ELAP used only publicly funded cases following matching with LSC data (see methodology section below). The data presented throughout this report also only refer to those matched cases (receiving publicly funded legal aid) with applications as a single adult (unless otherwise presented).

Document structure

This report summarises the findings from the quantitative evaluation, which compares the impact of ELAP on cases receiving publicly funded legal advice in the MEE region against national asylum cases in other regions also receiving publicly funded legal advice. This document is structured as follows.

- **Chapter 2** introduces the methodology used to evaluate the performance of the ELAP process against the objectives.
- **Chapter 3** provides the key findings in relation to the objectives of the ELAP process, including an assessment of the impact of ELAP on the quality of decisions, the volume of appeals, the efficiency of the system and savings across government.
- **Chapter 4** provides the key findings in relation to the process of ELAP, evaluating each stage of the process as well as the impact of the ELAP process on working relationships.

Additional information is included in the appendices.

- **Appendix A** includes a description of the process of ELAP and an illustration of the timescales for cases in the ELAP process and under the national asylum process.
- **Appendix B** provides details of the qualitative analysis.
- **Appendix C** provides details of the quantitative analysis.
- **Appendix D** provides the data tables for the matched dataset

2. Method

The evaluation of the Early Legal Advice Project (ELAP) was delivered through the following methodology.

- Phase A: Baseline study and three-month project health check undertaken by the Home Office Migration and Border Analysis (MBA) unit.
- Phase B: Qualitative research with applicants, legal representatives, caseworkers and other stakeholders.
- Phase C: Quantitative analysis of the ELAP process relating to background, performance and cost data.

The following definitions were used when describing the categories of applicants and cases considered in this evaluation.

- An ELAP case is an asylum application routed to the Midlands and East of England (MEE) region where the applicant accepted the offer of a publicly funded legal representative.
- A non-ELAP/national asylum process case is an asylum application routed to the MEE region where the applicant was offered but declined a publicly funded legal representative. These applicants may have been represented by a privately funded legal representative or they may have been unrepresented.
- Control cases refer to asylum applicants outside the MEE region who were in receipt of publicly funded legal representation.

Phase A incorporated a series of qualitative research activities. In addition to focus groups, interviews and an ongoing online survey of case owners by individual cases, Phase A included an initial online survey completed by 189 individuals. The survey highlighted mixed views on the relationship between case owners and legal representatives (more positive in the experiences of case owners) and found a lack of overall time, including the time taken to research and obtain country-specific information, were the main barriers to sustainable decisions.

A health check, carried out three months after the project commenced, found that limited initial information about the project was being provided to applicants and that witness statements were helpful to making sustainable decisions. The health check also indicated that the process had led to improvements in working relationships between case owners and legal representatives.

The online survey was repeated in February 2012 (the 'February 2012 staff survey') and completed by 96 individuals.²² Both surveys included responses from caseworkers, senior caseworkers, hybrid case owners, legal representatives, presenting officers and asylum stakeholders.

²² Response rates are not known.

As part of Phase B, face-to-face interviews were conducted with applicants, legal representatives (where present) and case owners at the Midlands Enforcement Unit (MEU) after the substantive asylum interview ('GVA case reviews'). This covered 51 ELAP applications and 32 applications under the national asylum process (either with privately funded legal representation or without legal representation), with the sample being representative of the existing asylum intake for the MEE region in terms of sex, age and nationality. Appendix B details the qualitative methods used.

In addition to the GVA case reviews, the following research activities took place (Table 1).

Table 1: Qualitative research activities (in addition to the 83 GVA case reviews)

Activity	Number of focus groups / interviews	Participants	Purpose
Focus groups	2	Legal representatives	Discuss experiences of the process of ELAP
Focus groups	2	Case owners	Discuss experiences of the process of ELAP
Focus group	1	Legal representatives and case owners (mixed)	Discuss experiences of the process of ELAP and enable debate between the two parties
Focus group	1	Presenting officers	Discuss experiences of the process of ELAP
One-to-one interviews	10	Applicants (interviewed at initial accommodation) and the Refugee Council	Explore experiences of the ELAP process
Focus groups	3	West Midlands Strategic Migration Partnership (2) and East of England Strategic Migration Partnership (1)	Understand experiences of the process of ELAP, including through work engaging with applicants
Focus group and informal one-to-one interviews	1 focus group / 3 one-to-one interviews	Staff and screening officers at the Asylum Screening Unit in Croydon	Discuss experiences of the ELAP process at screening stage (including observation of screening interviews)
One-to-one interviews and informal focus group	5 one-to-one interviews / 1 focus group	Immigration judges (at Sheldon Court in Solihull)	Explore views on the process of ELAP
One-to-one interviews	14	Strategic and operational stakeholders	Understand experiences of the process of ELAP

Phase C of the evaluation provided quantitative analysis (see Appendix C for full details of the quantitative methods used) to test the impact of the project using a matched dataset of UK Border Agency and Legal Services Commission (LSC) data on asylum outcomes and legal representative costs. It covered two time periods:

- a 12-month period before ELAP was introduced; and
- an 18-month period after its introduction.

The 12-month period was the 'baseline period' (15 November 2009 to 14 November 2010) and the 18-month period was the 'ELAP period' (15 February 2011 to 14 August 2012).

The data were taken for 18 months from February 2011 (rather than 18 months from the start of ELAP in November 2010) as the first 3 months of data (following the commencement of ELAP) represented a period of time when the project was 'bedding in' and was disrupted by adverse weather, potentially affecting the outcome data. Following data cleansing, and when using only the baseline and 18-month ELAP data, 11,024 cases were included in the quantitative analysis (see Tables C1 and D4), covering all UK asylum regions before and after the project's introduction. The cases only included those who received funding from the LSC and who could be matched from the LSC data to the UK Border Agency data.²³

The quantitative analysis produced a set of descriptive statistics, which were used to inform the difference-in-difference (DID) methodology to compare asylum case outcomes between the MEE region and other regions before and after ELAP was introduced. Whilst differences might be apparent in the descriptive data, to identify if they were statistically significant and to understand the extent to which they could be attributed to the ELAP process, regression-based DID analysis was carried out. This analysis controlled for the impact of any changes in the composition and characteristics of asylum seekers that may have affected case outcomes across regions and over time, such as nationality, religion, sex and age.²⁴

This was important given the complex and dynamic nature of asylum seeker characteristics across time and across regions. For example, the proportion of Zimbabweans within the MEE region showed a 19 percentage point reduction between the period prior to ELAP and after it commenced, while the proportion of Pakistanis showed an 8 percentage point increase – with potential implications for the overall grant rate given the different circumstances in each country and contrasting grant rates for those nationalities (see Excel Table D8).

The dataset provides results for the outcomes of publicly funded adult cases for the baseline period against which any changes resulting from the ELAP process can be evaluated, although there are a number of caveats. These are outlined in Appendix C and include uncertainty as a result of human error, loss of data through the matching process, and the impact of other interventions in other regions of the UK.

23 Analysis was not undertaken on cases under the national asylum process in the MEE region due to the effect that the ELAP process would have had on these cases (performance may have been altered due to the same UK Border Agency case owners working on cases in the ELAP process and under the national asylum process. There may have been further cases that might have received publicly funded legal advice in the MEE region but were not included in the dataset as it was not possible to match them to UK Border Agency data.

24 Data for all control variables are available on request in a detailed ELAP Quantitative Evaluation Report.

In addition to analysing asylum outcomes and timescales, the quantitative analysis also included an assessment of the average unit costs of publicly funded cases in the MEE region before and after the project, using the results of the outcome analysis and based on a number of wider assumptions. Whilst this does not allow an estimate to be made of the total costs of ELAP to the MEE region and is subject to some caveats (see Appendix C for more detail), it does allow an assessment of the direction of change in overall costs to the Government in the MEE region due to ELAP.

Data presented throughout the report are rounded to the nearest whole number. Where figures do not add up to 100 per cent this is due to rounding. The results in the DID tables indicate the difference between the changes seen in the test (MEE/ELAP) region compared with the changes in the control (other) regions. These differences were tested for statistical significance at the five per cent and one per cent levels. As such all references in the text to significant results are statistically significant findings at the five per cent level.

The evaluation has drawn on findings of other research that has been carried out, including the previous evaluation report, (Aspden, 2008) as well as LSC and UK Border Agency reviews (LSC, 2012a; LSC, 2012b; and Asylum Quality Audit, UK Border Agency, 2012).

The following two chapters discuss the key findings from the evaluation.

3. Key findings – the objectives of the Early Legal Advice Project

Quality of decisions

When considering the decisions made, the data did not suggest that any changes in the asylum grant rate could be attributed to the Early Legal Advice Project (ELAP) but the process did lead to an increase in the grant rate for discretionary leave (DL).²⁵

ELAP increased the overall grant rate, which consists of all cases granted asylum, DL or humanitarian protection (HP) and allowed appeals in the Midlands and East of England (MEE) region compared with other regions.

ELAP reduced the rate of refusals against intake but did not impact on the appeal rate against refusals, or on appeal outcomes (the allowed appeal rate or the onward appeal rate).

A review of ELAP cases showed no discernible impact of ELAP on decision and interview quality although ELAP was said to benefit the decision making for complex cases (see Glossary for definition of complex cases).

A key objective of the project was to increase the quality of decisions made for asylum cases, examining the decisions made, from the perspective of the applicants, case owners and legal representatives as well as the Asylum Quality Audit Team (AQAT). AQAT defines a good quality interview as one that investigates the material facts²⁶ of a case sufficiently so that a sustainable decision can be made.²⁷ Such a decision would be well reasoned and based on evidence.

The quantitative research found that the process of ELAP did not have a statistically significant impact on the asylum grant rate when controlling for factors such as nationality, religion, sex and age, despite higher grant rates for asylum for cases in the ELAP process.²⁸ The AQAT review of ELAP cases (Asylum Quality Audit, 2012) also showed a minimal impact of the process on decision quality and interview quality.²⁹ However, quantitative research did identify statistically significant impacts on the rate of granting DL (increased) and the refusal rate (decreased). Furthermore, case owners, applicants, and particularly legal representatives reported that the process had increased confidence levels in initial decisions. They also suggested that, particularly for more complex cases, ELAP enabled more sustainable decisions to be made.

25 Grants of DL are defined as per the Immigration Rules prior to 9 July 2012. Following this date the definition of DL changed. Grants of private or family leave to remain (LTR) are included in this category of grants of DL for the purposes of this analysis. Further information can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumpolicyinstructions/apis/discretionaryleave.pdf?view=Binary>

26 Facts that are essential to the decision.

27 A decision that is not overturned at appeal.

28 It should be noted that any impact of the ELAP process might also have been transferred to cases under the national asylum process despite the timescales and requirements being different due to the same case personnel.

29 It is important to recognise that the AQAT report is based on a sample of ten per cent of the MEE regions' output.

In the analysis that follows, the baseline comparator is described as the MEE region and the test period in the same MEE region as ELAP. The control group refers to all other regions taken together.

Decision outcome rates

The quantitative analysis (for single adults) found that, when allowing for control variables, ELAP did not have an impact on the asylum grant rate or the grant of HP rate. There was an increase in the grant of asylum rate under ELAP, but this was not statistically significant when controlling for factors such as nationality, religion, sex and age and as such the increase cannot be attributed to the ELAP process.

However, the quantitative analysis did suggest that ELAP had an impact on the rate of granting DL and also an impact on the refusal rate – with the process of ELAP appearing to lead to a reduction in the number of applications refused. The quantitative data also indicated that ELAP led to a statistically significant increase in the overall grant rate (which includes grants of asylum, DL, HP and also allowed appeals). An overall reduction in the refusal rate may lead to increased conclusion rates (due to cases granted DL being concluded more quickly than refusal decisions). This is explored on p 34.

The qualitative analysis below outlines suggestions why grants of DL may have increased under ELAP, primarily due to evidence identifying cases as suitable for DL (rather than asylum) being available earlier.

Table 2: The effect of the Early Legal Advice Project on asylum outcomes (adult single cases)³⁰

Key asylum outcome	Adult single (baseline)		Adult single (during ELAP)		Change		Difference-in-difference	
	MEE	Control	ELAP	Control	Change MEE/ELAP	Change control	Difference-in-difference	Regression with controls
Number of publicly funded matched cases	467	3,821	917	5,819				
Asylum grant rate	27%	27%	49%	43%	22%	16%	6%	2.4% (0.028)
Grant of DL rate	4%	2%	5%	2%	2%	-1%	2%	3.3%** (0.009)
Grant of HP rate	-	1%	1%	1%	1%	-	1%	0.6% (0.005)
Refusal rate (against intake)	68%	68%	41%	53%	-27%	-15%	-12%	-9.0%** (0.028)
Allowed appeal rate (number of cases)	295	2,443	326	2,759				
Allowed appeal rate	25%	31%	21%	28%	-5%	-3%	-2%	-2.1% (0.038)
Overall grant rate***	47%	49%	62%	58%	16%	9%	7%	6.6%* (0.029)

Standard errors shown in brackets, no asterisk shows that the figure is not statistically significant.

* Statistically significant at five per cent; ** statistically significant at one per cent.

*** The overall grant rate includes grants of asylum, grants of DL, grants of HP and allowed appeals.

Source: UK Border Agency and LSC matched dataset, December 2012.

Table 2 shows that there was a positive DID outcome for ELAP in relation to the asylum grant rate. However, this was not statistically significant after controlling for nationality, religion, sex and age. The compositional change in nationalities is illustrated in Table 3 below and shows the considerable variation in grant rates. For some nationalities, the number of cases is small and so the changes for individual nationalities may be exaggerated.

The grant rate for Sudanese applicants was much higher overall than the grant rate for Afghans. Therefore, as the MEE region had a high proportion of Sudanese applicants³¹ in the post-ELAP period (compared with the pre-ELAP period and the other regions) it would be likely to see an increase in the overall grant rate. Despite this, a statistically significant increase in the DL grant rate (and a reduction in the refusal rate) was observed even after controlling for nationality. Nationality is controlled for as, in addition to the changing nature of nationalities, there is also evidence that some nationalities are more likely to access legal aid than others.³²

30 Appendix C provides an explanation of DID regression and DID regression with controls.

31 See Excel Table D8.

32 More detail can be found in the LSC referral analysis.

Table 3: Grant rate by country of origin

Nationality	Adult single (baseline)				Adult single (during ELAP)				Change		
	MEE		Control		ELAP		Control		Change MEE/ELAP	Change control	Difference-in-difference
	N	%	N	%	N	%	N	%			
Iran (Islamic Republic of)	55	51%	746	27%	151	59%	1,269	47%	8%	20%	-11%
Afghanistan	37	8%	174	12%	28	18%	127	31%	10%	19%	-10%
Pakistan	25	24%	146	9%	123	41%	467	11%	17%	2%	14%
Zimbabwe	139	19%	401	12%	95	25%	127	11%	6%	-1%	7%
Eritrea	10	80%	223	73%	68	87%	397	81%	7%	8%	-2%
Sudan	21	76%	200	75%	63	92%	362	85%	16%	11%	5%
Somalia	19	47%	244	46%	19	58%	294	68%	11%	22%	-12%
Sri Lanka	21	10%	160	9%	63	71%	223	19%	62%	11%	51%
Syria	1	<1%	50	12%	30	97%	287	56%	97%	44%	53%
Libya	-	-	34	6%	27	22%	295	12%	-	-	-
Overall Grant rate#	467	27%	3,821	27%	917	49%	5,819	43%	22%	16%	6%

The table shows the top ten nationalities in terms of volumes of asylum seekers at the time the data were extracted.

N refers to the number of publicly funded matched cases.

of all publicly funded cases in the matched data.

Source: UK Border Agency and LSC matched dataset, December 2012.

Other compositional factors were also used as control variables within the regression analysis, such as the applicant's sex. Table 4 below shows that ELAP was associated with a proportionally greater increase in grants of DL for females than males. ELAP was also associated with a statistically significant increase in the overall grant rate for females, while it did not have a statistically significant effect on the overall grant rate for males. However, the reduction in refusal rates was statistically significant for males but not for females.

Table 4: Initial decision by sex (adult single cases)

Key asylum outcome		Adult single (baseline)		Adult single (during ELAP)		Change		Difference-in-difference	Regression with controls
		MEE	Control	ELAP	Control	Change MEE/ELAP	Change control	Difference-in-difference	
Number of publicly funded matched cases	Male	278	2,630	668	4,267				
	Female	189	1,191	249	1,552				
Grant of asylum	Male	30%	27%	51%	42%	21%	15%	6%	2.6% (0.034)
	Female	22%	27%	43%	44%	20%	17%	3%	-0.6% (0.046)
Grant of DL rate	Male	4%	2%	4%	1%	1%	-1%	1%	2.3%* (0.010)
	Female	4%	3%	8%	3%	4%	-	5%	5.2%** (0.019)
Grant of HP rate	Male	-	-	1%	-	1%	-	1%	0.7% (0.005)
	Female	1%	2%	1%	1%	-	-1%	1%	0.7% (0.011)
Refusal rate (against intake)	Male	65%	68%	40%	54%	-25%	-14%	-11%	-9.0%* (0.035)
	Female	72%	66%	45%	49%	-27%	-17%	-9%	-6.1% (0.041)
Overall grant rate	Male	47%	46%	62%	56%	15%	10%	4%	4.2% (0.036)
	Female	46%	57%	63%	62%	17%	6%	12%	10.3%* (0.049)

Standard errors shown in brackets, no asterisk shows that the figure is not statistically significant.

* Statistically significant at five per cent, ** statistically significant at one per cent.

Source: UK Border Agency and LSC matched dataset, December 2012.

Data for all control variables are available on request in a separate ELAP quantitative evaluation report.

Decision quality

Based on a 10 per cent representative sample of cases in the ELAP process and those decided using the national asylum process in the MEE region (109 cases between October 2011 and June 2012), AQAT reviewed the quality of decisions made (Asylum Quality Audit 2012). It found that the decision quality score³³ for cases that went through the ELAP process was not different from national asylum process cases in the MEE region (86% for ELAP and national asylum process cases). The AQAT review also examined the quality of interviews. It established the overall quality of interviews going through the process to be 90 per cent, compared with 89 per cent for those not in the process.

³³ The AQAT report outlines the criteria for assessing quality along with ELAP specific criteria that were considered when assessing the ELAP process.

The AQAT review suggested that this meant the ELAP process did not have a discernible impact on the quality of decision making or the quality of substantive interview. However, it did recognise that any positive effects from the ELAP process may have impacted on the quality of decisions and interviews conducted under the national asylum process (in the MEE region) over time, with an overall increase in quality. This would be a result of the same case personnel working on cases in the ELAP process and under the national asylum process in the MEE region.

Discussions with a range of interviewees (within the evaluation) indicated that the process helped to increase the quality of decision making (see the section below, which refers to greater confidence in decision making as a result of ELAP, particularly for legal representatives). During focus groups and interviews most case owners and legal representatives commented that having more evidence earlier in the process could lead to more sustainable decisions at the initial decision making stage. In partial agreement with the quantitative analysis, it was suggested that this could also lead to a larger proportion of grants of asylum or DL at the initial decision stage. Wider stakeholders also commented on increases in grants of DL due to having more family-specific evidence available at an earlier stage, and the earlier identification of cases as being suitable for DL rather than asylum. However, stakeholders indicated such decisions were often dependent on case complexity, which was driven by many other factors, including nationality.

Confidence in decisions

A good quality decision can often be one that is perceived as being fair and one that applicants have confidence in. When interviewed within the GVA case reviews (after their substantive interview but before receiving their initial decision) virtually all applicants believed the process to be fair. This was consistent across both ELAP and national asylum process cases (in the MEE region) with 98 per cent (49 cases) and 97 per cent (30 cases), respectively, reporting this. Reasons for these views included friendliness of staff and the opportunity for applicants to explain their situation. Data tables relating to confidence in decisions are provided under the 'GVA case review data tables' in the accompanying data sheets.

Although asked prior to their initial decision, applicants indicated that receiving a refusal decision would not influence their view on the fairness of the process. The GVA case reviews suggested that nearly all ELAP applicants interviewed (96%, 49 respondents) would appeal if they received a refusal decision, yet none of these stated that this would be due to the process (reasons given were either 'personal situation' or 'entitled to appeal'). A similar pattern emerged for applicants under the national asylum process (in the MEE region) indicating that applicants felt both processes were fair prior to receiving their decision.

A higher proportion of ELAP applicants (90%, 46 respondents) commented that they were able to explain the reasons for their claim compared with applicants under the national asylum process (70%, 21 respondents).³⁴ This was linked to the availability of free early legal advice and the preparation of a witness statement in ELAP cases, and suggested that applicants felt better prepared as a result. The Early Advice Pilot (EAP) evaluation also referred to case owners and legal representatives commenting that because the applicant had been involved throughout the whole process they seemed to appreciate that they had been able to put their case forward fully (Aspden, 2008, p 15).

³⁴ Data from GVA 83 case reviews

In feeling better prepared for substantive interviews and believing that they have had a fair hearing, it is possible that a lower proportion of applicants under ELAP would appeal if refused asylum. There was no statistically significant relationship between appeals and refusals despite there being fewer appeals against refusal.

The evaluation found that confidence in initial asylum decisions appeared to be higher as a result of the ELAP process. The GVA case reviews³⁵ suggested that in the 51 ELAP cases, over one-half of case owners (57%, 29 respondents) believed that the ELAP process had improved their confidence in making a decision, while 43 per cent (22 respondents) felt that it had made no difference.

Where ELAP had made no difference to confidence in decision making, the main reason appeared to be due to the case being a relatively straightforward grant decision (normally relating to the definitive nature of case law for some nationalities and ethnicities).³⁶ This suggested that the ELAP process was unable to provide added value for straightforward cases. Case owners in focus groups and individual interviews reported that the ELAP process provided greater confidence in decisions for more complex cases, because:

- the legal representative and applicant could either demonstrate credibility or provide appropriate evidence to grant; or
- the legal representative had challenged the case owner but the case owner was still inclined to refuse (that is, the legal representative had tested the case owner's view prior to initial decision).

Legal representatives reported greater levels of confidence in decisions made through ELAP than case owners (see above). When interviewed after their ELAP client's substantive interview (GVA case reviews), 86 per cent (42 respondents) of legal representatives stated that the project had increased their level of confidence in the decision to be made. In addition, the February 2012 online survey, although based on limited numbers, found a greater proportion (33%, 11 respondents) of legal representatives had confidence in the way case owners made decisions compared with the original online survey (8%, 4 respondents).

The main reasons for this increased confidence reported by legal representatives and case owners (within focus groups and interviews) were the ongoing involvement of the legal representative, the opportunity to communicate with case owners, and the ability to undertake further work if the case owner indicated that they were initially minded to refuse.

35 These focused on 83 separate cases but in some instances did include the same individual case owners and legal representatives.

36 This was supported by examples from the LSC's ELAP file review.

Volume of appeals

ELAP did not have a statistically significant impact on the rate of appeal against refusals, the allowed appeal rate or the onward appeal rate. However, the reduction in the rate of refusal decisions associated with ELAP (see p 18 above) has led to a lower rate of appeals against intake, and therefore a lower overall volume of appeals.

While ELAP has not impacted on the rate of Legal Services Commission (LSC)-funded appeals (those granted Controlled Legal Representation – CLR³⁷), the lower volume of overall appeals (linked to the reduced refusal rate) was associated with a lower volume in funded appeals.

An initial objective of ELAP was to reduce the volume of appeals, including those receiving legal aid. This reduction in appeals might arise from greater confidence in the process leading to less dissension from the final outcome, or through the better availability of evidence prior to the initial decision resulting in fewer decisions being overturned at appeal. This section examines the effect of ELAP on the appeal rate and appeal decision outcomes, and reports the wider views from participants in the process.

Quantitative data showed that the rate of appeals against refusals fell slightly but this was not statistically significant when controlling for other factors such as nationality, religion, sex and age. However, due to the reduction in the refusal rate for ELAP cases there was a lower rate of appeals against intake, leading to a reduced overall volume of appeals.

The data showed that ELAP did not have an effect on the proportion of appeals receiving LSC funding (the CLR rate). However, due to the reduction in the number of appeals against intake (linked to the lower refusal rate) the volume of publicly funded appeals reduced under ELAP.

The analysis found that ELAP did not have a statistically significant impact on the allowed appeal rate (the number of decisions overturned at appeal) or on the onward appeal rate (cases appealed at the First Tier Tribunal and subsequently granted permission to appeal at the Upper Tribunal).

The appeal rate

The quantitative analysis found that there was no statistically significant reduction in the appeal rate against refusals (for adult single cases) associated with ELAP when controlling for the changing nationality, religion, sex and age composition in the region (Table 5). This indicates that the process of ELAP has not led to fewer applicants appealing when they are refused. Table 5 also shows that the initial appeal rate against intake reduced under ELAP. This is likely to be a result of the statistically significant reduction in refusals for ELAP cases (publicly funded cases) and means a lower overall number of appeals.

37 Public funding for an appeal to the First Tier Tribunal is known as Controlled Legal Representation (CLR).

Table 5: Appeal outcomes (adult single cases)

Key asylum outcome	Adult single (baseline)		Adult single (during ELAP)		Change		Difference-in-difference	
	MEE	Control	ELAP	Control	Change MEE/ELAP	Change control	Difference-in-difference	Regression with controls
Initial appeal rate (against refusals)	316	2,593	377	3,079				
	92%	93%	84%	89%	-8%	-4%	-4%	-2.9% (0.023)
Initial appeal rate (against intake)	467	3,821	917	5,819				
	63%	64%	36%	47%	-28%	-17%	-11%	-
LSC-funded appeal rate	295	2,443	326	2,759				
	74%	70%	76%	72%	2%	2%	1%	-
Allowed appeal rate	295	2,443	326	2,759				
	25%	31%	21%	28%	-5%	-3%	-2%	-2.1% (0.038)
Onward appeal rate	295	2,443	326	2,759				
	14%	13%	12%	11%	-2%	-1%	-1%	-0.6% (0.028)

The number of publicly funded matched cases is shown as the top line of data for each appeal outcome.

Standard errors shown in brackets.

No asterisk shows that the figure is not statistically significant.

Source: UK Border Agency and LSC matched dataset, December 2012.

As with decision outcomes, the regression analysis used control variables when examining the appeal rate. Nationality was a key variable in this respect. For example, the appeal rate against refusals was far higher for Eritrean applicants than for Libyan applicants (see Excel Table D10). Appeal rates were also higher in the MEE region (both before and after ELAP) than other regions for some nationalities, for example, Pakistanis. The reverse was true for Afghans. Appeal rates by sex are reported in Table 7.

Appeal decision outcome

The quantitative analysis found that ELAP did not have a statistically significant impact on the allowed appeal rate or on the onward appeal rate, although there was a slight reduction in allowed appeals under ELAP. This is shown in Table 6 below.

Table 6: The effect of the Early Legal Advice Project on appeals (adult single cases)

Outcome	Adult single (baseline)		Adult single (during ELAP)		Change		Difference-in-difference	
	MEE	Control	ELAP	Control	Change MEE/ELAP	Change control	Difference-in-difference	Regression with controls
Allowed appeal rate	295	2,443	326	2,759				
	25%	31%	21%	28%	-5%	-3%	-2%	-2.1% (0.038)
Onward appeal rate	295	2,443	326	2,759				
	14%	13%	12%	11%	-2%	-1%	-1%	-0.6% (0.028)

The number of publicly funded matched cases is shown as the top line of data for each appeal outcome.

Standard errors shown in brackets.

No asterisk shows that the figure is not statistically significant.

Source: UK Border Agency and LSC matched dataset, December 2012.

It is important to recognise that high-quality decisions can still be overturned at appeal. The AQAT review of ELAP cases (Asylum Quality Audit, 2012) provided two examples of ELAP cases that had ‘fully effective’ interviews and ‘well reasoned’ decisions (scoring 90% or more within the AQAT audit), which were subsequently overturned at appeal. It also highlighted a case where additional evidence was produced at appeal. Therefore, ‘no change’ to the allowed appeal rate does not necessarily mean there was not an improvement in decision quality.

Appeal outcomes by sex

After controlling for nationality, religion, sex and age, regression analysis showed that ELAP did not affect the appeal rate, the allowed appeal rate or the onward appeal rate for either males or females.

Table 7: Appeal outcomes by sex (adult single cases)

Key asylum outcome		Adult single (baseline)		Adult single (during ELAP)		Change		Difference-in-difference	
		MEE	Control	ELAP	Control	Change MEE/ELAP	Change control	Difference-in-difference	Regression with controls
Initial appeal rate (against refusals)	Male (number of cases)	180	1,801	264	2,313				
	Male	91%	92%	79%	88%	-12%	-4%	-8%	-5.3% (0.030)
	Female (number of cases)	136	792	113	766				
	Female	93%	94%	94%	92%	1%	-2%	3%	3.0% (0.036)
Allowed appeal rate	Male (number of cases)	167	1,687	216	2,051				
	Male	23%	27%	18%	27%	-5%	0%	-5%	-4.9% (0.047)
	Female (number of cases)	128	756	110	708				
	Female	29%	40%	26%	32%	-3%	-8%	5%	3.6% (0.066)
Onward appeal rate	Male (number of cases)	167	1,687	216	2,051				
	Male	13%	12%	12%	11%	-1%	-1%	1%	1.0% (0.035)
	Female (number of cases)	128	756	110	708				
	Female	16%	13%	13%	13%	-3%	-1%	-2%	-3.0% (0.047)

The number of publicly funded matched cases is shown as the top line of data for each appeal outcome. Standard errors shown in brackets, no asterisk shows that the figure is not statistically significant. Source: UK Border Agency and LSC matched dataset, December 2012.

Legal Services Commission-funded appeals

The LSC-funded appeal rates before and after the introduction of ELAP, and in both the ELAP region and other regions, are shown in Table 8 below. The proportion of appeals funded by the LSC³⁸ was not analysed using the difference-in-difference (DID) regression technique.³⁹ However, descriptive DID analysis indicated that ELAP was not associated with a change in the LSC-funded rate (for all cases where the applicant appealed). Despite this, the reduction in the proportion of refusal decisions under ELAP, and the subsequent reduction in appeals against intake (see Table 5) led to a lower overall volume of funded appeals.

Table 8 below shows the allowed appeal rate for LSC-funded cases reduced under ELAP compared with other regions and prior to ELAP commencing (the allowed appeal rate for funded cases was also lower than the overall allowed appeal rate, see Table 6 above). This indicates that the merits test may not have been applied appropriately by legal representatives. Under ELAP it would be expected that legal representatives had better knowledge of cases after the initial decision and would therefore only grant CLR to those who they felt had a strong case. The LSC's file review suggested that, where legal representatives did not front-load evidence, they often resorted to granting funding for an appeal to argue issues that could have been explored more fully earlier in the case (Legal Services Commission, 2012b). It is possible that CLR could have been granted by secondary providers (legal representatives who were not involved in the initial decision stage).

The onward appeal rate for LSC-funded cases is higher under ELAP compared with other regions and prior to ELAP commencing. One reason for this may be the legal representatives having more detailed involvement in cases and believing that their applicants have a strong case.

Table 8: Legal Services Commission-funded appeal rate and outcomes for funded appeals (for all cases where the applicant appealed)

Indicator	Adult single (baseline)		Adult single (during ELAP)		Change		Difference-in-difference
	MEE	Control	ELAP	Control	Change MEE/ELAP	Change control	
LSC-funded appeal rate	295	2,443	326	2,759			
	74%	70%	76%	72%	2%	2%	1%
Allowed appeal rate (LSC-funded)	104	942	115	1,052			
	25%	30%	16%	28%	-9%	-2%	-8%
LSC-funded onward appeal rate	41	306	40	316			
	41%	48%	58%	51%	16%	4%	12%

Source: UK Border Agency and LSC matched dataset, December 2012.

38 The legal representative, acting on behalf of the asylum seeker, applies a merits test to establish if the legal representative should grant CLR (legal aid funding for an appeal) – it is successful if there is at least a 50 per cent chance of success at appeal stage. The legal representative therefore makes the ultimate decision on whether an appeal should be funded (by the LSC) through legal aid. Legal representatives are regularly audited and must file statistics to the LSC; one of the key performance indicators is the proportion of appeals where CLR has been granted; it is expected that 40 per cent of appeals should be successful.

39 The low volume of data would have meant that the findings would not have been sufficiently reliable.

Table 9 below shows that CLR is granted more commonly to certain nationalities than others. The numbers of cases for some nationalities are small, but nonetheless within ELAP all of the appeals for Eritrean, Sudanese and Somali applicants were granted LSC funding. The DID analysis indicates ELAP may have had a particular impact in terms of increasing CLR funding for Somali and Afghan applicants. In contrast, a much lower proportion of Zimbabwean, Pakistani and Sri Lankan applicants were granted funding for appeals (although the rate of Pakistani-funded appeals increased in the MEE region during ELAP).

Table 9: Legal Services Commission-funded appeal rate by country of origin

	Adult single (baseline)				Adult single (during ELAP)				Change		Difference-in-difference
	MEE		Control		MEE		Control		Change MEE/ELAP	Change control	
	N	%	N	%	N	%	N	%			
Eritrea	2	100%	58	100%	7	100%	67	91%	-	-9%	9%
Sudan	4	100%	47	87%	4	100%	55	84%	-	-4%	4%
Iran	26	88%	524	72%	56	88%	635	75%	-1%	4%	-4%
Zimbabwe	103	88%	324	85%	51	55%	97	72%	-33%	-12%	-21%
Sri Lanka	18	72%	143	66%	16	69%	167	70%	-3%	4%	-8%
Afghanistan	30	63%	138	55%	17	94%	79	65%	31%	9%	21%
Somalia	10	60%	122	93%	6	100%	70	89%	40%	-4%	44%
Pakistan	16	50%	108	61%	61	66%	320	71%	16%	10%	6%
Syria	1	<1%	42	62%	1	100%	116	83%	100%	21%	79%
Libya	-	-	29	66%	15	87%	218	81%	-	-	-
LSC-funded appeal rate#	41	41%	306	48%	40	58%	316	51%	16%	4%	12%

The table includes the top ten nationalities in terms of volumes of asylum seekers at the time that the data were extracted.

#LSC-funded appeal rate for all nationalities combined.

Source: UK Border Agency and LSC matched dataset, December 2012.

Qualitative findings

Almost all case owners and legal representatives, during focus groups and interviews, commented that most applicants would appeal irrespective of the process they had been through. This is supported by the quantitative findings (pp 25 to 27), which show that ELAP did not statistically significantly impact upon appeal rates against refusals. The majority of applicants under the ELAP process (96 per cent, 49 respondents) and 87 per cent (27 respondents) of applicants in the national asylum process (in the MEE region, from GVA case reviews) reported that they would definitely appeal if refused asylum; only one applicant said that they would definitely not appeal. Data tables relating to the views of applicants, case owners and legal representatives on appeals are provided under the 'GVA case review data tables' in the accompanying datasheet.

In contrast with the quantitative findings in Table 8 above, case owners and legal representatives suggested that the proportion of funded appeals was likely to reduce as a result of the ELAP process. This was due to legal representatives being involved throughout the whole case and therefore being able to produce all evidence and arguments prior to the decision (ensuring that the 'strongest case' is provided prior to the initial decision).⁴⁰

40 Although the proportion of appeals against refusals was not impacted by ELAP, the volume of appeals (and therefore funded appeals) would have reduced due to a reduction in the refusal rate.

Legal representatives and case owners felt that a reduction in the funded appeal rate would indicate increased credibility around initial decisions. The quote below, representative of around two-thirds of legal representatives interviewed, gives an example of this view.

“Where I have [had] the opportunity to fight all the corners during the application process I cannot see really what basis I would proceed to an appeal.” (Legal representative, GVA case review)

The LSC’s ELAP file review found that over one-half (52%, 14) of the cases with a grant of funding for the appeal (CLR) either did not provide evidence of the assessment required from the legal representative (the merits assessment) or the merits assessment was not satisfactorily applied (Legal Services Commission, 2012b). These findings are partially supported by the reduced rate of allowed appeals for cases granted CLR under ELAP (see p 29 and Table 8 above). The evaluation also found some legal representatives, and particularly case owners, indicated that there was a minority of legal representatives who would regularly take on cases that had initially been refused funding for an appeal.

Preparation for appeals

Interviews and focus groups with presenting officers and case owners indicated that ELAP provided very limited impact on the preparation for, or completion of, appeal hearings. The process of ELAP was designed to reduce the level of new evidence presented at appeal stage. However, data from the online survey of ELAP cases (although limited) showed new evidence was provided in 12 of 19 ELAP hearings (data tables provided within the ‘baseline and February 2012 survey data tables’ section in the accompanying data tables.) This was reflected in the following comment, which represented the views of the majority of presenting officers spoken to.

“We are still seeing appeals based on new evidence. During one hearing three separate expert reports were submitted that had never been mentioned previously. However, as it’s generally unclear as to whether a case is ELAP or not, it is not clear what proportion of ELAP cases are submitting further evidence at appeal.” (Presenting officer, focus group)

Most presenting officers commented that, unless they noticed specific paperwork within a file, they could not normally distinguish if an appeal case had been through the ELAP process or not. This comment was supported by immigration judges interviewed during the evaluation, who commented that they were normally unaware if a case was part of ELAP or had been through the national asylum process.⁴¹ Where presenting officers had known an appeal was an ELAP case, they did not notice any major differences in preparation or hearings.

Efficiency of the system

ELAP led to a fall in the number of decisions made within 30 days and 60 days (from application). When accounting for a revised performance indicator for ELAP cases, on average 15 per cent of decisions were made within 30 days, below the performance indicator of 20 per cent.

With the exception of witness statements, additional evidence for ELAP cases was not always front-loaded.

41 Additional steps were taken to ensure presenting officers and immigration judges are aware if cases are ELAP or not.

Conclusion rates increased slightly through ELAP (probably linked to an increase in the overall grant rate), but the process did not have a statistically significant effect on conclusion and removal rates when controlling for factors such as nationality, sex, age and religion.

One of ELAP's primary objectives was to improve the efficiency of the asylum system. This section covers the timescales associated with the process and also examines various elements of the process that were partly designed to improve efficiency, including the initial engagement of applicants.

Timescales for decisions

Quantitative analysis showed ELAP led to an 18 per cent fall in the number of asylum decisions made within 30 days of the initial application and a 19 per cent fall in decisions made within 60 days.

The quantitative DID regression analysis (including control variables) established a statistically significant reduction in the proportion of decisions served in 30 or 60 days (from the day of application) of around 20 per cent associated with ELAP. The findings from the DID regression analysis for cases involving a single adult are shown in Table 10 below.

Table 10: The effect of the Early Legal Advice Project on time taken to decision served (adult single cases)

Timescale outcome	Adult single (baseline)		Adult single (during ELAP)		Change		Difference-in-difference
	MEE	Control	ELAP	Control	Change MEE/ELAP	Change control	Regression with controls
Number of publicly funded matched cases	467	3,821	917	5,819			
% decisions served in 30 days	38%	55%	15%	50%	-23%	-5%	-17.0%** (0.029)
% decisions served in 60 days	66%	80%	47%	82%	-19%	2%	-20.2%** (0.024)

Standard errors shown in brackets.

* is statistically significant at five per cent, ** is statistically significant at one per cent.

Note: The reporting for decisions is based on 'decision served' timescales. There is only a minimal difference between 'decision served' and 'decision made' and this difference will be the same across all regions.

Decisions served in 60 days will include decisions made in 30 days. The remaining decisions were made after 60 days from the application date or remain undecided.

Source: UK Border Agency and LSC matched dataset, December 2012.

The associated impact of ELAP on timescales was also negative (fewer decisions made within 30 and 60 days) for family cases and minor cases, although to a slightly lesser extent than adult single cases (see Table 11 below).

Table 11: The effect of the Early Legal Advice Project on time taken to decision served by case type

Timescale outcome	Baseline		During ELAP		Change		Difference-in-difference
	MEE	Control	ELAP	Control	Change MEE/ELAP	Change control	
Adult single							
Number of publicly funded matched cases	467	3,821	917	5,819			
% served in 30 days	38%	55%	15%	50%	-23%	-5%	-18%
% served in 60 days	66%	80%	47%	82%	-19%	2%	-21%
Family							
Number of publicly funded matched cases	123	848	177	1,324			
% served in 30 days	37%	53%	16%	45%	-20%	-7%	-13%
% served in 60 days	67%	78%	53%	77%	-15%	-1%	-14%
Minor							
Number of publicly funded matched cases	275	986	157	973			
% served in 30 days	3%	10%	1%	12%	-2%	2%	-4%
% served in 60 days	13%	33%	11%	47%	-2%	14%	-16%

Source: UK Border Agency and LSC matched dataset, December 2012.

The increased time to make decisions had been expected, with the substantive interview scheduled for Day 23 (rather than Day 7 under the national asylum process). This was reflected by a regional performance indicator to decide 20 per cent of ELAP cases within 30 days. However, the quantitative analysis showed that overall 15 per cent of ELAP cases were decided within 30 days.

Feedback from UK Border Agency staff suggested that initial decisions were reached more quickly after November 2011, perhaps due to the MEE region implementing a new case management approach for all cases (ELAP and national asylum process) in October 2011. They commented that this approach led to the greater likelihood of the same individual case owners covering all aspects of each case, and also provided time for case owners to focus on making initial decisions.⁴²

⁴² Furthermore, some case owners were not included in the cohort management system to focus on the asylum work in progress (WIP) caseload for the MEE region.

This was supported by provisional management information, which suggested that in the 6 months prior to the cohort system, 4 per cent of adult cases were concluded within 30 days (27 of 602 cases) compared with 18 per cent (97 of 533 cases) during the operating of the cohort management system. It was suggested by a small number of UK Border Agency staff (re-interviewed later in the evaluation process) that there were not enough resources within each team to manage a full cohort and as a result this system came to an end in July 2012.

Case conclusions and removals

Quantitative analysis showed that ELAP did not have a statistically significant impact on case conclusion and removal rates. Although descriptive statistics indicate conclusion rates, both 6 and 12 months, were slightly higher for ELAP cases than national asylum cases in the MEE regions (Table 12), this was not statistically significant when controlling for factors such as nationality, religion, sex and age.

Conclusion and removal rates will be linked to decision timescales, which have increased (see above). However, it is important to recognise that both conclusion and removal rates are taken from all applicants, not just those refused asylum. Therefore, the increase in overall grant rate under ELAP (see Table 2) should assist an increase in conclusion rates for ELAP.

Increased removal rates under ELAP may have indicated that applicants were more 'satisfied' with their refusal decision (or recognised that they had presented their strongest case) and therefore left the UK more readily. It is difficult to test this without reviewing removal rates for applicants liable for removal only.

Table 12: The effect of the Early Legal Advice Project on case conclusion and removal rates (adult single cases)

Outcome	Adult single (baseline)		Adult single (during ELAP)		Change		Difference-in-difference	
	MEE	Control	ELAP	Control	Change MEE/ELAP	Change control	Difference-in-difference	Regression with controls
Number of publicly funded matches cases	467	3,821	917	5,819				
6-month conclusions	42%	49%	57%	59%	15%	10%	5%	4.8% (0.029)
12-month conclusions	52%	58%	68%	68%	16%	9%	7%	5.2% (0.028)
6-month removals	3%	5%	2%	4%	-	-1%	1%	-0.1% (0.012)
12-month removals	6%	8%	6%	7%	-	-1%	1%	-0.1% (0.016)

Standard errors shown in brackets. No asterisk shows that the figure is not statistically significant Conclusion rates relate to the proportion of cases concluded in terms of grant, removal or other outcomes, such as withdrawn.

Removal rates relate to the proportion of all applicants removed.

Source: UK Border Agency and LSC matched dataset, December 2012.

Front-loading evidence

For ELAP to be effective and contribute to an effective asylum system, evidence should be provided before the substantive asylum interview (front-loading), reducing the need for additional evidence collection at a later date and enabling a more informed initial decision.

“To be honest ... I got to the interview and he [the legal representative] submitted A4 folders of documents. If I had this before the interview I would not have needed to interview him. It was very clear cut.” (Case owner, focus group)

Apart from witness statements (mandatory for ELAP cases and discussed in Chapter 2), the evaluation established that additional evidence for ELAP cases was not provided at the earliest opportunity; instead, it was often submitted at the substantive interview or the post-interview discussion. AQAT also identified limited front-loading of evidence.

“Potentially available evidence is not clearly being discussed/requested at the pre- and post-interview stage, which means there is a risk this may be produced at the later appeal stage.” (Asylum Quality Audit, 2012).

The AQAT audit (*ibid.*) also found in only 20 per cent (7 cases), relevant additional evidence had been clearly identified at pre-interview stage.⁴³ However, the audit did establish that a greater proportion of ELAP cases included or appropriately considered evidence submitted in support of the claim. It suggested that this could be explained by the increased awareness among case owners of the importance of considering any extra evidence submitted in ELAP cases.

While the provision of additional evidence at the post-interview stage is sometimes necessary (for example, responding to specific issues raised by case owners, or avoiding unnecessary costs), the majority of case owners commented that the failure to produce this at the pre-interview stage reduced the potential benefit of the process (for example, by reducing preparation levels; less evidence being available at the substantive interview; reducing potential for shorter and more focused substantive interviews; and increasing decision making time after the substantive interview).

In contrast (and based on only a limited sample size) AQAT also identified a possible conflict between the need to front load evidence (in order to enhance interviews, decisions and timescales) and the unnecessary inclusion of irrelevant material in the witness statement (from additional front-loading), which case owners then felt the need to discuss in the substantive interview. This essentially meant that key issues were not narrowed down as a result of front-loading.

While case owners expected evidence to be front-loaded, some legal representatives commented in focus groups that they only provided evidence when the case owner requested it (rather than proactively obtaining it and sending it to the caseworker themselves) and often after the substantive interview had taken place. This indicated the need for clearer communication between legal representatives and applicants prior to the substantive interview.⁴⁴

43 Only 35 cases had a pro-forma to review out of the 65 ELAP cases included in the AQAT analysis of the ELAP process.

44 A workshop was held in April 2012 for case owners and legal representatives. During the workshop the importance and potential benefit of front-loading all evidence for ELAP cases wherever possible was reiterated as it had become apparent that evidence was being kept until the post-interview stage. Legal representatives and case owners were reminded that front-loading increased the likelihood of better and quicker initial decisions.

Engaging applicants in the process

Quantitative data showed that, over an 18-month period, the total take-up rate from the matched data for publicly funded legal aid (for adult singles, families and minor cases) in the MEE region was 49 per cent (1,252 applicants) while in the other regions the total take-up of publicly funded legal aid was 33 per cent (8,784 applicants). When comparing with the 12-month pre-ELAP period the take-up of legal aid was 43 per cent (866 applicants) in the MEE region and 39 per cent (6,035 applicants) in other regions, see Excel Table D6 for more detail. The legal aid take-up rate was calculated by dividing the matched dataset (LSC-funded cases) by the unmatched dataset (non-funded cases). It is possible that some ELAP cases may not have been included in the matched dataset; hence these take-up rates are minimum figures.

Although the above rates show the take-up of legal aid was higher in the MEE region than other regions (and increased in the MEE region after ELAP), they also indicate that the number of applicants who took free early legal advice was lower than those who did not take free early legal advice.⁴⁵ Although some decided to use private representatives, others could have been assisted by the advice at this stage (including some applicants who were subsequently unrepresented).⁴⁶ Prior to ELAP applicants would have to obtain a legal representative on their own or with assistance from friends or non-governmental organisations (NGOs).

Ongoing efforts were made to increase participation in and awareness of ELAP. The LSC devised a rota, which was initially administered by the UK Border Agency, to allow a direct referral to an LSC legal representative. Appointment letters were provided in 12 different languages along with leaflets explaining free legal advice.

The LSC's online Voluntary Appointment System (VAS) was installed at the Asylum Screening Unit (ASU) in Croydon. The VAS commenced in June 2011, providing applicants with an agreed date, time and location for their initial meeting with a legal representative. The LSC's ELAP referral analysis (Legal Services Commission, 2012a)⁴⁷ showed that the VAS experienced several initial difficulties at the ASU,⁴⁸ which reduced the number of eligible applicants being offered an ELAP appointment. These initial difficulties included: not all screening staff utilising the VAS (inconsistent implementation); technical problems with the system at the ASU (freezing and locking out users); and screening officers reporting navigation difficulties/lack of understanding of ELAP and the VAS. Of a total of 250 applicants claiming asylum at the ASU (and routed to the MEE region) between July and September 2011, only 25 per cent (62 applicants) were recorded as being offered an appointment,⁴⁹ while only around one-quarter (26%, 16 applicants) accepted the appointment. The ELAP project managers from both the LSC and the UK Border Agency visited the ASU on several occasions to discuss these problems.

45 Take-up by type of case is shown in Appendix D.

46 It should also be noted that a small proportion of applicants absconded from the asylum system and would not have participated in the ELAP process.

47 Based on a total of 1,101 referrals made between June 2011 and March 2012.

48 Also based on the observations of evaluators and representatives from the UK Border Agency and LSC, as well as feedback from screening officers.

49 Subsequent issues were identified around logging appointment offers, suggesting the total of appointments offered may be higher. Figures from the LSC showed that the proportion of applicants offered appointments increased to 47 per cent (139) between October and December 2011 but then fell again to 29 per cent (70 applicants) between January and March 2012.

This links to wider concerns around the appropriateness of the screening stage (and specifically the ASU) for offering early legal advice to applicants. While it is important for applicants to be engaged as early as possible, several notable issues were apparent at the ASU.⁵⁰

- The applicant can be confused and subject to ‘information overload’ (for example, having seen to their immediate priorities of obtaining information relating to accommodation and finance as well as explaining the specifics of their claim).
- ELAP is explained at the end of the screening discussion when applicants can lose concentration.
- There is little time for the applicant to consider whether to accept free early legal advice.
- The process represents a ‘culture shift’ for both the screening officer and the applicant, from initially asking the applicant to clarify their claim (seen as ‘investigative’) to offering free legal representation, which the applicants can be suspicious of, particularly of the independence of the legal representative from the Home Office.
- Staffing resources at the ASU are limited, and screening officers have many issues to cover with applicants in a limited time period.⁵¹

Interviews with applicants and screening officers highlighted a similar lack of understanding. The quote below demonstrates specific difficulties one applicant experienced at the screening stage.

“I was firstly told that if I wanted a solicitor then I would have to pay. I asked the member of staff if they were sure this was the case and they said yes. Eventually the member of staff went to check whether they were correct with a colleague, when they returned they admitted they had made a mistake and I was entitled to free legal aid.” (ELAP applicant, female, Yemen)

Efforts were subsequently made to address the problems of introducing the project at the ASU, including the appointment of a staff member to manage the ASU’s workflow and making a chief immigration officer responsible for ensuring that eligible applicants are offered a referral and that the outcome of the offer is logged. In addition, from the start of 2012 applicants at Stone Road initial accommodation for asylum seekers in Birmingham were offered an ELAP appointment via the Refugee Council.⁵²

Feedback from case owners, legal representatives and wider stakeholders also suggested that it may be worth considering placing voluntary sector representatives within the ASU specifically to introduce the concept of early legal advice to eligible applicants.

Despite concerns around information provision, many applicants chose not to access early legal advice. The LSC’s referral analysis (Legal Services Commission, 2012a) established that, of 271 applicants offered legal representative appointments at the ASU between July 2011 and March 2012, 51 per cent (137 applicants) declined because they already had a representative.⁵³

50 Based on observation and interviews with case owners, legal representatives, screening officers, stakeholders and applicants.

51 The LSC referral analysis (Legal Services Commission (2012a) indicated that the VAS was launched during the screening reform programme where a system of new processes and operating models was being tested.

52 It should be noted that legal representative appointments have been offered from initial accommodation providers across the country from 2009.

53 Some of these may have been ELAP representatives. It should also be noted that the applicants usually had a two-week period between booking the screening interview appointment and attending the appointment to be able to find themselves a legal representative (as was recommended in the leaflets sent out with the appointment details).

A large proportion of applicants did not turn up to appointments with legal representatives. For example, data from the referral analysis data showed that, between June 2011 and March 2012, 1,101 referrals were made but only 377 applicants (34%) attended these appointments (whilst some of those not attending went to another ELAP legal representative, these figures could also include applicants who have absconded).

The referral analysis showed that attendance could be linked to the nationality of applicants. For example, Sri Lankans only instructed ELAP legal representatives in 19 per cent of cases while Iranians instructed them in 79 per cent of cases.⁵⁴ Case owners and legal representatives commented that Sri Lankans often had existing networks in the UK and were provided with recommendations for specific (normally private) legal representatives. Many Sri Lankans also commented, during GVA case reviews, that they already had private legal representatives from London and wanted to retain these.⁵⁵

The LSC referral analysis also found that applicants were more likely to attend appointments if they were offered them face to face – 37 (63%) of appointments booked at the ASU were attended – compared with 312 (31%) of those booked by the UK Border Agency administration team that were made without interaction with the client. This difference was mainly due to those applicants who did not want/need a referral being able to decline the offer. It was believed that the role of the screening officer in being able to explain what is being offered and for the applicant to be involved in the process would also have had some impact, though this cannot be measured.

Financial costs to government

The increase in time to decision results in an increase in unit costs. The decision served stage created the greatest cost increase, particularly to the LSC.

While there were some cost savings for the initial appeal stage and the onward appeal stage, these were smaller amounts in comparison with the increases mentioned above.

The ELAP process aimed to create savings across government. Although the process was designed to take more time at the initial stage, the extra time would facilitate greater confidence in the process resulting in fewer appeals. It was suggested that as a result ELAP might then reduce the costs of the appeal process and consequent support costs.

This section summarises the actual costs and benefits from the analysis of the data collected in the evaluation. The analysis using the outcome data from this project showed that cases with publicly funded legal representation utilising the ELAP process in the MEE region cost between £222 and £538 more on average (an increase of between 5% and 13%, depending on the method of calculating asylum support costs) compared with publicly funded legal aid cases in the MEE region prior to the implementation of ELAP. Whilst the reduction in the refusal rate (and therefore the lower volume of appeals) reduced average case costs at the appeal stage of the asylum process, these savings were exceeded by the additional costs on average at the initial decision stage of the process. These were mainly borne by the LSC due to additional legal support costs, but were also due to higher asylum support costs for the UK Border Agency as cases took longer on average for initial decisions to be served.

54 Nationality-specific trends were also highlighted in the AQAT review of ELAP cases.

55 Funding through ELAP was not available to legal representatives outside the MEE region; as such any applicants with legal representatives from outside the MEE region were treated as non-ELAP cases.

The qualitative analysis identified similar drivers of costs, which are documented elsewhere in this report. These particularly related to the additional days to decision, which were driven by a variety of factors (highlighted on p 32 above and p 48 below). Examples included a lack of front-loading (meaning additional decision time required a post-substantive interview) and cancelled interviews. Qualitative research also identified the additional funding for legal representatives' attendance at substantive interviews as being a core cost driver.

Costs per case

The number of days to decision in adult single cases was higher in the ELAP period in the MEE region (see pages 32 and 33 above). A longer time to make decisions typically means more asylum support costs are required. If there were fewer appeals under ELAP, UK Border Agency costs might fall as a result.

Table 13, below, illustrates the pre-ELAP and ELAP estimated unit costs by stage for publicly funded adult singles in the MEE region only.⁵⁶

The cost model uses the available regression results to determine the changes in outcomes (between the baseline and the ELAP period for publicly funded cases matched in the dataset) that should be attributable to ELAP. This indirectly takes into account changes in nationality (see Appendix C for detailed cost analysis methodology).

The decision served stage created the greatest increase in costs (£542) per case as a result of ELAP. The main factor behind this statistically significant rise in unit costs was the increase in days to decision, highlighted above. While there were some cost savings for the initial appeal stage and the onward appeal stage these were relatively small in comparison. Asylum support costs were estimated using two different methods.⁵⁷ The first of these suggested ELAP cost £294 more per publicly funded case (in terms of support costs), while the second method indicated a slight saving under the ELAP process. The total additional cost per publicly funded adult single case is estimated at £538 using support cost model 1 and £222 when using model 2.

⁵⁶ Using just the descriptive data for the MEE region and/or for the other regions would tell a different story and would not provide an accurate comparison. Also, comparing with other regions is not appropriate here as the changes in nationality mix varied across the MEE region and the other regions (so the changes in outcomes and costs over time are not comparable). The MEE region pre- and post-ELAP costs are not compared with the other regions' costs as this would need to assume that other regions' costs did not change as a result of ELAP, so would just stay the same – and hence provide no greater control than understanding the changes in the MEE region costs.

⁵⁷ Method 1 used data on average days from application to initial decision served, from decision served to appeal outcome, and from appeal outcome to all rights exhausted (ARE)/conclusion to estimate the days on support, and hence the total costs of asylum support. Method 2 used the ELAP dataset data on 'days on National Asylum Support Service (NASS) support' for 'NASS-supported' cases. This should be more accurate in the longer term, but may be subject to some error and bias for the 12-month (ELAP) period.

Table 13: Estimated unit costs prior to and during the Early Legal Advice Project (publicly funded adult single, Midlands and East of England region)

Unit costs by stage	Baseline	During ELAP	Change
Decision served	£943	£1,485	£542
Initial appeal	£1,897	£1,631	-£266
Onward appeal	£195	£162	-£33
Asylum support costs 1	£960	£1,254	£294
Asylum support costs 2	£1,110	£1,088	-£21
Total with support costs 1	£3,994	£4,532	£538
Total with support costs 2	£4,144	£4,367	£222

Costs shown are per intake.

Source: UK Border Agency and LSC matched dataset, December 2012.

Costs by stage and agency

Table 14 (below) provides a more detailed breakdown of pre-ELAP and ELAP estimated unit costs by stage, and the agencies involved in ELAP for adult singles across all intake.

The table shows an increased unit cost of £506 for the LSC at the decision served stage, arising from the increased costs incurred by the legal representative and then the change to an hourly rate payment scheme rather than a fixed fee scheme. This increase in LSC costs (the decision served stage represented 67% of the total LSC cost per case, an increase from 47% of the pre-ELAP costs) was the major contributor to the overall increase per unit (£542) for adult single cases at the decision served stage (see Table 13 above).

Table 14 also shows a saving to the Ministry of Justice (MoJ) resulting from the process (linked to fewer appeals per intake), as well as an increased cost of £239 per case to the UK Border Agency when using 'asylum support costs 1'. This will be driven by applicants accessing support for a greater time period, due to increased decision making times under ELAP. When using 'asylum support costs 2' there was no change in the cost to the UK Border Agency.

Roll-out costs

The 18-month ELAP period considered within the quantitative analysis included 6,736 adult single cases receiving publicly funded legal advice across the UK (including the MEE region). If ELAP was rolled out nationally the incremental additional cost to the Government for publicly funded adult single cases with legal aid over an **18-month period** would be between £1,495,392 and £3,623,968 (depending on the asylum support cost used),⁵⁸ although this estimate should be treated with caution. This calculation assumes ELAP does not change the rate of funded cases and any ELAP roll out would not increase/decrease take-up rates of asylum support. It is also important to recognise that some additional set-up costs would be required in the other regions if ELAP was rolled out. These have not been accounted for above and may include:

⁵⁸ Calculated by the number of nationally funded asylum cases across the UK over an 18-month period multiplied by the additional cost per case resulting from ELAP (identified in Table 13).

- additional time requirements of project management staff in the UK Border Agency and LSC;
- staff time attending user groups;
- training costs; and
- any changes that might be needed to reporting and monitoring performance of the process internally.

Cost limitations

While the information above provides indications of the cost of ELAP, to understand total costs other factors also need to be considered:

- ELAP set-up costs (training, project management and process change costs);
- other process costs not captured in the model (for example, delays in interpreter bookings) – see Chapter 4, which outlines the issues under ELAP and the regularity of any issues;
- impact on the cost of cases without publicly funded legal aid in the MEE region (feedback from case owners indicated that the additional time requirements of ELAP, together with wider resource issues, created pressure on cases processed through the national asylum process);
- effects on the costs of processes not included within the scope of the model, for example, on removals, detention, and impacts on public services associated with refugee integration (where applicants are granted asylum) – while quantitative analysis indicated no statistically significant impact on removal rates, the increase in the overall grant rate associated with ELAP may lead to reduced downstream costs relating to removal/detention but greater refugee integration costs.

Table 14: Estimated average unit costs by stage and agency prior to and during the Early Legal Advice Project (adult single cases)

Average unit costs by stage	Baseline			During ELAP			Change		
	UKBA	LSC	MoJ	UKBA	LSC	MoJ	UKBA	LSC	MoJ
Appointment with legal representative	-	-	-	-	-	-	-	-	-
Pre-interview (ELAP only)	-	-	-	£5	-	-	*	-	-
Substantive interview	£203	-	-	£230	-	-	£27	-	-
Post-interview discussion (ELAP only)	-	-	-	£5	-	-	*	-	-
Decision served	£190	£551	-	£188	£1,057	-	*	£506	-
Initial appeal	£545	£591	£762	£464	£518	£649	-£80	-£73	-£112
Onward appeal	£76	£13	£106	£65	£7	£90	-£11	*	-£16
Asylum support costs 1	£960	-	-	£1,254	-	-	£294	-	-
Asylum support costs 2	£1,110	-	-	£1,088	-	-	-£21	-	-
Total (excluding asylum support costs)	£1,012	£1,155	£867	£957	£1,582	£739	-£55	£427	-£128
Total (including asylum support costs 1)	£1,972	£1,155	£867	£2,211	£1,582	£739	£239	£427	-£128
Total (including asylum support costs 2)	£2,122	£1,155	£867	£2,045	£1,582	£739	-£77	£427	-£128

Note: There were higher support costs at the initial decision stage and lower support costs at the appeal stage, but the overall balance appears to show marginally higher support costs overall. Totals may not equal the sum of their parts due to rounding. * difference less than £10.

It should be noted that not all cases utilise all parts of the process. Appeal costs, for example, have been calculated across all cases hence the low numbers for individual agencies.

Source: UK Border Agency and LSC matched dataset, December 2012.

4. The Early Legal Advice Project process – key findings

This section provides a series of findings related to the project's processes, derived from the qualitative data analysis. Data tables relating to this section can be viewed within the 'GVA case review data tables' and 'baseline and February 2012 survey data tables' sections in the accompanying datasheets.

Stages of the process

Witness statements

The mandatory submission of witness statements for all the Early Legal Advice Project (ELAP) cases were considered by legal representatives, case owners, applicants and wider stakeholders to be a key success of the process, increasing the credibility of the asylum system. Most case owners and legal representatives interviewed (via focus groups or one-to-ones) during the evaluation commented that a good quality witness statement often helped to contribute to:

- a more focused substantive interview;
- the availability of more evidence; and
- a shorter decision time.

This was a consistent finding of the evaluation. The Early Advice Pilot (EAP) evaluation (Aspden, 2008) also reported that witness statements helped case owners to make well-reasoned decisions. This was supported most recently by the February 2012 staff survey, where both legal representatives and case owners ranked the benefits of witness statements higher than any other part of the process.⁵⁹ The online survey of case owners indicated that virtually all witness statements submitted in cases where the applicant received publicly funded legal aid (96%, 160 cases) had assisted their preparation for the substantive asylum interview, while case owners for cases considered under the national asylum process often referred to the potential benefits that a witness statement would have created.

The Asylum Quality Audit Team (AQAT) review of ELAP cases (Asylum Quality Audit, 2012) also referred to witness statements as the most beneficial aspect of the process. It stated "this had a positive impact on the overall quality of the interview, which subsequently also affected the overall quality of the associated decision". However, the AQAT review also indicated that statements could be detrimental if they were over-relied upon, meaning that they reduced quality scores and increased the number of irrelevant questions being asked in the substantive interview.

⁵⁹ On a scale of 1–5, with 1 being the most beneficial, 66 per cent (105) of legal representatives and 65 per cent (89) of case owners ranked witness statements number 1 in terms of their benefits.

Despite the overall benefits of the witness statements, the evaluation established that they were regularly provided less than three working days before the substantive interview (later than the original timing stipulated within the ELAP process). This was initially evident in the EAP evaluation, which found witness statements were often submitted the evening before or on the actual morning of the substantive interview (Aspden, 2008). Within the current process, internal data provided by the UK Border Agency⁶⁰ showed that, from a sample of 396 witness statements, over one-half (57%, 224 statements) were reported to have been submitted late. Overall, witness statements were on average submitted two days before the substantive interview, an improvement on the EAP pilot.⁶¹

Legal representatives referred to the problem of applicants not meeting them early enough to complete a witness statement to the timetable of the ELAP process. This was sometimes linked to late dispersal of the applicant to the Midlands and East of England (MEE) region or as a result of illness (Legal Services Commission, 2012a).⁶² Case owners reported that receiving the witness statement late often reduced effective preparation for the substantive interview, including the ability to request additional evidence at the pre-interview meeting.

The evaluation therefore indicated that providing all witness statements within the current timescale (at least 72 hours before the substantive asylum interview) may enable more preparatory benefits to be realised, and it would be beneficial to encourage this (Legal Services Commission, 2012a). Ongoing monitoring may help to establish trends and reasons for late witness statements.

Pre-interview meetings – timing

The pre-interview meeting has the potential to ensure that there is a greater focus on key issues prior to the substantive interview (based on all the available evidence). However, it was often reported as occurring on the day of the substantive asylum interview.⁶³ The online survey of case owners showed, in 38 per cent (58 ELAP cases) the meeting occurred immediately before or on the morning of the substantive asylum interview.⁶⁴ The Legal Services Commission (LSC) ELAP file review found that less than one-half of the files demonstrated a pre-interview discussion taking place 24 hours or more before the interview, while 32 per cent of cases evidenced the discussion taking place on the day of the interview. The remaining 21 per cent of cases did not evidence any pre-interview discussion taking place (Legal Services Commission, 2012b). Feedback from case owners and legal representatives within the GVA case reviews, as well as within focus groups, supported this.

60 Data were collected between August 2011 and the end of May 2012 and represent a sample of witness statements.

61 The median has been used when referring to average values.

62 The ELAP workshop, attended by legal representatives and case owners, established agreement with the 72-hour timescale and also recommended that all witness statements should be emailed directly to the ELAP team inbox to ensure that they are stored centrally.

63 The original process intended the pre-interview meeting to take place at least 36 hours before the substantive interview. Whilst pre-interview meetings are a defined part of the ELAP process, the UK Border Agency and the Legal Services Commission (LSC) made it clear that this did not mean that both parties should only communicate at this stage prior to the substantive interview. For example, if it became apparent to the legal representative whilst taking the witness statement that there may be a need to obtain evidence (or if there were issues that needed to be discussed with the case owner) then they could do so at that stage and not wait for the formal pre-interview meeting.

64 Due to limited additional cases being added to the online survey since summer 2011, and feedback from case owners and legal representatives, it is estimated that this figure is now higher than 38 per cent.

The delay in conducting the pre-interview meetings was reported by case owners and legal representatives to be a result of:

- a lack of front-loaded evidence to discuss;
- late witness statements;
- resource issues for case owners and legal representatives;
- limited recognition of the potential benefits from the meeting; and
- limited effectiveness of pre-interview meetings in straightforward cases (rather than complex cases).

Pre-interview meetings – effectiveness

The LSC's ELAP file review (*ibid.*) stated that pre-interview meetings either did not take place or took place immediately before the substantive interview, “adding little value in narrowing issues or identifying areas where further evidence may be of use”.⁶⁵

Case owners, legal representatives and strategic stakeholders commented that holding the pre-interview meeting immediately before the substantive interview reduced its potential effectiveness by not allowing discussion of further evidence requirements. This was supported by findings from the AQAT review of ELAP cases, which identified that in 26 per cent (9 cases) not all of the material facts were clearly identified on the pre-interview section of the pro-forma (Asylum Quality Audit, 2012).⁶⁶ There were examples of the pre-interview meeting taking place more than a day before the substantive interview and enabling evidence to be gathered and clarified. The LSC's ELAP file review (Legal Services Commission, 2012b) also referred to the inconsistent use of pre- and post-interview meetings, “with the front-loading of evidence then occurring post-interview and no doubt adding time to the process”.

A greater proportion of legal representatives in the GVA case reviews found the pre-interview meeting helpful for collecting appropriate evidence (68%, 31 respondents) than case owners. Only 46 per cent of case owners (22 respondents) found the pre-interview meeting helpful.

In cases where there was limited documentary evidence to be collected (or it was not provided), most case owners and legal representatives commented that the pre-interview meeting provided less value, with only a short preparatory discussion considered necessary. The potential benefit provided by the pre-interview discussion, therefore, appeared to be largely dependent on the nature of the case, with greater benefit for more complex cases involving substantial evidence (assuming it is provided early enough). The GVA case reviews found that most case owners (81%, 26 respondents) in cases under the national asylum process (in the MEE region) would have found a pre-interview meeting helpful for collecting appropriate evidence.

⁶⁵ This was supported by results from the February 2012 staff survey, where legal representatives ranked the benefits of the pre-interview meeting lower than any other part of the ELAP process, while case owners ranked it the second lowest (27%, 27 legal representatives and 32%, 33 case owners ranked it lowest in terms of its benefits on a scale of 1–5 with 1 being the most beneficial).

⁶⁶ An additional 30 cases (not included in these figures) had no pre-interview pro-forma on file.

Due to the issues identified above, greater flexibility (taking into account complex and straightforward cases) could be incorporated within the ELAP approach. Where existing case law means that it is extremely likely that a grant of asylum will occur, consideration could be given to only utilising specific elements of the process to reduce time and human resources. This was discussed at an ELAP workshop in April 2012 and led to a new approach whereby a witness statement remains mandatory but the pre-interview meeting can now comprise a short telephone call (or brief discussion prior to the substantive interview) and an associated file note (at the discretion and prior agreement of all parties).⁶⁷ Based on the views of case owners and legal representatives within focus groups, where formal pre-interview meetings are appropriate (for example, to discuss available front-loaded evidence or key issues within a complex case), there would be a benefit to the meeting occurring at least one day, and ideally two days prior to the substantive interview. This may assist effective preparation and the potential collection of further evidence or information.

The substantive asylum interview

For ELAP cases legal representatives should always be present in the substantive asylum interview and able to play an active role.⁶⁸ The AQAT review of ELAP cases (Asylum Quality Audit, 2012) established that, of the interviews assessed, legal representatives did not pose any questions to the applicant in 31 per cent (11 cases).⁶⁹ Views from the case owners, applicants and legal representatives were broadly consistent with the AQAT findings (Table 15).

Overall, the evaluation found that the involvement of legal representatives within the substantive interview was welcomed by most applicants in relation to issues of confidence and familiarity. Legal representatives also welcomed being involved, while case owners had mixed views on the representative's involvement and saw greater benefit for complex cases (where further discussion was required due to outstanding issues or a greater body of available evidence). The benefit provided by the legal representative's presence in the substantive interview was dependent on several factors, including:

- the individual legal representative's level of interaction;
- the role played by the case owner and applicant; and
- the level of case complexity.

Overall feedback indicated that it improved the system's credibility to have the legal representative present.⁷⁰

67 The April 2012 ELAP workshop also recommended that if one party requests an earlier discussion then the other party should oblige.

68 An active role enables the legal representative to ask questions of the case owner and redirect questions to the applicant. Privately funded legal representatives are allowed to attend the substantive interview but they are not able to play an active role.

69 However, several cases were identified where the legal representative had directed the case owner to ask further questions on a specific theme.

70 It should be noted that the applicant did not refer to having a lawyer present, rather that they had someone they knew and could speak to present.

Table 15: Proportion of legal representatives playing an active role in substantive asylum interviews

	Applicants	ELAP case owners	ELAP legal representatives
Yes (they did play an active role)	73% (37)	63% (32)	74% (35)
No (they did not play an active role)	27% (14)	37% (19)	26% (12)

Brackets represent number of respondents.

Source: GVA, March 2012.

The extent to which legal representatives played an active role in interviews may be linked to several factors, which demonstrate that legal representatives do not always need to be an active participant.

- Pre-interview process – an effective pre-interview process, including a good quality witness statement, can provide the case owner with sufficient information to focus on key issues.
- Case complexity – complex and difficult cases typically require the legal representative to play a more interactive role; straightforward cases (normally grants based on clear country-specific guidance) often require less involvement.
- Case owners – if a case owner focuses on the key issues of the claim and covers all aspects of the case, there is less requirement for the legal representative to interject.
- Applicants – some applicants are more proactive than others in terms of supplying relevant documentation and answering questions with clarity.
- Legal representative (individuals) – where a legal representative present at the substantive interview has not been involved in other aspects of the case (for example, developing the witness statement) they are less likely to play an interactive role.

Over one-half of ELAP applicants (57%, 29 respondents) interviewed during the GVA case reviews found the presence of the legal representative at interview to be helpful, compared with 43 per cent (12 applicants) in the national asylum process in the MEE region who would have found it helpful. In the online survey, case owners reported that for 79 per cent (81 cases) they found legal representative's questions to be helpful. In only 25 per cent (26 cases) the questions covered issues that the case owner had not previously considered. Applicants commented that they gained confidence and comfort from having someone present who they had met previously. However, they did not always feel that this individual had to be a legal representative, while some applicants commented that they were best placed to explain their own situation.

Post-interview discussion

The prevailing view from the evaluation was that the post-interview meeting provided more value than the pre-interview meeting, ensuring greater collaboration and the provision of additional evidence prior to the initial decision. Data from the GVA case reviews indicated that the post-interview meeting was well-received by the majority of case owners and legal representatives, with 78 per cent (38) of case owners believing that they had been/would be helpful for discussing the case and 98 per cent (47) of legal representatives believing that they had been/would be helpful.⁷¹

⁷¹ Data from the case reviews.

The main reason for this positive view was the opportunity for greater collaborative working. Legal representatives also commented that they were more likely to understand decisions, assisting them in deciding whether to grant funding for appeals or not.⁷² A quote reflecting the prevailing view of legal representatives interviewed is shown below.

“We used to get decisions that were basically unbelievable; now that this ELAP process [is being used] we’re able to discuss the case pre-interview, post-interview and actually have a chat with the caseworker at break times to clarify issues. It just makes it more open and transparent.” (Legal representative, GVA case review)

There were also examples where legal representatives provided additional knowledge and expertise regarding relevant case law or country-specific information. The use of the post-interview meeting to clarify issues and obtain documentation prior to decision was seen as positive by legal representatives and case owners. The online survey of case owners showed that, in 47 per cent (58 cases) of post-interview meetings, it was agreed that the legal representative would supply further evidence.

The timing of the post-interview meeting varied.⁷³ Case owners responding to the online survey reported that 39 per cent (48 cases) of post-interview meetings occurred on the day of the substantive interview, but 29 per cent (36 cases) occurred two days or more after the interview. Some case owners and legal representatives reported that they preferred to meet immediately after the substantive interview. Others commented that they liked to wait 24 or 48 hours to collect their thoughts; particularly less experienced caseworkers who sought further advice from senior colleagues. Where the post-interview discussions did not occur relatively soon after the substantive interview, feedback from case owners and legal representatives suggested that it often lengthened the case by delaying the start of the five-day period for additional evidence/written representations.⁷⁴

It is therefore important that an initial discussion takes place immediately after the substantive interview wherever possible; it is also important to recognise that the post-interview meeting can involve more than one discussion.

Delays to the process

Although ELAP was designed to provide a longer period between the application and the initial decision, the qualitative research established several other factors that contributed to delays. Delays, which can increase the asylum work in progress (WIP) caseload, were highlighted in relation to the following.

72 Discussion of the LSC’s grant funding rate is provided on p 29.

73 It was originally designed to occur either immediately after the substantive interview or the next day at the latest.

74 Following the post-interview discussion there is a five-day time period for legal representatives to submit written representations/gather further evidence, or to apply for flexibility criteria beyond this.

- The initial meeting with the legal representative being delayed (linked to the screening process) or the applicant not attending the first meeting (this sometimes led to the witness statement being submitted later and the substantive asylum interview being scheduled later).
- Witness statements being provided late (delaying the substantive interview and the pre-interview preparation).
- Pre-interview meetings occurring on the day of the substantive interview (this often meant additional evidence had to be obtained at the post-interview stage).
- The substantive interviews being cancelled or postponed (although interviews are diarised for Day 23 the average based on UK Border Agency internal data was Day 36 for all ELAP cases and Day 34 for national asylum process cases up to January 2012).⁷⁵
- Post-interview discussions occurring late (delaying the start of the five-day timescale for additional evidence/representations).

Feedback from case owners identified cancelled substantive interviews as a contributor to late decisions. Internal data from the UK Border Agency showed that 503 (28%) ELAP cases had their substantive interviews suspended⁷⁶ or cancelled (and subsequently re-booked) in the period between 15 November 2010 and 1 June 2012. Cancelled interviews made up 453 of these cases (90%). The data showed that each of these suspended or cancelled interviews added 16 days⁷⁷ to the case, while 104 cases (21%) had to be re-booked on at least one more occasion. Of the cancelled interviews, the main reasons (given for the cancellation at the first booking stage) included:

- interpreter issues, including failing to turn up, booking the wrong language/dialect, or no interpreter availability (27%, 122 cases);
- legal representatives issues, including the representative being unable to attend, not drafting the witness statement in time, or illness (27%, 122 cases); and
- applicant issues, mainly linked to illness, not turning up, or pregnancy (15%, 68 cases);
- applicants attending initial appointment with legal representative late, preventing submission of witness statement prior to the interview (13%, 58 cases).

The EAP evaluation (Aspden, 2008) also referred to cancelled interviews and indicated that staff continuity and the availability and appropriateness of interpreters (correct language or dialect being booked) were the main causes. It is not known whether issues with interview cancellations are specific to ELAP cases as data are not collected for cases in the national asylum process in the MEE region or for other regions.

A further reason for delays reported by case owners and legal representatives was limited availability of both parties. Case owners commented that the project was implemented during a period of resourcing pressures within the UK Border Agency as a whole (time was identified by case owners as the biggest barrier to decision making in the February 2012 staff survey). There may be some additional costs arising from such delays if applicants are on asylum support for longer or due to additional administrative costs. These constraints represent the changing nature of casework and staffing resources. The MEE region made changes to address resourcing pressures, including a cohort management system and staff recruitment.

75 It is expected that days to interview will be higher in the first quarter of ELAP due to initial implementation and adverse weather conditions.

76 Suspended interviews were those that had begun but were not completed by the end of the day.

77 The median has been used as a measure of average days delay, thus showing 16 days or more added to one-half of the cases under investigation.

Working relationships

Project management

The UK Border Agency and the LSC provided their own dedicated project managers for ELAP. The evaluators observed that these project managers greatly assisted implementation, working closely with a wide range of individuals and responding to emerging challenges, for example the project managers:

- enabled effective communication with operational staff (for example, case owners and legal representatives) to clarify the aims, objectives and processes of ELAP and to address any emerging concerns;
- provided resources to train case owners and legal representatives effectively in the new process;
- enabled effective engagement of strategic stakeholders, both within the UK Border Agency and the LSC but also relevant external stakeholders such as non-governmental organisations (NGOs);
- provided an effective interface between the UK Border Agency and the LSC;
- coordinated ‘user groups’ where a sample of UK Border Agency case owners and ELAP-contracted legal representatives met every month to discuss issues relating to the operational aspects of the project.

Case management

ELAP appears to have improved working relationships between case owners and legal representatives. The initial baseline study at the start of ELAP showed just under one-half of UK Border Agency case owners (45%, 45 respondents) had positive relationships with legal representatives.⁷⁸ The response from legal representatives in the same survey suggested that fewer had positive relationships with case owners (23%, 9 respondents).⁷⁹

In contrast, the February 2012 staff survey indicated an increase in positive relationships with 61 per cent of case owners (17 respondents) reporting positive joint working with ELAP legal representatives (while only 18%, 5 respondents referred to positive relationships with non-ELAP legal representatives). The same survey established that 78 per cent (29 respondents) of ELAP legal representatives reported positive relationships with case owners.⁸⁰ This is presented in Table 16 below.

78 When responding to the question “Please describe your general working relationship”.

79 Note that not all remaining responses were negative. Other categories included ‘neither positive nor negative’, ‘negative’ and ‘no interaction/no relationship’, as shown in Table 16.

80 Within the evaluation’s asylum case reviews 86 per cent (44 respondents) of case owners and 92 per cent (46 respondents) of legal representatives reported positive relationships.

Table 16: Working relationships between case owners and legal representatives prior to and during the Early Legal Advice Project

	Positive		Neither positive or negative		Negative		No interaction/no relationship	
	Case owners	Legal reps	Case owners	Legal reps	Case owners	Legal reps	Case owners	Legal reps
Baseline	45% (45)	23% (9)	26% (26)	41% (16)	5% (5)	10% (4)	24% (24)	26% (10)
February 2012	61% (17)	78% (29)	29% (8)	14% (5)	7% (2)	6% (2)	4% (1)	3% (1)

Brackets represent number of respondents.
Source: UK Border Agency, March 2012.

Focus groups and interviews with case owners and legal representatives also referred to improved working relationships. They suggested improved relationships were a result of increased openness, communication and familiarity between case owners and legal representatives. The majority of legal representatives particularly welcomed the opportunity to collaborate with case owners and referred to cultural change based on greater joint working.

The majority of case owners interviewed also commented that greater collaborative working sometimes assisted the development of cases, for example, where the representative provided specific knowledge and advice relating to the case. This was seen by these case owners as particularly helpful for complex cases and such examples led to more informed initial decisions. A quote representative of the majority of case owners interviewed follows:

“The ELAP process definitely helps to ensure good communication between all three parties ... and it increases the likelihood of being able to make a fair and just decision in the time frame given.” (Case owner, GVA case review)

The ELAP User Group meetings, attended by a sample of legal representatives and case owners, provided a platform for improved relationships. Feedback from legal representatives and case owners in focus groups and interviews suggested that the meetings had facilitated healthy debate. This helped case owners and legal representatives to understand each other’s views and concerns while discussing methods of improving the process. It might therefore be of benefit to continue the User Group meetings, and, wherever possible, different case owners and legal representatives could attend the meetings to widen their benefit in terms of sharing good practice and further improving working relationships. A level of attendance from a wider range of case owners could become part of their future personal development reviews, while attendance from legal representatives could become a requirement within future ELAP contracts (each case owner has to attend at least one User Group meeting per year, for example, and each legal firm has to be represented at each meeting).⁸¹

Case owners and legal representatives, during focus groups and individual interviews, referred to examples where the project had enabled better joint working with applicants. For example, the ELAP process meant legal representatives had more comprehensive involvement with applicants at an earlier stage of the application. Improved relationships between case owners and applicants occurred when the applicant reported feeling better prepared for their substantive interview as a result of earlier legal advice.

⁸¹ The current ELAP legal representative contract requires supervisors from each legal representative provider firm to attend User Group meetings. At present providers attend on a rotational basis to ensure that all attend at least every third meeting.

Consistency of personnel working on cases

The online survey of case owners indicated that, in 15 per cent (22 cases) different legal representatives attended the substantive interview to those who undertook the initial preparatory work (the witness statement and the pre-interview meeting) and the post-interview work. Focus groups with case owners suggested that this figure may have increased over time. The LSC's ELAP file review (Legal Services Commission, 2012b)⁸² found that in 30 per cent of cases the legal representative who drafted the witness statement did not attend the substantive interview.⁸³

In agreement with the views of case owners and legal representatives (in focus groups and interviews) the file review indicated this practice was unhelpful to ELAP cases. For example, in 65 per cent of the cases where a different representative attended the interview there was no evidence of them being briefed or having met with the applicant beforehand. The review stated "this did lead to some instances in which the representative was unable to address some issues or to be able to effectively have a post-interview discussion, thereby generating further costs and delays in the process".

The evaluation also identified instances of changing case owners for individual cases, often caused by resource constraints (for example, different individuals writing the initial decision and attending the substantive interview). More recent feedback from case owners suggested that this might be reduced through the introduction of a cohort management approach introduced in the MEE region in October 2011. This ensured that case owners were better able to focus on a cohort of specific cases over a three-month period before taking on new cases. However, it was reported by caseworkers and other UK Border Agency staff that resources within each team became too small to manage a full cohort and as a result this system came to an end in July 2012.

While there will always be a need to provide cover in cases of sickness or other unanticipated absence, the prevailing view of case owners, legal representatives and stakeholders is that this inconsistency of personnel should not become standard practice. Monitoring this could be beneficial as it would allow for the identification of specific trends (it is recognised that the LSC and the UK Border Agency are already working to address this). Where it is not possible for the same individual to carry out all aspects of the case, a detailed handover should take place.

82 The LSC's file review included assessment of 92 ELAP files.

83 Despite most legal representatives in focus groups not being in favour of the practice, two or three firms reported having used it as standard procedure, commenting that their representatives were suitably qualified to 'pick up' cases. The LSC reiterated to providers the preference is for single case ownership. Where a different representative attends the interview they should be fully briefed on the case and have an opportunity to meet the client beforehand.

Glossary

Adult single	An adult who does not have dependants and is claiming asylum.
Allowed appeal	A successful decision for the appellant following an appeal.
AQAT	Asylum Quality Audit Team.
ASU	Asylum Screening Unit – The ASU is a centre run by the UK Border Agency where a person is registered as an asylum applicant and begins the process of applying for asylum.
Asylum	Asylum is protection given by a country to someone who is fleeing persecution in their own country.
Asylum appeal	A formal question as to the correctness of a ruling or decision on an asylum application. The HM Courts and Tribunals Service (HMCTS) an executive agency of the Ministry of Justice, hears and decides appeals against decisions made by the UK Border Agency. It consists of the First Tier Tribunal Immigration and Asylum Chamber (FTTIAC) and the Upper Tribunal Immigration and Asylum Chamber (UTIAC).
Calendar days	All days of the week, including weekends and public holidays.
Case owner	A case owner is a specific individual accountable for each case they are allocated.
CID	UK Border Agency Case Information Database.
CLR	Controlled Legal Representation.
Complex case	‘Complex’ cases are defined as cases that are not ‘manifestly well-founded’, according to the UN High Commissioner for Refugees (UNHCR) definition, perhaps involving complex case law, or situations without readily available evidence or claims concerning family groups.
Concluded cases	A case is concluded if the individual is granted leave to remain in the UK, is removed from the UK or the individual withdraws their asylum claim.
Decision made	The outcome of the application as decided by the case owner.
Decision served	The notification to the applicant of the outcome of their application as made by the case owner.
DID	Difference-in-difference. DID is an econometric technique measuring the effect of a treatment at a given period in time. It takes the change between the results pre- and post-intervention for the treatment group and the control groups, and calculates the distance between the two.
Dispersal	Allocation of the asylum applicant to accommodation across the UK according to the supply of accommodation.
EAP	Early Advice Pilot – the initial pilot offering legal advice to asylum applicants in Solihull.
ELAP	Early Legal Advice Project.
First Tier Tribunal	The HM Courts and Tribunals Service (HMCTS) an executive agency of the Ministry of Justice, hears and decides appeals against decisions made by the UK Border Agency. It consists of the First Tier Tribunal Immigration and Asylum Chamber (FTTIAC) and the Upper Tribunal Immigration and Asylum Chamber (UTIAC). First Tier Tribunal immigration judges hear and decide appeals against decisions made by the Home Secretary on immigration and asylum matters in the First Tier Tribunal (Immigration and Asylum Chamber).
FKWP	Family Key Worker Pilot.
Front-loading	Providing all available evidence to the case owner at the earliest possible point in the application process.
Funded appeal	An appeal against an asylum decision that is granted legal aid to cover the costs.

Grant DL	Grant of discretionary leave (DL). DL may be considered for an individual who is not accepted as being in need of international protection, that is, asylum or humanitarian protection (HP), but who is able to demonstrate particularly compelling reasons why removal would not be appropriate. DL is normally granted for a period of three years.
Grant HP	Grant of humanitarian protection (HP). HP is leave granted to a person who is not a refugee under the Refugee Convention but who would, if removed, face in the country of return a real risk to life or person arising from: the death penalty; unlawful killing; torture or inhuman or degrading treatment or punishment; or serious and individual threat by reason of indiscriminate violence in situations of international or internal armed conflict. If a person has been refused asylum they may still be considered for this status.
Overall grant rate	Total of those receiving a positive outcome following their asylum application against total applications.
Initial accommodation	The provision of initial accommodation is a temporary arrangement for asylum seekers who would otherwise be destitute.
Initial decision	Initial decision is a decision by the UK Border Agency on an application regarding immigration control, subject to right of appeal.
Legal aid	This is legal help paid for by the state for people who qualify for it, usually because they cannot afford it themselves.
Legal representative	A solicitor or other qualified adviser who advises an applicant on how UK laws apply to their case.
LSC	Legal Services Commission
LSC file review	Analysis of a sample of legal representative files undertaken by the Legal Services Commission (LSC) with the purpose of producing a review that would demonstrate whether providers had adhered to both the Early Legal Advice Project (ELAP) process and also the principles behind the project.
MEE region	Midlands and East of England region. Regions as determined for use within the UK Border Agency.
MEU	Midlands Enforcement Unit. Location of substantive asylum interviews.
MoJ	Ministry of Justice
NGO	Non-governmental organisation
Pre-interview discussion	Meeting between the legal representative and the case owner in advance of the substantive asylum interview to discuss the basis of the case and the direction the interview might take.
Post-interview discussion	Meeting between the legal representative and the case owner following the substantive asylum interview to discuss any outstanding issues, clarify any additional information required and alert the legal representative to the decision that the case owner is minded to take.
LSC referral analysis	Analysis of the data from the Voluntary Appointment System (VAS) undertaken by the Legal Services Commission (LSC) with the purpose of analysing the performance of the Early Legal Advice Project (ELAP) referral scheme
Refusals	An application is refused when the applicant has failed to establish that they qualify to remain in the UK in accordance with the conditions for asylum.
Removal rate	The number of people who have left the UK if they have no right to be here from the total number of applicants.
Straightforward case	Asylum cases that can be decided with readily available evidence or that can, in line with the United Nations High Commissioner for Refugees (UNHCR) definition, be considered as 'manifestly well-founded'. UNHCR refers to country-specific, group-specific, evidence of trauma and factual evidence as criteria for determining such cases.
Substantive asylum interview	The opportunity for the applicant to explain why they are seeking asylum in the UK and provide evidence to support their application, answering the questions of the case owner.
UASC	Unaccompanied asylum seeking children – people under the age of 17½ years who are not accompanied by an adult and claim asylum.

UNHCR	United Nations High Commissioner for Refugees
Upper Tribunal	The HM Courts and Tribunals Service (HMCTS) an executive agency of the Ministry of Justice, hears and decides appeals against decisions made by the UK Border Agency. Upper Tribunal immigration judges hear and decide appeals against decisions made by the First Tier Tribunal (Immigration and Asylum Chamber).
User Group	Regular meetings of case owners and legal representatives to discuss the operational processes of the Early Legal Advice Project (ELAP) and identify any issues.
VAS	Voluntary Appointment System – an online booking system, used nationally at initial accommodation locations across the UK and, from June 2011, at the Asylum Screening Unit (ASU) for allocating asylum applicants appointments with legal representatives.
Witness statement	Document prepared by the legal representative in conjunction with the asylum applicant stating the grounds for their application and documenting available evidence.

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Appendix A: Early Legal Advice Project process

		ELAP timescale	Non-ELAP timescale
1. Asylum Application	- Applicant claims asylum (there are several locations where this may occur, the Asylum Screen Unit being one of these)	Day 1	Day 1
2. Referral to Legal Representative	- Paper referral system up until launch of online system in June 2011 - Maximises time for legal rep to meet client and discuss case before the interview	Day 5 (first meeting with rep)	Not applicable
3. Case Management Appointment	- Between legal rep and ELAP admin officer - Provides legal rep and case owner with full details of case to enable interview to proceed	Following Stage 1	Not applicable
4. Witness Statement	- Legal rep produces this through additional appointments with the applicant - Must be provided to case owner at least 3 days before the interview to allow time for preparation and pre-interview discussion	Provided at least 72 hours before stage 6	Not applicable
5. Pre-interview Discussion	- Enables case owner and legal rep to discuss the material facts of the claim, narrow down the issues and structure the interview - Should take place at least 36 hours before the interview	Provided at least 36 hours before stage 6	Not applicable
6. Interactive Interview	- The legal rep attends the interview and plays an active role, encouraged to ask questions - One impartial UK Border Agency interpreter used by legal rep if they need to communicate	Days 23-25	Days 7-10
7. Post-interview Discussion	- Legal rep and case owner discuss the case	Within 24 hours	Not applicable
8. Decision	- Initial decision is served	Days 26-60	Days 16-30

Appendix B: Qualitative analysis

This appendix provides details of the methodology used for the qualitative evaluation of the Early Legal Advice Project (ELAP).

Methodology

The qualitative evaluation was delivered through two phases of research.

Phase A

Phase A incorporated two stages of activity. The first stage was a baseline study around the start of the ELAP process, while the second stage was a three-month health check (three months into the start of the project). Table B1 below outlines the specific research activities carried out within Phase A.

Table B1: Phase A research activities

Activities	
Baseline	<ul style="list-style-type: none">• Online survey of 189 individuals, including:<ul style="list-style-type: none">- 83 case owners/hybrid case owners- 39 legal representatives- 37 presenting officers- 17 senior caseworkers- 13 asylum stakeholders• 6 focus groups with a total of 30 participants, including:<ul style="list-style-type: none">- 3 focus groups with case owners (10 participants)- 3 focus groups with legal representatives (20 participants)• 5 one-to-one interviews with asylum stakeholders
Three-month health check	<ul style="list-style-type: none">• Online survey* (completed by case owners for individual cases), including:<ul style="list-style-type: none">- coverage of 38 per cent of ELAP interviews and 15 per cent of ELAP decisions- 65 per cent of MEE case owners completing at least one survey entry• 9 focus groups with 51 participants, including:<ul style="list-style-type: none">- 2 focus groups with case owners (14 participants)- 2 focus groups with legal representatives (16 participants)- 2 focus groups with senior caseworkers and team leaders (5 participants)- 1 focus group with Home Office interpreters (7 participants)- 2 focus groups with asylum stakeholders (9 participants)- 2 one-to-one interviews with asylum stakeholders

*Note the online survey (which commenced as part of the three-month health check) continued during the project's lifetime. It covered 180 cases in total.

The original online survey was repeated in February 2012 (the 'February 2012 staff survey') and completed by 96 individuals within the following categories:

- 32 case owners/caseworkers/hybrid case owners;
- 41 legal representatives;
- 9 presenting officers;
- 10 senior caseworkers;
- 4 asylum stakeholders.

Phase B and GVA case reviews

Phase B of the evaluation were undertaken by (GVA) as external independent evaluators. A core element of Phase B was 83 'GVA case reviews'. Each GVA case review included face-to-face interviews with applicants, legal representatives (where present) and case owners at the Midlands Enforcement Unit (MEU) after the substantive asylum interview. The GVA case reviews covered 51 ELAP applications and 32 applications under the national asylum process in the Midlands and East of England (MEE) region.

Method

The method used for interviewing applicants is summarised below.

- A team of researchers were present within the MEU in Solihull across eight days in May and June 2011 and ten days during July and August 2011.
- When applicants and their legal representatives (if present) arrived prior to their substantive interview a member of the research team explained the work of the evaluation to them. Both parties were asked if they would be willing to be interviewed after their substantive asylum interview.
- When substantive interviews were completed the applicant, legal representative (where present) and case owner were asked once more if they were happy to be interviewed. Where they gave consent each of these three individuals was interviewed individually in separate rooms.
- The focus of the interview was wholly about the case itself and concentrated on the process relating to the case, rather than specific details regarding the claim.

Sampling

A sampling framework (see Table B2 below for details) was developed to ensure that the cases selected for the GVA case review interviews during the evaluation were broadly representative of the overall asylum seeker population within the MEE region. This ensured that identified outcomes were aligned with the profile for the MEE region, given the diverse and non-comparable nature of the population profile in the other regions and/or nationally. For example, management information provided by the UK Border Agency showed that the MEE regions had high proportions of unaccompanied asylum seeking children (UASC), a wide and diverse geographical range (from the West Midlands down to Essex and East Anglia), and high Black and Minority Ethnic (BME) populations. The MEE region had also previously seen high proportions of specific nationalities, for example, Zimbabweans. Furthermore, other UK Border Agency regions were taking part in alternative pilot initiatives rather than ELAP, potentially creating difficulties for assessing the project's impact. Despite this, there were a number of variables used that ensured that the findings would also be partially representative at a national level – for example, the sampling by sex and the proportion of family cases included.

The framework therefore provided a guide to inform the selection process and to help to deliver an acceptable level of representation, benchmarking the actual cases interviewed against the sampling framework and, where necessary, identifying the need for additional interviews with specific groups.

The research was therefore carried out using convenience sampling in most cases. However, as more interviews were carried out, the research team continually monitored the sampling framework. Where it became evident that elements of the framework were not being met (for example, not enough national asylum process cases and not enough cases of a certain age group) only certain applicants were approached in order to ensure that a sample as closely matched to the framework as possible was achieved. This was tempered slightly by the need to achieve an overall sample of 80 cases and also by the limited number of national asylum process and female cases within the MEU during the research period.

Achieved sample

Table B2 below shows the sample achieved for Phase B against the target in the sampling framework. This shows:

- more applicants were interviewed than originally planned in the first round;
- more ELAP cases were interviewed than against the target;
- for ELAP cases the nationality mix was close to the original target;
- for national asylum process cases there were more Sri Lankans interviewed than targeted in the sampling framework; and
- those aged 19–30 and 31–40 were much more prevalent in the sample than other ages: 19–30-year-olds were particularly common in the national asylum process case group.

Where variance against the sampling framework occurred this reflected the cohort of applicants within the MEU on the days that the researchers were present (there were no specific patterns for certain days of the week). The research team made specific efforts (by not approaching certain age groups, nationalities, etc., where the sample had already been achieved/exceeded) to achieve the sampling framework targets. In particular, there were fewer national asylum process cases than anticipated at the MEU, while Sri Lankans dominated the cohort not taking publicly funded legal advice in the MEE region. As in the first round of interviews, only two applicants approached did not wish to be interviewed.

Table B2: GVA case review sample

	First round of GVA case reviews				Second round of GVA case reviews			
	Proposed (number of interviews)		Achieved (number of interviews)		Proposed (number of interviews)		Achieved (number of interviews)	
	ELAP	Non-ELAP	ELAP	Non-ELAP	ELAP	Non-ELAP	ELAP	Non-ELAP
All	20	20	25	18	20	20	26	14
Sex								
Male	11	11	17	13	15	15	18	10
Female	9	9	8	5	5	5	8	4
Age								
0–18	4	4	3	1	3	3	1	1
19–30	6	6	11	11	9	9	10	11
31–40	5	5	9	3	5	5	11	2
41–60	4	4	2	3	2	2	4	-
61+	1	1	-	-	1	1	-	-
Family cases								
Family	4	4	4	4	3	3	6	2
Non-family	16	16	21	14	17	17	20	12
Country of origin								
Sri Lanka	4	4	4	9	3	3	1	5
Afghanistan	2	2	3	-	2	2	1	1
Iran	2	2	2	-	2	2	2	-
Pakistan	2	2	4	-	3	3	3	-
Libya	2	2	2	-	1	1	1	2
Eritrea	1	1	1	3	1	1	3	1
China	1	1	-	1	1	1	-	1
Zimbabwe	1	1	2	1	1	1	3	2
Other	5	5	7	4	6	6	12	2

Non-ELAP refers to applicants in the MEE region who did not take up publicly funded legal advice.

Other qualitative research activities

In addition to the GVA case reviews, the following research activities also took place.

- A total of 11 focus groups with 84 participants, including:
 - 2 focus groups with case owners (16 participants, although some individuals attended both);
 - 2 focus groups with legal representatives (14 participants, although some individuals attended both);
 - 1 mixed focus group with legal representatives and case owners (10 participants);
 - 1 focus group with presenting officers (9 participants);
 - 2 focus groups with the West Midlands Strategic Migration Partnership (14 participants, although some individuals attended both);
 - 1 focus group with the East of England Strategic Migration Partnership (10 participants);
 - 1 informal focus group with immigration judges (9 participants);
 - 1 focus group with staff based at the Asylum Screening Unit (ASU) in Croydon (2 participants).
- Additional informal one-to-one telephone/face-to-face interviews with 15 legal representatives and 15 case owners.
- One-to-one interviews with 10 asylum applicants at Birmingham's Stone Road initial accommodation.
- One-to-one interviews with 5 immigration judges.
- One-to-one interviews with 14 asylum stakeholders, including UK Border Agency staff, Legal Services Commission (LSC) staff and non-governmental organisations (NGOs).
- Observation of 3 screening interviews at the ASU and informal interviews with 3 screening officers.

Note that attempts were also made to carry out a focus group with the East Midlands Strategic Migration Partnership.

Dataset and caveats

The GVA case reviews utilised a convenience sampling technique. This meant that applicants were only interviewed by the researchers if their substantive interview was completed at the time that the researchers were present in the MEU. However, it is important to recognise that the applications involved in the GVA case reviews were regularly monitored against a specific sampling framework.

A further limitation of the qualitative research (focus groups and one-to-one interviews) is that 'opinions' and 'facts' are rarely neutral and will be influenced by many factors, including job role, personal relationships and worldview. Therefore, in order to ensure robust and valid findings, responses were understood in the context in which they were given. This included recognising the difference between personal and professional opinions, identifying organisation/individual bias and taking account of respondents' discontent. In addition, contradictions and inconsistent messages were further tested. This primarily included speaking again to relevant individuals (or obtaining the views of additional individuals) to gain further information to help to explain apparent contradictions and inconsistencies. The interviews with asylum applicants, legal representatives and case owners carried out through the GVA case reviews were more structured.

Further information on the qualitative analysis is available on request in the ELAP qualitative evaluation report.

Appendix C: Quantitative analysis

This appendix provides details of the methodology used for the quantitative research. The specific focus of the quantitative evaluation was on adult single legally funded asylum cases.

Methodology

The difference-in-difference (DID) technique was used to evaluate the effect of the Early Legal Advice Project (ELAP) on asylum outcomes. DID is designed to establish the effects of an intervention in social sciences. Its basic premise is to examine the effect of the intervention by comparing the intervention group both with itself before the intervention was introduced and also with a control group that had not received the intervention. By doing this the DID method can, under certain conditions, separate the impact of an intervention from other external effects.

DID was used for the purpose of isolating the difference that occurred due to ELAP rather than from other external factors. For instance, while ELAP may have affected asylum case outcomes, these same outcomes can also be driven by a range of complex and interacting factors, such as the political and economic situation in the country of origin and perceptions of life in the UK relative to other countries. The DID technique was able to separate the ELAP effect from other external factors, but only under certain conditions (a key element of which is the assumption of 'parallelism'). In the context of ELAP this assumption can be stated as 'in the absence of ELAP, the trend among the Midlands and East of England (MEE) region would have been similar to that of the other regions where ELAP was not implemented'.

The DID technique calculated the impact of ELAP as:

$$[Y_1^{MEE} - Y_0^{MEE}] - [Y_1^{nonMEE} - Y_0^{nonMEE}] = \delta \quad (A.1)$$

Where Y represents the asylum outcome of interest in a given region (for example, the asylum grant rate), superscripts represent the groups (MEE for intervention, non-MEE for control) and subscripts represent the time (1 post-ELAP and 0 pre-ELAP). The coefficient δ represents the effect of the intervention, in this case the causal effect of ELAP on asylum outcomes. The first term in brackets is the observed change in outcome in the MEE region (the intervention group), and the second is the observed change in outcome in the control regions.

The DID estimate, δ , may be calculated numerically simply using descriptive data. For instance, a DID estimate of the impact of ELAP on the asylum grant rate, may be calculated numerically by calculating the grant rates for the MEE region and the other regions in both pre-ELAP and ELAP periods and substituting the values in equation (A.1). Note: this description method of calculating DID requires summarising individual asylum data at the regional level to be fed in to the equation (A.1).

Alternatively, the same value may be obtained regressing individual data as follows:

$$y_i = \alpha + \beta T_i + \chi MEE_i + \delta(T_i \times MEE_i) + \varepsilon_i \quad (A.2)$$

Where y_i is a binary asylum outcome variable for the individual i , T_i is a binary variable capturing whether individual in question has applied for asylum during ELAP ($T_i = 1$) or during the pre-ELAP ($T_i = 0$) period, and MEE_i is a binary variable with the value 1 for an individual who was allocated to the MEE region and value 0 for all other individuals. The estimated δ is the impact parameter, which is defined as:

$$E[y_1^{MEE}] - E[y_0^{MEE}] - E[y_1^{nonMEE}] + E[y_0^{nonMEE}] = \delta \quad (A.3)$$

Where E is the expectations operator, which generally calculates the average of a specific variable. For instance the first element of (A.3), $E[y_1^{MEE}]$, refers to the average of asylum outcomes for all individuals in the MEE region who applied for asylum during the ELAP period. This is the same as the first element of the regional DID calculation in equation (A.1). This method of using regression technique on individual data for the calculation of DID estimates is appropriate for this evaluation as the asylum data used are a cross section of individual data. The data gather information on different cohorts of cases observed at different times so the same asylum case is not observed twice.

The main benefit of using a DID approach is that it should subtract any regional and temporal effects, which might clutter the intervention effect. There are two key challenges in accurately estimating the intervention effect using the DID regression method.

Firstly, most studies that employ DID techniques use many years of data without properly accounting for serial correlation that arise from the use of temporal data. This has led to an over-estimation of DID parameters in such studies. In other words, intervention effects estimated in those studies are spurious and are the result of serial correlation. This is not likely to be an issue for the ELAP evaluation because it collapsed/aggregated the data into two time periods (pre-ELAP and during ELAP), which overcame correlation problems.

Secondly, the interpretation of the DID estimate calculated using either equation (A.1) or equation (A.3) as a true measure of the intervention impact depends critically on whether the assumption of parallelism holds (that is, there are common time trends across regions). If this does not hold, the DID technique cannot remove the external effects and the estimated treatment effect, δ , may be biased. To overcome such issues, researchers can use control variables in equations to remove their impact on the DID estimate. The individual DID regression in equation (A.2) may be augmented to account for external effects as follows:

$$y_i = \alpha + \beta T_i + \chi MEE_i + \delta(T_i \times MEE_i) + \phi X_i + \varepsilon_i \quad (A.4)$$

Where X_i is a vector of individual level external factors that are known to affect asylum outcomes. The main factors of interest here, and for which data are available at the individual level, are the individual's nationality and whether the individual belonged to nationality and religion mixes that carry specific statistical significance for asylum outcomes. It must be highlighted that the selection of such control variables should be done with extreme care as there is a danger of over/under controlling. The approach used here uses probit regressions to identify potential covariants.

It is important to note, however, the DID technique can only include control variables for observable characteristics of asylum seekers captured in the dataset, and may not be able to control for unobservable changes in characteristics of asylum seekers over time (for example, their level of compliance) or other external factors, which cannot be easily observed. Therefore the results may still be subject to uncertainty.

The quantitative analysis was undertaken using R package for statistical analysis (R Foundation for Statistical Computing, 2012). Synthetic controls were generated using the 'Synth' package in R (Abadie, Diamond and Hainmueller).

Dataset and caveats

The dataset comprised two separate datasets that were matched. The first dataset is UK Border Agency Casework Information Database (CID), which includes management information data on asylum cases and outcomes for the cases and regions for the time period of the ELAP evaluation. The second dataset is the Legal Services Commission (LSC) data on legal representation and costs funded by the LSC at the initial decision and appeal stages for asylum applicants. This contains data on the applicant, the legal representative provided, costs of legal help (at initial decision) and costs of legal representation (at appeal). The datasets were matched to allow better analysis of legal representation of asylum seekers at initial decision and appeal and the associated legal costs. The matching used a number of different matching criteria. After matching the data were subjected to a rigorous data cleaning process. All data were held and analysed within a secure research environment.

The final matched and cleaned adult single dataset used for the evaluation is summarised in Table C1. It shows a total of 12,331 adult single cases in all regions covering the full sample period. It also shows the distribution of adult single cases across the pre-ELAP period as well as various stages of the post-ELAP period. The analysis in this evaluation concentrated on an 18-month period of ELAP data, but excluded the first 3 months ('early ELAP') and the last 4 months ('late ELAP'). These exclusions were made for data quality reasons (the first three months was subject to implementation issues and adverse weather conditions, while the last four months would be unlikely to include all case outcomes). Therefore the cells marked with an asterisk in Table C1, a total of 11,024 adult single cases, were used for the evaluation of adult single asylum outcomes.

Table C1: The distribution of matched and cleaned adult single cases

	Other regions	MEE region	Total
Pre-ELAP (15/11/2009–14/11/2010)	3,821*	467*	4,288*
ELAP (15/11/2010–05/12/2012)	6,933	1,110	8,043
(1) Early ELAP	1,018	171	1,189
(2) Mid ELAP (18 months)	5,819*	917*	6,736*
(3) Late ELAP	96	22	118

* Cases used for the evaluation of adult single asylum outcomes.

Although the data were cleaned prior to evaluation, there remained a number of issues outlined below. These issues should be noted although they do not undermine the analysis that has taken place.

- Both UK Border Agency and LSC data are subject to uncertainty and human error. Although this is not expected to be statistically significant, or enough to influence results, there are some recording errors that mean that the results should be treated with caution. For example, the LSC codes to record legal representative costs do not appear to have always been used consistently, so the funded rates and costs could be higher or lower with implications for the unit cost estimates.
- The loss of data from the matching exercise means that the sample of matched funded cases may not be fully representative of the total population of funded cases. No common characteristics were determined in the cases that were not matched during case-file checks, but it is possible that the matched data may not be fully representative of all cases, limiting the accuracy of the findings.
- The baseline evaluation calculated outcome rates at the time of data extraction. It is possible that outcomes would change if the data were based on a different time period. In particular, LSC data on legal funding may change as legal representatives are given six months to bill the LSC for the case. Although the majority are likely to submit a claim within six months it is likely that the level of LSC funding and claims calculated in the analysis is lower than the actual level of funding and claims over the long term. In addition, UK Border Agency data on conclusions and other outcomes are likely to change as more cases are concluded over time.
- The composition of asylum applicants within the MEE region may have affected the data. For example, the LSC referral analysis (Legal Services Commission, 2012a) showed attendance at initial appointments (and take-up of ELAP) was linked to the nationality of applicants.
- The robustness of the data will be affected by the previously referred to unobservable (and often immeasurable) factors. These could include asylum-focused pilots in other regions, case law changes, internal resource changes, external factors affecting the composition of asylum seekers (for example, by nationality), and behavioural change by applicants, legal representatives and case owners.

Cost analysis and caveats

The cost analysis uses the results from the quantitative evaluation to estimate the unit costs of a funded asylum case during the ELAP period against the baseline for adult single and adult family funded cases in the MEE region. By using the results from the regression analysis including controls, this allows an assessment of the change in case costs in the MEE region from the baseline estimates that are deemed directly attributable to ELAP.

There are four key components of the cost model:

1. UK Border Agency casework and appeal costs;
2. UK Border Agency asylum support costs;
3. LSC costs for legal representation (at the initial decision and appeal stages); and
4. Ministry of Justice (MoJ) costs of initial appeals and onward appeals.

1. UK Border Agency casework and appeal costs

The key drivers of UK Border Agency costs modelled include:

- case owner time spent on decision making;
- costs of interpreters at interview and to support decision making; and
- asylum appeal and case management review costs to the UK Border Agency.

These assumptions are estimated using the ELAP online surveys, assumptions from the project team, published estimates of the unit costs of asylum appeals⁸⁴ and results from the quantitative analysis (initial decisions, appeal outcomes and timescales) that show a statistically significant change as a result of ELAP.

The unit costs to the UK Border Agency estimated here do not reflect the whole costs of the process and should not be compared with other estimates of asylum unit costs, for example, by the National Audit Office. There may also be downstream detention and removal costs plus other wider UK Border Agency process costs (for example, screening, support services for integration and transport services) but these are not analysed here as they should not be statistically significantly affected by ELAP. In addition, these costs reflect the average for adult single funded cases in the MEE region. Actual costs may vary statistically significantly across applicant case types and nationality.

UK Border Agency asylum support costs

A key cost of the asylum process is the provision of asylum support. A number of assumptions have been used to proxy asylum support costs so estimates are uncertain and should be treated with caution. The following two methods have been used to estimate asylum support costs,

- Asylum support cost 1 uses data on average days from application to initial decision served, from decision served to appeal outcome and from appeal outcome to appeal rights exhausted (ARE)/conclusion to estimate the days on support and hence total costs of asylum support. In practice some cases will receive asylum support for less time than is required to make the decision, but other cases will receive asylum support for longer.
- Asylum support cost 2 uses the ELAP dataset data variable 'days on National Asylum Support Service (NASS) support' for 'NASS-supported' cases. This should be more accurate in the longer term, but may be subject to error and bias, particularly for the 12-month (mid ELAP) period.

Legal Services Commission costs of legal representation

The key drivers of LSC costs modelled include:

- proportion of cases being funded at initial decision (legal help);
- median cost of legal advice at initial decision;
- the appeal rate;
- proportion of cases being funded at appeal (legal representation);
- median cost of legal advice at appeal;
- proportion of cases being funded at onward appeal (assumed to be the same as at initial appeal); and
- median cost of legal advice at appeal (assumed to be the same as at initial appeal).

⁸⁴ The unit cost of asylum appeals and case management reviews to the UK Border Agency was estimated at £970 in 2009/10: £850 for the appeal and £120 for the case management review. See: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/reports/language-analysis/language-analysis.pdf?view=Binary>

The assumptions are estimated using the quantitative analysis results. However, the costs of legal representation at appeal may be an under-estimate for three reasons:

- legal representatives may submit the incorrect codes to the LSC;
- legal representatives have six months to submit their claim after the case has been concluded and not all claims would have been submitted at the time of data extraction; and
- cases transferred between legal representatives (which can happen for valid reasons if one supplier will not provide legal help at appeal but another will) may not be accurately captured in the data.

Ministry of Justice costs of initial appeals and onward appeals

The key drivers of MoJ costs modelled include:

- the initial appeal rate (against total intake);
- the average cost of an initial asylum appeal;
- the onward appeal rate; and
- the average cost of an onward appeal.

The appeal assumptions are estimated using the quantitative analysis and unit costs of asylum appeals published by the MoJ. Onward appeal cost assumptions are inferred using the onward appeal rates from the quantitative analysis and assume the costs are the same as at the initial appeal. They are therefore subject to uncertainty.

The MoJ provides information on the full cost of an appeal (through to completion) rather than a breakdown of the costs of the initial appeal relative to the costs of onward appeal, and it is not possible from the dataset analysis to distinguish appeal costs at initial appeal and onward appeal. However, as cases with onward appeals will tend to be more expensive, the model uses the average MoJ appeal cost to estimate the costs of onward appeals. This may over-estimate the onward appeal costs to MoJ, but as the proportions going to onward appeal are relatively low, the overall relative results should not be skewed, and any changes in onward appeal rates before and after ELAP are better reflected in the unit cost estimates.

Appendix D: Data tables

This appendix and accompanying Excel spreadsheets provide the relevant data tables from the research activities undertaken.

Quantitative data tables

Dataset

This section outlines the data from the analysis of adult single cases for both the Midlands and East of England (MEE) region and the rest of the UK before and after the Early Legal Advice Project (ELAP). This used a UK Border Agency and Legal Services Commission (LSC) matched dataset to undertake difference-in-difference (DID) regression analysis. It also undertook regression analysis using controls to account for differences in asylum intake characteristics geographically and chronologically.

Table D1: Case volume for unmatched dataset

Case type volumes	MEE region	Other regions	Total
Adult single cases	3,726	40,041	43,767
Adult family cases	738	6,375	7,113
Minor cases	836	5,424	6,260
All cases	5,300	51,840	57,140

Source: UK Border Agency dataset, December 2012.

The unmatched dataset was subsequently matched with data from the LSC to form a 'matched dataset'. This included only cases receiving funding from the LSC (and therefore meant all post-ELAP cases included in the dataset within the MEE region were part of the ELAP process) and enabled analysis of legal representation at the initial decision stage and the appeal rate, as well as associated legal costs. Table D2 shows this led to a dataset of 18,946 cases, of which 2,410 were in the MEE region.

Table D2: Case volume for matched dataset

Case type volumes	MEE region	Other regions	Total
Adult single cases	1,579	11,640	13,219
Adult family cases	349	2,550	2,899
Minor cases	482	2,346	2,828
All cases	2,410	16,536	18,946

Source: UK Border Agency and LSC matched dataset, December 2012.

Following the creation of the matched dataset above, further data cleaning was undertaken. This led to the removal of a number of cases from the dataset that had resulted from duplicated entries or failure in the normal matching process (for example, through different spellings in the matching criteria). Table D3 shows the total matched and cleaned dataset incorporated 17,764 cases, of which 2,408 were within the MEE region.

Table D3: Case volume for matched and cleaned dataset

Case type volumes	MEE region	Other regions	Total
Adult single cases	1,577	10,754	12,331
Adult family cases	349	2,419	2,768
Minor cases	482	2,183	2,665
All cases	2,408	15,356	17,764

Source: UK Border Agency and LSC matched dataset, December 2012.

Table D4 shows the distribution of adult single cases across the pre-ELAP period as well as various stages of the post-ELAP period. The analysis in this evaluation concentrated on an 18-month period of ELAP data but excluded the first 3 months ('early ELAP') and the last 4 months ('late ELAP'). These exclusions were made for data quality reasons (the first three months was subject to implementation issues and adverse weather conditions, while the last four months would be unlikely to include all case outcomes). Therefore the cells marked with an asterisk in Table D4, a total of 11,024 adult single cases, were used for the evaluation of adult single asylum outcomes.

Table D4: Matched and cleaned adult single cases

	MEE region	Other regions	Total
Pre-ELAP (15/11/2009–14/11/2010)	467*	3,821*	4,288*
ELAP (15/11/2010–05/12/2012)	1,110	6,933	8,043
(1) Early ELAP	171	1,018	1,189
(2) Mid ELAP (18 months)	917*	5,819*	6,736*
(3) Late ELAP	22	96	118

*Cases used for the evaluation of adult single asylum outcomes.

Source: UK Border Agency and LSC matched dataset, December 2012.

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