

The Extra Mile

Executive Summary

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



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EXECUTIVE SUMMARY

"The Department has one quality which to me is like a shining light. It is always prepared to go the extra mile for its clients. Many others may have given up on them, but the Department never does."¹

About the Department and this evaluation

- i. The Department² provides a specialist legal advice, assistance and representation service for refugee and migrant women who have experienced gender-based violence, and refugee and migrant young people up to the age of 25. From small beginnings, it now has five full time staff, ten years' experience behind it, a full caseload and a reputation for excellence amongst professionals and policy-makers.
- ii. The Department's model is unique in the UK with its particular focus on this client group, commitment to partnership working and range of activities to share its specialism with others in this field, through advice, training, seminars and policy work.
- iii. The Department's development has been supported over the last 10 years by funding from the Scottish Government's Violence Against Women Fund, Comic Relief and the Paul Hamlyn Foundation. This evaluation, commissioned in March 2014, is the Department's first external evaluation and was funded by Comic Relief and Paul Hamlyn Foundation to help take stock of the Department's model, achievements and critical success factors.
- iv. Evaluation findings are based on fieldwork conducted between April – July 2014. This included extensive document review, detailed interviews with 49 key stakeholders (staff, trustees, partners, stakeholders and clients) and file reviews of 20 clients. The evaluation was conducted by two independent evaluators with extensive experience in legal, migration and domestic violence fields (On the Tin Ltd). A full methodology is given at Appendix A of the main report.
- v. This is the executive summary of the evaluation. The main 80-page report of the evaluation provides detailed analysis of all the nine sections summarised here as well as examples, quotations, case studies and a costing model.

1. Context for the Department's work

Section One of the full report gives an overview of contextual factors which were most commonly mentioned as intrinsic to understanding the Department's development, positioning and future.

- i. The context for work with migrants in Scotland is more positive than that in England. Scotland welcomes migration in principle, and this shows in a range of positive strategies designed to uphold migrant rights and encourage support and integration. Many of these strategies have high level support, for example around trafficking and violence against women as well as recent interest in separated children, FGM³ and Forced Marriage.
- ii. Scotland has a different system for legal aid than England and Wales. Financial support is not restricted to matter starts and is readily available on application for a wide range of advice and

¹ From interview with external stakeholder working with the Department's client group.

² Throughout this summary and the fuller evaluation report 'the Department' refers to the Women and Young Persons' Department and 'LSA' to the Legal Services Agency. The LSA is a law centre operating across Scotland within which the Department sits.

³ Female Genital Mutilation

assistance. There are also no legal aid contracts in Scotland. Costs on individual cases are however controlled tightly by the Scottish Legal Aid Board and the process of accessing it for cases can be challenging and time-consuming.

- iii. There is a different legal and policy culture in Scotland and the tradition of Scotland is less litigious generally than England and Wales. People feel (and are) closer to politicians. The voluntary sector is also more involved in the framing of public policy. Public law has not developed in the same way and strategic litigation is regarded as a more unusual step than in England and Wales.
- iv. Some services are different in Scotland, and close working with others working with their client group has helped the Department access and maintain close engagement with their clients. For example, Scotland has an innovative Guardianship service for unaccompanied young people claiming asylum which makes provision for a guardian to accompany them throughout the system. This has meant the Department can work alongside professionals who can support and reinforce their legal work with the young people concerned.
- v. Conversely, other service developments impact less favourably. We heard that the Home Office's retendering of the contract to support newly-arrived asylum seekers has meant that the Scottish Refugee Council no longer provide this service which has since March 2014 been transferred to Migrant Help. Whereas before there was face to face support available, now there is only telephone support resulting in more work for other agencies, including the Department.
- vi. Delays in decision-making at the Home Office can significantly affect the Department, its clients and its finances. Poor decision-making results, ultimately, in more challenges so if Home Office staff make poor and uninformed decisions this will ultimately result in more work for Department staff.
- vii. An understanding of the rights and entitlements of this client group is still not widespread amongst some professionals which means some clients may still be mis-advised: we heard, for instance, that some workers still think that clients with no recourse to public funds are not eligible for legal aid (they are), and that asylum seekers do not have the right to access health care (they do).
- viii. The Department's work is with clients who are frequently traumatised and suffering from a range of mental health problems. They are not the only organisation seeking to support these individuals, and there may be slightly conflicting agendas amongst professionals working with these vulnerable people. For example the police have an agenda to seek out criminals (for instance, traffickers) which may mean they wish to speak early to victims of trafficking, whilst the Department will be hard-wired to put the interests of its clients first, including refusing access to clients if that is in the client's best interests. Such issues need working through constructively.
- ix. The problem of gender-based violence and trafficking is not subsiding. Whereas once most young trafficked victims were Afghani, there are now new waves of Vietnamese and Chinese young people being brought into the country to work in cannabis cultivation, prostitution and the seemingly more respectable nail bars. Against this backdrop, an ongoing response by policy-makers and services alike is vital.

2. What the Department does

Section Two of the full report provides an overview of the main activities of the Department and highlights areas for potential review or development emerging during the evaluation.

- i. The Department currently provides **advice and casework** to two client groups: a) refugee and migrant women and children who have experienced gender-based violence, and b) refugee and migrant young people up to the age of 25. Clients access the Department either directly or through referral by another worker in the field.

- ii. The criteria are tightly applied. There are a range of people who may seek help but who are not eligible: men over the age of 25 will not get support, and those with no asylum or immigration issue (such as women who have suffered domestic abuse but are not migrants) will also not currently qualify. In such cases the Department does seek to give initial advice and refer appropriately, but this can be difficult given a lack of specialist services. The Department will also not take on cases if they are operating at capacity (which they often are) as they do not consider it fair to take on a client and then be unable to do their case justice because they do not have enough time. They will also not take on a case if, after initial investigation, it is found to be 'unstateable'. In such circumstances the Department will discuss other options with clients.
- iii. There was clear potential for the Department to extend its services pending resource availability. Several external stakeholders regretted that the Department could not help all of their clients and had to make narrowly constrained choices about who they could and could not assist. Depending on their area of engagement, they felt that it would be greatly beneficial for the Department's approach to be extended to all women who have survived domestic violence, or all victims of trafficking, or all vulnerable migrants. Staff agreed with this view, noting that they had to refuse clients they knew to be in need of specialist input because of current Department criteria. There are moves afoot on this, with an initial day at Cornton Vale prison⁴ organised and relationships being established with VAW services in Aberdeen, Perth and Dundee. This is to be welcome, though at present any work in these areas will be severely constrained by capacity.
- iv. The Department provides **second tier advice** to other professionals working in the field to increase skills and awareness within the sector and help other professionals work better with their clients. The Department views second tier advice as a vital way of extending an informed, human rights-based approach to other clients and professionals. This is particularly important for agencies outside Glasgow who are distant from the range of other specialist services such as TARA and the British Red Cross. Consistent feedback on the second tier advice was that it was detailed, boundaried, specialist and helpful.
- v. The Department develops and delivers **training** for the in-house seminar department at the LSA as part of its financial contribution to the organisation overall. Department staff deliver training according to their area of expertise. It also, as a result of its grant funding, can develop and deliver subsidised or free training for others working in the field. This can include customised training for individual organisations or networks. The Department also works with partners in creating and delivering joint sessions. This joint working develops relationships and can thus have a positive effect in terms of cooperation and understanding around client work.
- vi. The specialist training is extensive, directed at a range of potential audiences and covers a wide range of specialist topics linked to the Department's area of specialism. For example in 2012 – 2013 the Department delivered 11 training courses including one on Changes to the Criminal Injuries Compensation Scheme (effect on Asylum Seekers and victims of human trafficking), another on Interpreting and Asylum Seeking Women (for the WAIR Group⁵) and another on Child Trafficking (for Dundee Violence against Women Partnership).
- vii. Feedback on training was overwhelmingly positive. Again, interviewees noted that there was greater demand for training than could currently be met by available resources, and several had views on how training for other professionals could be expanded.
- viii. The **volunteer programme** enables the Department to resource its casework, for example by undertaking research. The volunteer programme is also seen as a way of broadening interest in the work of the Department, and potentially inspiring people to come into the field. It offers a rare opportunity for students to volunteer or take an internship during which they are genuinely

⁴ Women only prison in Edinburgh

⁵ Women Asylum Immigration and Refugee (WAIR) Working Group was established by the Glasgow Violence Against Women Partnership to provide specialist input on women asylum seekers, immigrants and refugees who have experienced gender-based violence.

deployed on legal matters, trained, inducted into the work of the Department thoroughly, and treated as part of the team. There are now two intakes of volunteers a year, with an overlap to allow handover. Volunteer feedback is extremely positive.

- ix. The Department contributes towards a number of **policy and research** initiatives through a range of stakeholder groups, meetings, initiatives, consultations, discussions and research. Interviewees reported that they are seen as key players in a number of areas, in particular Human Trafficking, Violence Against Women, Child Protection, Children's Rights (including Separated Children and Young People and Strategic Litigation on Children's Rights) and Detention. They are also members of a strategy group on FGM, and are part of a group on Forced Marriage. As well as working within Scotland, the Department is also engaging more internationally and participating in a European funded project looking at best practice in terms of early legal interventions for victims of human trafficking.
- x. Policy work is seen as vital, enabling as it does the Department's legal expertise, grounded in its casework, to inform wider legal, policy and practice change in the field. It is also motivating for staff to work towards improving the broader picture rather than simply coping with the impact of a negative or non-existent policy framework. It is also a key way in which the Department learns and develops its expertise.
- xi. The Department is interested in developing the law through **strategic litigation**, but reported two main obstacles to this: firstly, there is not a developed culture of doing such legal work in Scotland (unlike England and Wales) and secondly, it can be very difficult to find a suitable case to take forward given the client group they work with. This is for a range of reasons: there is a smaller pool of clients in Scotland, and those there are may be unwilling to take cases against those currently providing them with services, frightened of the potential ramifications of taking a case which may be high profile, or simply impossible to engage because they disappear.
- xii. Some cases have been taken, however, and the Department also regularly seeks Judicial Reviews of decisions, which can result in important decisions in relation to process. The Department has also been successful in obtaining a grant from the Strategic Legal Fund for Vulnerable Young Migrants (Trust for London and Esmee Fairbairn Foundation) to undertake pre-litigation research into support provided by local authorities across Scotland to separated children who arrive in Scotland aged 16 – 17 and claim asylum.

3. What the Department is achieving for its clients

Section Three of the full report provides a detailed overview of the benefits reported by clients themselves of the approach of the Department. In summary:

- i. The Department supported 212 women and 119 young people between 1 April 2012 and 31 March 2014. Evidence gathered during the evaluation demonstrates that the Department achieves a wide range of outcomes for clients which, taken together, have a powerful influence on their ability to cope with the asylum process, their outlook and mental health and their life prospects.
- ii. The evaluation identified the following key outcomes for clients:
 - Clients experience an accessible and welcoming service, reporting that they felt treated like individuals worthy of respect
 - Clients understand the reality of their situation and prospects for success and welcome being given the truth
 - Clients who cannot access the service are advised on poor prospects of success
 - Clients understand and engage with asylum process: for many this is the first time in years of being in the asylum system that people have taken time to explain the system and they have understood what is happening to them

- Specialist insight allows new challenges to be brought for clients. Only by understanding the complexity and intricacy of the system, and the pros and cons of pursuing any given legal route, can potential challenges be spotted and assessed and fresh claims brought
 - Clients gain various benefits from being able to tell their story well, including feeling unburdened by sharing their experience; feeling believed, often for the first time; feeling more in control and, interestingly, being able to reconstruct the narrative of their life which may have been 'forgotten' amidst the trauma of their experience
 - Clients feel supported and less isolated, clearly gaining strength from the Department's unwavering and professional support
 - Clients have an improved capacity to cope with their lives, reporting improvements in their physical health and mental health
 - Clients access a range of services and support, for instance health care, accommodation and education
 - Clients are helped to get on with their lives post-decision if they need support, even after their case has been decided
- iii. It was striking how many clients came forward to be interviewed during the evaluation. Some of these clients had had lengthy cases spanning several years, some of them had been taken on by the Department relatively recently. It was clear that the benefits of the Department's approach did not only relate to a particular client group or obtaining a successful outcome: a wide range of clients were motivated to attend and in some instances expressly said that they felt that the Department had helped them whatever the legal outcome of their case.
- iv. It is apparent that successful legal outcomes are life-changing. The evaluation looked at all cases during April 2012 and March 2014 in terms of success rates and ultimate client outcomes and a detailed breakdown of client case types and outcomes is given in Section 8 of the main report.
- v. In terms of known outcomes achieved during this period there are some significant successes gained. 45 people gained refugee status, Discretionary Leave was granted in 10 further cases, Humanitarian Protection in a further 8 cases and leave to remain in a further two. In addition, 36 clients gained a positive conclusive decision by the National Referral Mechanism as being a victim of trafficking which in 12 clients led on to the Department successfully pursuing compensation for their clients under the Criminal Injuries Compensation Authority scheme (CICA), with some significant payouts awarded.
- vi. Overall the success rates for clients both at initial application stage and even more significantly at appeal stage are higher (in the case of appeals, far higher) than the national success rates. When this is taken against the backdrop of the Department only selecting clients on the basis of whether their claim is 'stateable', and often dealing with clients who have already been refused status when they arrive, this is an impressive achievement.

4. Findings on outcomes for other professionals

Section Four of the report identified the benefits for professionals of the Department's practice of sharing its expertise with those working with their client groups through second tier advice, training and policy work. From feedback during interviews they have developed many strong and trusting working relationships with many in the field who report a range of benefits for their own client work.

- i. The Department is regarded as helpful and sometimes essential by many other professionals to their ability to support their clients. Staff working in other agencies liaise mainly informally with the Department team, regularly calling on them to provide back up advice and support on issues affecting their clients. They also contact them to take up issues directly on the client's behalf – benefits or accommodation issues, for instance – or write supporting letters on the client's behalf.

- ii. The Department not only helps in individual client cases, but also helps by increasing the overall awareness and skills of professionals so they are more able to diagnose or deal with problems on an ongoing basis.
- iii. Professionals are kept updated on the progress of their clients' cases when these are taken on by the Department. The overwhelming majority welcome an opportunity to be involved in the progress of their clients' cases and having a chance to both influence (by for example producing references) and update themselves.
- iv. The Department also helps organisations develop their own internal policies and practices in relation to vulnerable clients. Organisations appreciate such input at organisational or departmental level.

5. Findings on outcomes: practice and policy context

The Department works extensively to help influence the policy and practice context, and Section Five of the report looks at the impact of this work in detail. In summary:

- i. Attributing changes in the practice and policy environment to individual agency input is notoriously difficult as changes are invariably caused by a combination of various contributions, including political commitment. However, it is clear that the Department is playing a lively and engaged role in this area and this section summarises what the evaluation learnt about the importance and impact of this work:
- ii. Most respondents consider the Department to have an unparalleled overview of the practices which are impacting positively or negatively on their client group. The range of practices which are covered by the Department's purview are many, relating to trafficking, treatment of people experiencing gender-based violence, treatment of people who are traumatised, treatment of young people in the legal and care system and much more besides.
- iii. Using this unique knowledge and specialism, the Department is influencing benchmarks and standards. One way it does this is by spending time participating in a range of projects to develop them. Another less obvious way in which it is influencing standards is just by doing the work it does in the way it does it and 'setting the bar' in terms of the work it does. External stakeholders noted that the Department is providing a model which is increasingly gaining a reputation both nationally and internationally.
- iv. The Department has challenged some public bodies about their practices. One external stakeholder raised this as a concern, and this was explored in the evaluation as the only serious criticism raised during the evaluation. The challenge was in the area of age assessment, a very sensitive area: *"I feel we did have a better relationship with the Department, but it has changed because of the age assessment."* However, the same interviewee also noted that: *"If I was an asylum seeker I would want to be represented by them"* and others with a specialism in Child Protection noted that: *"[The Department] will robustly pursue circumstances and situations on behalf of the young people they are working with, and this may well at times be seen less favourably by other partner organisations who have less experience in working in this specialised area of practice."*
- v. The key point would seem to be that the work of the Department inevitably brings it into contact with public authorities with duties of care or decision-making in relation to clients, whose practice may be challengeable. This is also true of decision-making within the Home Office, for instance, which is also something the Department challenges if they find cause to do so. The overwhelming majority of those interviewed felt that this is vital to a transparent, functioning system which places the client's rights at the centre of their treatment. It is also a key way in which public authorities are held to account.

- vi. The Department also seeks to develop the law through litigation. It is difficult to identify potential litigants within the Department's client group given their history, vulnerability, and the fact that the client may for good reasons not want to endure a testing process through the courts on top of everything else they have experienced. In spite of this there have been some challenges brought. The Department worked with the AIRE Centre, for example, to test the approach of the Criminal Injuries Compensation Authority regarding compensation for victims of human trafficking and was successful in the tribunal. The case is now being used to train lawyers on this issue. There is a desire to develop this area of work and various steps underway to do so: the Department sits on a Strategic Litigation group for children, for instance, and were also successful in gaining a grant from the Strategic Legal Fund for Vulnerable Young Migrants to undertake pre-litigation research into support provided by local authorities across Scotland to separated asylum-seeking children aged 16 – 17.

6. How the Department does its work ('The Model')

Section Six of the report examines the particular approach and model of the Department and its strengths and weaknesses.

- i. The Head of Department has introduced a conscious commitment to embedding **human rights principles** within all of the Department's work. In practical terms, this involves:
 - All staff having a thorough grounding in and understanding of fundamental principles such as confidentiality, ethics, conflict of interest and international standards
 - All staff understanding that all interactions, be these with clients, other staff members or those working external to the organisation (in whatever role) should be conducted professionally and to a high standard
 - A commitment to ensuring that the 'right to remedy' is carried forward with energy and intelligence as a fundamental human right.
 - A central commitment to the core values of accountability and transparency.
- ii. For clients, these principles result in them being treated first and foremost as individuals who are worthy of belief, consideration for their human predicament and all possible remedy available to them within the law. Practically for clients this means:
 - Taking care to provide an environment which acknowledges their humanity: a pleasant interview room which guarantees confidentiality, equipped with toys for when children unavoidably accompany a woman to her appointment.
 - Allowing clients time, space and support to engage with the asylum process
 - Greeting and treating clients as if they are valued and welcome
 - Informing and engaging the client as a key contributor to their case. It is made clear to clients that they are expected to participate in this process, explained to them why it is necessary, and though considerable allowances are made for trauma Department staff also make their expectations clear in terms of client honesty, attendance and communication.
- iii. Quality of the work is taken extremely seriously and prioritised in spite of heavy demands on staff time. Key areas which ensure the upholding of quality standards include: recruitment which tests commitment and human rights awareness; rigorous checking of all written submissions; regular support and supervision and; frequent and available communication from the two project leads. All staff interviewed said that they felt supported, involved and enabled to do their work, and that in spite of being busy the two project leads (Kirsty Thomson and Jennifer Ang) were always happy to review cases and answer questions.
- iv. The culture of learning, professionalism, mutual respect and high standards means that staff feel invested in the success of the Department and committed to a culture which prioritises transparency, sharing information, partnership and a commitment to proper use of public funds.

The supervision and the regular communication leads to both passion and consistency in the work. This ensures a major strength of the Department, which is that cases can be picked up on and taken over by others at short notice.

- v. Support is also provided in the form of a partnership arrangement with Freedom from Torture, which provides free clinical consultations to support staff who are dealing with often distressing and traumatic cases. Burnout is recognised as a real threat, and this is countered partly through these consultations and partly by ensuring that all staff have a balance of different tasks and activities, including training and policy work, to vary their working week. This has been enabled through the grant funding.
- vi. The Department's ability to develop as a specialist legal provider has been made possible by the investment of three funders: **The Scottish Government's Violence Against Women's Fund, Comic Relief** and the **Paul Hamlyn Foundation**. This has funded enhanced casework for clients as well as engagement in policy work, second tier advice work, and development of the volunteer programme. The Department also earns some income through its training and seminar programme.
- vii. Other than this, the Department earns legal aid money in common with other legal aid providers. The most common activities of the Department for which the Scottish Legal Aid Board (SLAB) provides legal aid are immigration advice, asylum claims, Judicial Review and applications for criminal injuries compensation. The system works differently in Scotland than in England; in Scotland solicitors are able to sanction 'advice and assistance' legal aid, which is immediately available once the application is completed.⁶ In some respects this system works better for solicitors and clients, in that it removes some of the complexity and uncertainty involved in applying for legal aid. However, the disadvantage is that in order to control the resources spent, the amounts payable for the various tasks involved in a case are limited. This makes it extremely challenging for an organisation like LSA to provide a high quality, holistic service to a vulnerable group of people within legal aid fee rates.

7. Critical success factors for the legal work

Section Seven of the report examines the key factors identified as contributing to the Department's success rate for its clients. The evaluation isolated 15 success factors, grouped here by type.

Before listing these, it is worth noting that 'success' for the Department is not only about legal outcomes. Staff members agree that they see success as helping their clients cope with the issues they have experienced and build a fulfilling life. They ensure that their clients are fully informed about the process and their options, so that, even if their legal claims are unsuccessful, they are better equipped to make decisions about what to do in the future. In other words success, as well as the clients themselves, is assessed holistically.

Core principles and practice

Five success factors stand out as being central to the success of the Department's legal work.

1. **Partnership relationships and co-working.** Having good relationships with a wide range of partners is key not only to the legal outcomes for the client but also to the quality of support the client receives through the process. The Department works closely with specialist support agencies, statutory services and relevant experts, all of whom contribute to building a case and a network of support for the client.
2. **Getting early evidence which supports the client's case.** The Department gathers as much evidence as possible to support a client's case at an early stage, as well as pursuing further

⁶ This is only true for 'Advice and Assistance' legal aid. Other types of legal aid require the approval of SLAB.

evidence if that is helpful to a case. Chasing evidence, and ensuring that expert reports give not only a diagnosis but also an analysis of what this means for the client's ability to provide a consistent disclosure, is a key factor for success.

3. **Holistic support.** This is intrinsic to what the Department does and to the reasons why it achieves positive outcomes. In practice this means placing the welfare of the client at the heart of the process, and pursuing issues, sometimes legally, which affect the client's life such as health, housing and welfare. Providing holistic support has the effect of helping clients trust the Department, removing barriers and obstacles to engagement and enabling clients to disclose their story in full. As well as helping them to make positive changes in their lives this is also important for successful progress of a client's case.
4. **Frontloading.** The Department always pursues and investigates lines of enquiry early on, and submits evidence so that it is in front of the relevant authority as soon as possible. As well as helping the Home Office and judges understand a client's case better, frontloading means that the Department has information that may help clients to cope with their circumstances; for example, specialist health reports are shared early with health professionals, which means that support can be given more quickly. Frontloading also enables successful challenges 'down the line': if evidence is submitted but ignored or not appropriately weighed it is easier to challenge the decision taken.
5. **Tenacity.** The Department is renowned amongst partner agencies and clients for never giving up on a case which they believe could potentially be resolved in the client's favour. The Department has represented several clients for many years through numerous legal process stages and set-backs, with eventual success.

Applying experience, skills and knowledge

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

6. **Previous interventions: working out what has happened and redressing inaccuracies.** Sometimes when a client comes to the Department they have had another solicitor or have already come into contact with the asylum system. In some cases previous experiences have been negative and confusing for the client and there may be a range of mistakes or and staff try to 'unscramble' what has happened, bringing their particular expertise and experience to the case.
7. **Specialist legal knowledge enabling cases to be viewed from all angles and 'chinks' to be found.** Related to the preceding success factor, the Department has specialist knowledge in areas such as trafficking which enables staff to spot aspects of a case which ought to be pursued or to find new angles on a case.
8. **Being clear about legal boundaries.** Despite its tenacity in pursuing cases which have merit, the Department is clear that it will not take cases which are not stateable, or pursue cases 'for the sake of it'. As a consequence it has built up a reputation for integrity and honesty, which enables its arguments in the cases it takes on to be taken more seriously.
9. **Checking records and interviews.** Attention to detail and thorough checking are key to the Department's approach. For example, notes of all substantive interviews are always checked thoroughly, partly as a means of laying the ground for future action, such as Judicial Review, if necessary.

Ensuring client engagement and understanding

These success factors relate to the time needed to ensure that the client is engaged, knows what is happening, makes their own choices and as far as possible is helped by having the case 'paced' to suit their mental and physical capacity.

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

Communication with clients and partners

Four success factors are to do with the way in which the Department liaises with and makes itself available to clients.

12. **Availability and accessibility.** Partner agencies and clients particularly value the fact that the Department is able to make a solicitor available to see someone quickly. This is particularly important for people experiencing the kinds of issues clients have experienced. In addition, the Department does not place unnecessary barriers in the way of clients being able to contact them when they need to.
13. **Regular liaison.** Partly because the Department has additional funding, it is able to build time into the model to be available to clients if they are worried or need to speak. They also make a point of phoning clients to remind them about, for example, appointments or forms they need to sign. Keeping in contact and reminding clients about appointments is a deliberate technique of the Department to give back control to people who have been disempowered, as well as to build up trust.
14. **Client reassurance and person centred approach.** The Department takes particular care to reassure clients throughout their involvement with the legal process. This reassurance takes a number of forms, both practical and emotional, including referrals to others where necessary and subsequent follow up.
15. **Backup following a decision.** Finally, 'success' is not just about 'winning the case', it is also about enabling the person to move on in their lives. This means that a certain amount of work is done in helping clients to understand where they are with their current situation and supporting them following the resolution of their legal case.

8. The cost of an enhanced legal service

Section 8 of the report provides an overview of the costs of providing an enhanced service, and the full report provides a costing model which summarises the inputs and outputs gained from this approach. In brief:

- i. The findings from this evaluation show that the Department provides a service to this client group which could not be achieved within Scottish Legal Aid Board fee rates alone. The project also achieves unusually high success rates in terms of quantifiable outcomes such as successful asylum

claims, positive conclusive victim of trafficking decisions and criminal injuries compensation claims resulting in awards.

- ii. In addition, qualitative feedback from evaluation participants demonstrates that the Department is achieving a range of less easily measurable outcomes, including increased awareness of the needs of this group, improved practice and soft outcomes for beneficiaries themselves. The success factors identified in Section 7 all clearly contributed to these outcomes.
- iii. Although the evaluation was primarily qualitative, it made an attempt to quantify the amount of time which is spent on the activities which are not possible to deliver within SLAB fee rates and which contribute most to achieving the desired outcomes. The principal limitation on the costing exercise was the fact that the Department does not keep electronic time records and operates a manual billing system, with paper files being sent to an external firm of law accountants for fee accounts to be prepared. We therefore had to rely on our own analysis of a small sample of case files, where the time taken on various aspects of working with a client is recorded in individual notes throughout the file.
- iv. The Department supplied us with records of all clients assisted in the period from 1 April 2012 to 31 March, including reason for referral, advice and representations provided and outcomes for the client within the period. During this time the Women's Project assisted 212 clients and the Young Person's Project 119 clients.
- v. The key points emerging from the breakdown of cases were as follows:
 - A total of 157 asylum claims were made (90 for women and 67 for young people)
 - Of these, 40% of the claims for women and 33% of those for young people were ongoing at 31 March 2014
 - 7% of the claims were closed before a decision was made, usually because the client decided not to pursue it or new information came to light
 - Of the asylum claims decided in the period, either at the first stage or on appeal, 63% of the claims made by women and 64% of those made by young people were successful
 - Around one fifth of successful asylum claims across both projects were successful not at the first stage but on appeal (15 for the Women's Project and 6 for the Young People's Project)
 - This compares with a UK average of 33% of all claims resulting in asylum being granted in 2013, either after the first claim or on appeal (source: Scottish Refugee Council)
 - The figures show that the Department neither pursues all cases as a matter of course nor selects those cases which are more 'winnable'.
- vi. The Department has a total expenditure budget of 2014/15 of £365k. This comprises staff salaries (72% of the total cost) and organisational overhead costs, including, for example, premises costs, legal outlays and office equipment. Currently the costs of the Department are funded by a combination of legal aid fees, grants and income from events put on by the team.
- vii. Overall, the evaluation was able to estimate that it is possible to provide the enhanced service (comprising the success factors outlined in section 7) with a contribution of between **35% – 40%** from other funders, on top of funding available from SLAB (this excludes the funding the Department receives for its policy and second tier work). It is important to note that this is time for which staff are actually paid. All staff in the Department work long hours and contribute additional resources which are effectively not recognised in the budgeted costs of the Department.
- viii. We estimate that the fees received from SLAB fund around **63%** of the time actually spent on providing a casework service for clients. The remaining components of the Department's annual budgeted costs constitute an 'enhanced' service, funded by grants totalling £193,810 and comprising:
 - 37% of the time spent by staff on casework

- Policy and strategic work, for example contributing to strategic groups, forums and consultations (15% of project time)
- 'Free' second tier advice to help other organisations to better understand the needs of and legal issues relating to RASW and YP (7% of project time)
- Delivering training for other solicitors and professionals in the field (5% of project time), plus
- Running seminars (3% of time, funded by charges to participants)

9. Overall conclusions

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

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

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

The overall conclusions of the evaluation are:

1. **Unique model of uncompromising professionalism, specialism and client care.** The Department's model is unique in the UK and provides a best practice example to others in the field. It brings **uncompromising standards of professionalism, specialism and client care** to people who otherwise, by virtue of their vulnerability and lack of money, would struggle to find legal advice and representation at all. It provides a service which many think of as 'gold standard' to marginalised people who are the most in need of such a service.
2. **Values-driven, human-rights approach.** The Department's model relies on a thorough understanding and implementation of a **human rights approach** along with a **commitment to learning, accountability, specialism and inclusion (of both partners and clients) in all its work**. All of these elements involve not only commitment but time, and the contribution of funders to 'enhance' current levels of legal aid funding has been and will be essential in allowing the model to develop and flourish.
3. **Legal success a result of approach, not selecting cases.** The Department **does not cherry-pick cases**, and indeed many of the cases it takes on are those which others have rejected as being too difficult, complex or challenging. Though there are a range of helpful contextual factors in Scotland which have enabled the Department's work to grow, the Department is dealing with the same decision-making bodies as other lawyers throughout the UK. **Success in its client work is therefore attributable to its approach**, rather than context.
4. **Supports all clients equally, irrespective of origin or background.** Equally, the approach would seem to be **universally accessible and applicable**, with no evidence of bias of nationality, background or type of case. The only selection criteria applied are that firstly, clients are refugee or migrant women who have experienced gender-based violence or young people and secondly, the case is 'stateable'. If those are met as criteria then the Department will take on the case.
5. **Commitment to partnership and sharing spreads expertise widely.** The **ripple effects** from the Department's accumulation of experience, skills and specialisms are felt by many in the field at both practice and policy level as a result of the Department's commitment to **sharing their learning** and funders investing in allowing them to do so. At a practice level, there is a range of

work which is supported and enabled by the Department acting as adviser and 'back up', as well as a range of work which is enhanced by the Department's proactive programme of information-sharing, training and seminars.

6. **Policy contribution is unique and vital.** There is evidence from a range of sources that the Department is bringing a **unique contribution to work at policy level** in Scotland by instigating, planning and developing change in the policy and legal framework. Its contribution is felt to be particularly valuable given ongoing experience of direct and complex client work (allowing up to date insights 'from the frontline'), a sophisticated understanding of the way in which policy and legal change come about, and a challenging but respectful engagement with others working in the policy field.
7. **Punching well above its weight legally.** The Department has by now gained a formidable reputation for achieving positive outcomes for clients and **achieves rates of success, particularly at appeal, considerably above the national average.** Many of these cases are challenging and 'end of the line', so how does it manage this? The evaluation identified 15 critical success factors which contribute to some extent in all cases to achieving positive legal, practical and personal results for clients.
8. **Key success factors are inter-dependent.** The **critical success factors identified are inter-dependent** and no single one is possible without the others. However, five emerged as underpinning all else. These are partnership working (and taking time build relationships with others); obtaining expert evidence to support the client's case; providing holistic support to help the client with other important aspects of their life (for instance housing, benefits, health); front-loading the case to enable the client's story to be unravelled, set down and submitted to decision-makers as early as possible, and finally tenacity, or the determination to keep coming back on the client's behalf no matter what knock backs are received.
9. **Critical combination of values, specialism and professional legal work.** The critical success factors of the Department's client work show a **combination of practical tasks with a values-driven approach.** This is an important point as the Department's model shows that when there is a 'perfect storm' of hard work, skill, specialism and values-driven commitment, successful outcomes for clients come about. The driving values are as important as the commitment to specialism or the practical tasks undertaken.
10. **Wide range of significant outcomes gives funders value for money.** Funders are getting considerable '**value for money**' by contributing to the work of the Department if one considers the impressive range of outcomes being achieved not only for their extremely marginalised clients, but also for others in the field. Best practice is being established, learning disseminated widely to others, and causes of disadvantage – for example policy and practice gaps – addressed.
11. **Increasing need for existing services provided.** The work of the Department in supporting the extremely vulnerable client groups they currently work with is regarded as essential. Many report that the need for such services is increasing, partly because more clients (such as victims of trafficking) are being identified, and partly because more and more professionals are becoming aware of the Department and the specialist service it provides and making referrals.
12. **Clear need and potential for expansion in client, second tier and policy work.** The **potential for the Department to develop its work** further is considerable, both within Scotland (by expanding its geographic scope and client remit to other groups) and internationally (by using its by now considerable experience to inform international practice development. Many felt that the need to extend its remit to other client groups is quite urgent given both the client need they are encountering and the lack of other specialist support in this field.
13. **Current model and approach is 'gold standard'.** The approach and standards built up by the Head of Department have resulted in significant gains for the Department (and the LSA, in which

it is based) in terms of **standing, reputation, partnerships, funding and learning**. After 10 years' development there have also been lessons learnt but the evaluation revealed little, other than a need for increased capacity, which needs much development.

14. **Critical funding moment for the Department.** This is a critical time for the Department's funding. It has got where it has by intensive individual commitment and the investment of the three funders who have supported its development. However, this funding cannot continue indefinitely, and it **needs to transform its extensive informal endorsement and recognition into more formal commitments to ensuring its future**. Future funding needs to be sought from those who benefit from its work, and this needs to happen urgently if the potential offered to clients and to the wider context is to be realised.
15. **Increased support internally would benefit the work.** Alongside a more formal recognition of its role and contribution by external stakeholders, the Department could also benefit from **greater internal recognition** from the organisation in which it is based. Reflecting its importance at partner level, as well as more practically addressing some of the more prosaic but important barriers to its development (such as sub-standard IT and insufficient administrative support) is important if the Department is to play the full part it could in developing its own work, earning fees, and continuing to enhance the reputation of the LSA overall.